

# City of Delray Beach

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## Minutes - Draft

**Tuesday, September 25, 2018**

**6:00 PM**

**Final Budget Hearing/Regular Meeting at 6:00 PM**

**Delray Beach City Hall**

## **City Commission**

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

## 1. ROLL CALL

Mayor Petrolia called the Regular City Commission Meeting to order at 6:00 p.m.

The roll call was taken by the City Clerk.

The following were in attendance:

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

Others present were:

Caryn Gardner-Young, Assistant City Manager  
R. Max Lohman, City Attorney  
Katerri Johnson, City Clerk

## 2. PLEDGE OF ALLEGIANCE TO THE FLAG

## 3. AGENDA APPROVAL

Caryn Gardner-Young, Assistant City Manager requested that Item 6.F. be moved to the end of the meeting under the City Manager's comments as Item 10.A.6.

Mayor Petrolia requested that Item 6.C. be removed from the consent agenda and moved to the regular agenda as Item 7.B.B. and move up Item 7.F. on the regular agenda as Item 7.A.A.

A brief discussion followed between Mayor Petrolia and Ms. Gardner-Young about bringing back a discussion within the next three months regarding valet parking.

Vice Mayor Frankel moved to approve the agenda as amended. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved as amended**

## 4. PRESENTATIONS:

**4.A.     [18-528](#)     RESOLUTION NO. 58-18 RECOGNIZING MARGARITA CASTILLO FOR 30 YEARS OF SERVICE**

**Recommendation:** Motion to approve Resolution No. 58-18 honoring Margarita Castillo for 30 years of service.

**Sponsors:** Human Resources Department

**Attachments:**   [Agenda Cover Report](#)  
                          [Resolution 58-18 Margarita Castillo.doc](#)

Sharon Liebowitz, Human Resources Director, recognized Margarita Castillo for 30 years of service.

Lieutenant Weatherspoon, Police Department, gave a few brief comments about Ms. Castillo's tenure with the City of Delray Beach.

Ms. Liebowitz presented Margarita Castillo with a resolution and a plaque for 30 years of full-time service with the City of Delray Beach. Ms. Castillo came forward to accept the recognition and gave a few brief comments.

Mayor Petrolia read the resolution into the record.

Vice Mayor Frankel made a motion to approve Resolution No. 58-18. It was seconded by Commissioner Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved**

**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**

Caryn Gardner-Young, Assistant City Manager, stated with respect to the American Legion building (recently used by the Caring Kitchen), the city is contemplating what potential uses this building can be used for. However, Ms. Gardner-Young stated under the existing lease agreement, the city must give termination notice. Therefore, Ms. Gardner-Young stated she is requesting City Commission approval for staff to draft a letter to the American Legion for the Mayor's signature.

Deputy Vice Mayor Johnson made a motion to direct staff to draft a letter to the American Legion for Mayor Petrolia's signature in order to provide sufficient termination notice. It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 5-0.

**5.B. From the Public**

Pauline Moody, temporarily homeless, stated she feels the City Manager should be present at this meeting. Ms. Moody commented about former Police Chief Goldman who is now the Acting Assistant City Manager. She also commented about the letter that staff will draft with respect to the lease agreement with the Caring Kitchen and the legalities of it to avoid any legal issues later. Lastly, Ms. Moody commented about the Waste Management contract that merged after former City Manager Donald Cooper resigned from the city and asked if the contract is revised properly to reflect the incorporated and unincorporated area to now become one.

Nicholas Coppola, 3930 Lowson Boulevard, Delray Beach, speaking on behalf of the Sherwood Park Civic Association, gave a few brief comments regarding the Lake Worth Drainage District canal cleaning project.

Jeffrey Needle, Assistant City Engineer, commented that he was informed by the Lake Worth Drainage District that they would allow two native trees - slash pines and live oak - everything else was to be removed.

Ms. Gardner-Young noted that the Lake Worth Drainage District has made it clear that any non-natives such as Australian pines and melaleucas will be removed. Also, Ms. Gardner-Young stated the Lake Worth Drainage District (LWDD) is removing shrubs and the only thing they are willing to work on is what the native trees are; however, the LWDD has not defined the definition of native. Ms. Gardner-Young stated the Interlocal Agreement does not give the City any more authority than it gives a property owner. Mr. Coppola stated the Civic Association accepts the reality that the LWDD is going to clear their land, but they would like to know if there is anything they can put there to replace what will be removed. Mr. Needle stated the western communities pay a higher level of maintenance along the banks on Lake Worth Drainage District's right-of-way.

Ashley Craig, speaking on behalf of the Junior League of Boca Raton, stated she was there to accept a proclamation declaring September 24, 2018 - September 30, 2018 as Diaper Need Assessment Week. Ms. Craig gave some statistical information regarding the number of diapers distributed throughout Palm Beach and Broward County. Mayor Petrolia thanked Commissioner Bathurst for bringing this to the attention of the City Commission and she also thanked Ms. Craig for serving the City of Boca Raton and surrounding cities.

Laura Lyle, Operations Manager with the Downtown Development Authority (DDA), gave a few brief comments about "Parking Day" held this past Friday and stated the DDA received the Silver Flagler Award for the 4th Annual Delray Beach Fashion Week which also won the award from the International Downtown Association. Ms. Lyle distributed the Downtown

Connection Newsletter to the City Commission.

Randy Galmarini, 2983 Calbria Way, Delray Beach, speaking on behalf of 13 homeowners in Verona Woods received a letter for a code violation and they are appealing to the City Commission regarding the valley gutter entrance to their driveways. He distributed photographs to the City Commission and stated two children were injured while riding their bicycles over these curbs. Mr. Galmarini stated the four streets in Verona Woods need to be reworked and the homeowners are requesting that they not be required to spend \$3,000.00 to make changes to something that will soon be modified by the city. He asked that they be allowed to pay fines or permits associated with this and allow them to keep the driveway transitions as is.

Jim Ballentine, 2986 Genoa Way, Delray Beach, stated very few of the people who live in the homes now were the original owners. He stated the cost to fix this problem is approximately \$40,000.00 so they can use their driveways and he urged the City Commission to give the homeowners some relief with respect to the cost.

David Ross, 2989 Genoa Way, Delray Beach, spoke about practicing the "spirit of the law" vs. the "letter of the law" and urged the City Commission to allow some flexibility in the law. Mr. Ross stated the neighborhood has never been cited for anything and noted that the original builder installed the streets not the City of Delray Beach.

Rodney Dobbard, 127 N.W. 12th Avenue, Delray Beach, Head Coach of Atlantic High School basketball team, requested the City's assistance with a monetary donation for his basketball team for uniforms, tennis shoes, jerseys, etc. and stated his goal is to raise \$10,000.

Mark Madinsky, 101 S.E. 4th Avenue, Delray Beach, developer for The Ray Hotel, gave a few brief comments regarding the code that allows for rooftops. Mr. Madinsky recommends the following changes to the ordinance: (1) covered structures located above the maximum number of stories can cover 25% of the rooftop so long as they are not air conditioned or enclosed (exceptions would be climate controlled, elevator lobbies, and health code required restrooms). Mr. Madinsky stated one of preferred uses of a rooftop is outdoor dining and in lieu of "x" percentage of a rooftop allowed to be enclosed and not count as a story, he is requesting 500 feet (2.3%) for a small enclosed kitchen to cook for the use on the rooftop, and (2) requirement for a 6 foot screen on the top of the rooftop to limit oversite into adjacent residential properties and they requested that be excluded from this. He also commented this would be a multi-story/multi-family structure.

Celia Boone, Pineapple Grove Arts District, stated the Pineapple Grove Arts District voted unanimously to support the rooftop/screening and a small portion for an enclosed kitchen (not an eat-in restaurant).

Jeff Dash, located across the street from The Ray Hotel project, stated he supports the changes to the Ray Hotel project.

Jeb Conrad, President and CEO of the Greater Delray Beach Chamber of Commerce, thanked the City Commission for all they do and expressed that he looks forward to working with them.

Erwin Nesi, 561 N.W. 48th Avenue, Delray Beach (Rainberry Woods), expressed concern over a sinkhole in the neighborhood and he feels this is a safety issue.

Mike Owen, 2150 South Ocean Boulevard, Delray Beach, urged everyone to support Amendment #2 (a cap on non-homestead properties). He feels that it maintains stability.

Christina Morrison, 2809 Florida Boulevard, Delray Beach, commented that Amendment #2 would extend a 10% cap so commercial properties are not adversely affected the next time the market spikes and she noted it will not have a negative affect on the city's budget.

Ann Pierre, 563 Davis Road, Delray Beach, on behalf of Palm Beach Coalition for Immigrants Rights, stated she is proud and commended the City of Delray Beach for their support.

Jennifer Jones, 639 Cambridge Circle, Delray Beach, Haitian-American, thanked the City of Delray Beach for Resolution No. 121-18.

Colson Zulmar, 2039 S.W. 12th Court, Delray Beach, encouraged the City Commission to support Item 7.F., Welcoming City - Welcoming Delray Resolution No. 121-18.

Timothy Taylor, Dolphin Drive, Delray Beach, urged the City Commission to not dismantle the West Atlantic Avenue Coalition (WARC) Board but instead start over and move forward. Secondly, Mr. Taylor urged the City Commission to bring back the Community Redevelopment Agency (CRA) Board.

There being no one else from the public who wished to speak on non-agenda items, the public comment section was closed.

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

Vice Mayor Frankel made a motion to approve the consent agenda as amended. It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved as amended**

**6.A. [18-604](#) MEETING MINUTES**

**Recommendation:** Motion to approve meeting minutes as listed below:

September 4, 2018 City Commission Special Meeting Minutes (Closed Attorney/Client Session) 1:00 p.m.

September 4, 2018 City Commission Special Meeting Minutes (Closed Attorney/Client Session) 1:30 p.m.

September 6, 2018 City Commission Regular Meeting Minutes

**Sponsors:** City Clerk Department

**Attachments:** [Agenda Cover Report](#)

[Minutes September 4, 2018 Special Meeting Closed Attorney Client Session #1](#)

[Minutes September 4, 2018 Special Meeting Closed Attorney Client Session #2](#)

[Minutes September 6, 2018 Regular City Commission Meeting](#)

**6.B. [18-603](#) RESOLUTION NO. 119-18 NUISANCE ABATEMENT OF EIGHT (8) PROPERTIES THROUGHOUT THE CITY**

**Recommendation:** Motion to adopt Resolution No. 119-18 assessing costs for abatement action required to remove nuisances on eight (8) properties throughout the City.

**Sponsors:** City Clerk Department

**Attachments:** [Agenda Cover Report](#)

[Res No. 119-18 Nuisance Abatement](#)

[RES NO. 119-18 - Exhibit A](#)

**approved**

**6.C. [18-565](#) RESOLUTION NO. 117-18: A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA APPROVING AN AGREEMENT WITH FLORIDA POWER AND LIGHT, CO. (FPL) FOR THE INSTALLATION OF UNDERGROUND FACILITIES IN THE CITY RIGHT-OF-WAY; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THIS AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER**

## PURPOSES.

**Recommendation:** Motion to approve an agreement with Florida Power and Light, Inc. ("FPL") to allow the installation of underground electrical utilities in City right-of-way to serve the iPic Theater Project, subject to the City's approval of Resolution 118-18.

**Sponsors:** City Attorney Department

**Attachments:** [Agenda Cover Report](#)  
[Resolution No 117-18 iPic undergrounding agreement with FPL](#)  
[City County Right of Way Agreement for Underground Facilities - Delray Beach 4th & 5th Avenue LLC 8.24.18](#)  
[Legal Review Checklist form v. 5 Undergrounding agreement with FPL](#)

The City Attorney read the title of Resolution No. 117-18 into the record.

Mayor Petrolia stated she supports that the iPic Theatre Project is burying lines underground because it is going to beautify the city; however, she expressed concern over the installation of the huge supporting power poles in order to be able to support the extra energy being supplied to iPic.

Patrick Figurella, City Engineer, stated Item 6.D., is the agreement between the City of Delray Beach and the Developer where the Developer will absorb all of the future costs that might be generated by the undergrounding agreement with Florida, Power & Light (FPL). Mr. Figurella stated Item 6.D. and Item 6.E. does not cause any financial harm to the city because the developer is absorbing future relocation costs that FPL might need to charge the city because the line has been buried under the City's right-of-way.

A brief discussion between the City Attorney and the City Commission followed with respect to Rhodes Villa Avenue.

Mayor Petrolia stated she would like to get with FPL to see what their plans are and know what is coming ahead of time so that the city can inform their constituency rather than have them watch it go up in their yards.

Mr. Figurella stated as a result of what happened with Atlantic Crossing, FPL is now being more forthcoming.

Commissioner Boylston made a motion to approve Item 6.C. It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 5-0.

**approved**

**6.D.**     [18-589](#)

RESOLUTION NO. 118-18: A RESOLUTION OF THE CITY OF DELRAY

BEACH, FLORIDA APPROVING AN AGREEMENT WITH DELRAY BEACH 4TH & 5TH AVENUE LLC ("DEVELOPER") TO ASSUME THE OBLIGATIONS OF THE "CITY/COUNTY RIGHT OF WAY AGREEMENT FOR UNDERGROUND FACILITIES" BETWEEN THE CITY AND FPL; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THIS AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Recommendation:** Motion to approve an agreement with Delray Beach 4th and 5th Avenue LLC to assume the obligations of the City's agreement with FPL for the installation of underground electrical facilities in City right-of-way to serve the iPic Theater Project.

**Sponsors:** City Attorney Department

**Attachments:** [Agenda Cover Report](#)  
[Agreement Between the City of Delray Beach and Delray Beach 4th and 5th Avenue LLC](#)  
[Resolution No 118-18 Agreement to assume FPL obligations iPic](#)  
[Legal Review Checklist](#)

approved

**6.E.     [18-595](#)**     AMENDMENT TO RESTRICTIVE COVENANT AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND LENNAR HOMES

**Recommendation:** Motion to approve the Amendment to the Restrictive Covenant Agreement Between the City of Delray Beach and Lennar Homes

**Sponsors:** City Attorney Department

**Attachments:** [Agenda Cover Report](#)  
[Amendment to Restrictive Covenant with Lennar Homes LLC](#)

approved

**6.F.     [18-634](#)**     RESOLUTION NO. 122-18 AGREEMENT BETWEEN THE GREATER DELRAY BEACH CHAMBER OF COMMERCE AND THE CITY OF DELRAY BEACH FOR A MAXIMUM OF ONE YEAR IN AN AMOUNT NOT TO EXCEED \$125,000 FOR HOMETOWN EVENT MARKETING, DESTINATION MARKETING AND ADMINISTRATIVE COSTS

**Recommendation:** Motion to approve Resolution No. 122-18 for an Agreement between the Greater Delray Beach Chamber of Commerce and the City of Delray Beach for a maximum one year in an amount not to exceed \$125,000 for Hometown Marketing, Destination Marketing and Administrative Costs.

**Sponsors:** City Manager Department

**Attachments:** [Agenda Cover Report](#)[Legal Review Checklist form v. 5 Chamber of Commerce Funding agreement](#)[Chamber funding agreement 9-14-2018](#)[Reso 122-18 for Funding of Greater Delray Beach Chamber of Commerce](#)[Chamber letter to Mark Lauzier for funding](#)

This item was moved to the end of the City Manager's comments as Item 10.A.6.

**approved**

- 6.G.**     [18-551](#)     FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN CITY OF DELRAY BEACH (CITY) AND DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY (CRA) FOR DEMOLITION AND BOARDING UP OF BLIGHTED STRUCTURES AND ALLEYWAY CLEARANCE

**Recommendation:** Motion to approve and execute the attached Interlocal Agreement.

**Sponsors:** Community Improvement

**Attachments:** [Agenda Cover Report](#)[Legal Review Checklist form v 5 ILA for demo of blighted structures](#)[First Amendment to ILA for BoardUp and Demolition \\$75,000 Rev1](#)[Fully Executed ILA with City-CRA for Demolition and Clearance](#)[FY16-17 \\$50,000](#)

**approved**

- 6.H.**     [18-593](#)     FLORIDA MUNICIPAL INSURANCE TRUST (FMIT) FOR RENEWAL OF PROPERTY INSURANCE POLICY

**Recommendation:** Staff is requesting approval for renewal of Property, Excess Liability and Excess Workers' Compensation Insurance from the Florida Municipal Trust Fund (FMIT) for \$1,138,611 for the coverage period 10/1/2018 through 9/30/2019.

**Sponsors:** Finance Department

**Attachments:** [Agenda Cover Report](#)[FMIT1](#)[FMIT2](#)[FMIT3](#)

**approved**

- 6.I.**     [18-564](#)     APPROVAL OF RESOLUTION NO. 68-18 AND RATIFICATION OF AN

EMERGENCY PURCHASE TO INTERDEV, LLC FOR INFORMATION TECHNOLOGY SECURITY SERVICES IN AN AMOUNT NOT-TO-EXCEED \$128,000 FOR TEN MONTHS

**Recommendation:** Motion to approve Resolution No. 68-18 and ratify an emergency purchase to Interdev, LLC for information technology security services in an amount not-to-exceed \$128,000 for ten months.

**Sponsors:** IT Department

**Attachments:** [Agenda Cover Report](#)

[Approved Emergency Acquisition Approval Memo - IT Security Services](#)

[Interdev Full Time Remote Person Quote](#)

[Resolution No. 68-18 for IT Security Services \(rev 1 CAO\)](#)

[Legal Review Checklist form v. 5 interdev proposal](#)

[Purchase Order 2018-00002788](#)

approved

**6.J.** [18-533](#)

ITEM (A)-ACCEPTANCE OF DRAINAGE EASEMENT FOR 714 SE 8TH CT.

ITEM (B)-ACCEPTANCE OF PERPETUAL SIDEWALK EASEMENT AGREEMENT FOR 222 NW 18th St.

ITEM (C)-ACCEPTANCE OF WATER EASEMENT FOR CVS LOCATED AT 4970 W. ATLANTIC AVE.

**Recommendation:** **Item (A)**-Motion to Approve and accept a drainage easement agreement on SE 8th Ct. located at 714 SE 8th Ct.

**Item (B)**-Motion to Approve and accept 5' of sidewalk easement on NW 18th St. located at 222 NW 18th St.

**Item (C)**-Motion to Approve and accept Water Easement Agreement for CVS located at 4970 W. Atlantic Ave.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[Item \(A\) Drainage Easement Agreement.pdf](#)  
[Item \(A\) Exhibit \(A\) Sketch and Description 714 SE 8th Ct.pdf](#)  
[Item \(A\) Survey 714 SE 8th Ct..pdf](#)  
[Item \(A\) PAPA Map 714 SE 8th Ct.pdf](#)  
[Item \(A\) PAPA Page 714 SE 8th Ct.pdf](#)  
[Item \(B\) Perpetual Sidewalk Easement Agreement 222 NW 18th St..pdf](#)  
[Item \(B\) Exhibit \(A\) Sketch and Description 222 NW 18th St..pdf](#)  
[Item \(B\) Survey 222 NW 18th St..pdf](#)  
[Item \(B\) PAPA Map Location 222 NW 18th St..pdf](#)  
[Item \(B\) PAPA Page 222 NW 18th St..pdf](#)  
[Item \(B\) Sunbiz Page 222 NW 18th St..pdf](#)  
[Item \(C\) Easement Agreement 4970 W. Atlantic Ave..pdf](#)  
[Item \(C\) Exhibit A Sketch and Description.pdf](#)  
[Item \(C\) Exhibit B Sketch and Description.pdf](#)  
[Item \(C\) Exhibit \(C\) Water Easement Plan 4970 W. Atlantic Ave..pdf](#)  
[Item \(C\) Map Location 4970 W. Atlantic Ave..pdf](#)  
[Item \(C\) PAPA Page 4970 W. Atlantic Ave..pdf](#)

approved

- 6.K.**     [18-566](#)     APPROVAL OF AMENDMENT NO. 2 WITH T2 SYSTEMS, INC. TO RENEW THE MULTI-SPACE SMART PARKING METERS AGREEMENT THROUGH DECEMBER 13, 2019 AND INCREASE THE NOT-TO-EXCEED AGREEMENT VALUE BY \$29,080

**Recommendation:** Motion to Approve Amendment No. 2 with T2 Systems, Inc. to renew the multi-space smart parking meters Agreement through December 13, 2019 and increase the not-to-exceed agreement value by \$29,080.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2016-057L Amendment No. 2, Vendor Executed](#)  
[Legal Review Checklist form v. 5 Amend No 2 Multi Space Smart Parking Meters](#)  
[Multi-space Smart Parking Meters Agreement, Executed](#)  
[2016-057L Executed Amendment No. 1](#)

approved

- 6.L.**     [18-584](#)     MOTION TO APPROVE QUIT CLAIM DEED AND RESOLUTION FOR

## WALLACE FORD REPLAT

**Recommendation:** Motion to Approve Quit Claim Deed and Resolution for Wallace Ford Replat.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[City Quit Claim Deed Parcel B Wallace Ford Replat.pdf](#)  
[Resolution Wallace Ford Replat.pdf](#)  
[Wallace Ford Replat.pdf](#)

approved

- 6.M. [18-633](#) APPROVAL OF A CONSENT TO ASSIGNMENT AND ASSUMPTION AGREEMENT FOR 169 NE 2nd d/b/a/ MAX'S HARVEST TO INTEGRAL HOSPITALITY GROUP HOLDINGS, LLC.

**Recommendation:** Motion to approve a Consent to Assignment and Assumption Agreement from 169 NE 2nd d/b/a/ Max's Harvest to Integral Hospitality Group Holdings, LLC.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2018 Consent to assignment Max's Harvest valet agreement](#)  
[2018 Legal Review Checklist form v. 5 Parking License Agreement](#)  
[Integral Hospitality Group](#)

approved

- 6.N. [18-611](#) APPROVING AMENDMENT #3 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 approve Amendment #3 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, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2018 32 East Agreement](#)  
[2018 32 East](#)  
[2018 Legal Review Checklist form v. 5 Parking License Agreement 32 East](#)

approved

- 6.O.**     [18-612](#)     APPROVING AMENDMENT #3 TO THE VALET PARKING LICENSE AGREEMENT WITH LSMS, INC. D/B/A TRAMONTI 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 approve Amendment #3 to the Valet Parking License Agreements with LSMS, Inc., D/B/A Tramonti providing valet parking services to extend the license from October 1, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2018 LSMS INC dba TRAMONTI'S VALET AGREEMENT](#)  
[2018 Tramonti Agreement](#)  
[2018 Legal Review Checklist form v. 5 Parking License Agreement Tramonti](#)

approved

- 6.P.**     [18-613](#)     APPROVING AMENDMENT #3 TO THE VALET PARKING LICENSE AGREEMENT WITH DELRAY TACO, LTD 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 approve Amendment #3 to the Valet Parking License Agreements with Delray Taco, LTD providing valet parking services to extend the license from October 1, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2018 Del Taco Agreement](#)  
[2018 Roccos Tacos](#)  
[2018 Legal Review Checklist form v. 5 Parking License Agreement Delray Taco](#)

approved

- 6.Q.**     [18-614](#)     APPROVING AMENDMENT #3 TO THE VALET PARKING LICENSE AGREEMENT WITH CUT 432 LLC 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 approve Amendment #3 to the Valet Parking License Agreement with CUT 432 LLC providing valet parking services to extend the license from October 1, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:**   [Agenda Cover Report](#)  
                         [2018 Cut 432 Agreement](#)  
                         [2018 CUT 432](#)  
                         [2018 Legal Review Checklist form v. 5 Parking License Agreement](#)  
                         [Cut 432](#)

approved

- 6.R.**     [18-615](#)     APPROVING AMENDMENT #3 TO THE VALET PARKING LICENSE AGREEMENT WITH INTEGRAL HOSPITALITY GROUP (MAX HARVEST) 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 approve Amendment #3 to the Valet Parking License Agreement with Integral Hospitality Group (Max Harvest) providing valet parking services to extend the license from October 1, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:**   [Agenda Cover Report](#)  
                         [2018 Legal Review Checklist form v. 5 Parking License Agreement](#)  
                         [Integral Hospitality Group](#)  
                         [2018 Amendment no. 3 to parking license agt with Integral-Max's](#)  
                         [harvest](#)  
                         [2018 Consent to assignment Max's Harvest valet agreement](#)  
                         [2018 Maxs Harvest](#)

approved

- 6.S.**     [18-616](#)     APPROVING AMENDMENT #3 TO THE VALET PARKING LICENSE AGREEMENT WITH CAFFE LUNA ROSA 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 approve Amendment #3 to the Valet Parking License Agreement with Caffè Luna Rosa providing valet parking services to extend the license from October 1, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2018 10-1-14 Cafe Luna Rosa- Parking](#)  
[2018 Caffè Luna Rosa Agreement](#)  
[2018 Legal Review Checklist form v. 5 Parking License Agreement](#)  
[Caffè Luna Ro...](#)

approved

- 6.T. [18-617](#) APPROVING AMENDMENT #3 TO THE VALET PARKING LICENSE AGREEMENT WITH TAVERNA OPA ATLANTIC, LLC 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 approve Amendment #3 to the Valet Parking License Agreement with Taverna Opa Atlantic, LLC providing valet parking services to extend the license from October 1, 2018 until September 30, 2019.

**Sponsors:** Public Works Department

**Attachments:** [Agenda Cover Report](#)  
[2018 Legal Review Checklist form v. 5 Parking License Agreement](#)  
[Taverna Opa](#)  
[2018 Taverna Opa](#)  
[2018 TO Delray - Parking Agreement](#)

approved

## 6.U. PROCLAMATIONS:

- 6.U.1. [18-596](#) PROCLAMATION DECLARING SEPTEMBER 24, 2018 - SEPTEMBER 30, 2018 AS DIAPER NEED ASSESSMENT WEEK.

**Recommended Action:**

**Recommendation:** Proclaim September 24, 2018 - September 30, 2018 as Diaper Need Assessment Week

**Sponsors:** City Clerk Department

**Attachments:** [Agenda Cover Report](#)  
[Diaper Need Awareness Week 2018](#)

approved

## **6.V. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**

approved

### **6.V.1. [18-583](#) REPORT OF APPEALABLE LAND USE ITEMS FROM AUGUST 6, 2018 THROUGH AUGUST 24, 2018.**

**Recommendation:** By motion, receive and file this report.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)  
[Appealable Items Map](#)  
[A. Villa D' Este - 125 Via D' Este](#)  
[B. 1045 E. Atlantic Ave](#)  
[C. Crane's Beach House - 82 Gleason St.](#)  
[D. Delray Health and Wellness - 2702 N. Federal Hwy](#)  
[E. Berkshire by the Sea - 126 N Ocean Blvd](#)  
[F. Atlantic Crossing -Between Veterans Park and NE 6th Avenue](#)  
[G. 200 NE 7th Avenue](#)

approved

## **6.W. AWARD OF BIDS AND CONTRACTS:**

### **6.W.1. [18-360](#) RESOLUTION 46-18 : APPROVAL OF MAINTENANCE AND SUPPORT AGREEMENT WITH MOTOROLA SOLUTIONS, INC. FOR THE RADIO SYSTEM**

**Recommendation:** Motion to approve a one-year Motorola Maintenance and Support Agreement with Motorola Solutions, Inc., the sole source provider, for the current Motorola subscriber radios and system in the amount of \$100,255.

**Sponsors:** Police Department

**Attachments:** [Agenda Cover Report](#)  
[Resolution 46-18 Approval of agreement with Motorola Solutions for annual maintenance of radios system and subscribers](#)  
[Legal Review Checklist LW 2018](#)  
[Motorola executed agreement](#)

approved

- 6.W.2.** [18-620](#) APPROVAL OF A RESOLUTION NO. 120-18 TO AWARD AN AGREEMENT WITH MERCURY ASSOCIATES, INC. TO PERFORM A COMPREHENSIVE FLEET ANALYSIS UTILIZING THE CITY OF BOYNTON BEACH SOLICITATION NO. 017-2510-18/IT

**Recommendation:** Approval of a Resolution No. 120-18 to award an agreement with Mercury Associates, Inc. to perform a comprehensive fleet analysis utilizing the City of Boynton Beach solicitation No. 017-2510-18/IT

**Sponsors:** Public Works Department - Programs & Project Management

**Attachments:** [Agenda Cover Report](#)  
[Mercury Fleet Analysis Agreement](#)  
[Resolution Fleet Analysis Mercury 9.10.18](#)  
[Legal Review Checklist form v. 5 Mercury Fleet Analysis](#)  
[Mercury Piggyback Checklist](#)  
[RFP for COMPREHENSIVE ANALYSIS - FLEET OPS-FINAL](#)  
[Agreement - Comprehensive Analysis - Fleet Operations - Mercury Associates Inc.](#)

approved

## 7. REGULAR AGENDA:

- 7.A.** [18-607](#) APPROVAL OF A TEMPORARY USE PERMIT FOR A TEMPORARY PARKING LOT WITH WAIVERS FROM LDR SECTIONS 2.4.6.(F)(3)(e)1, 3, 4, 5, and 8, TO PERMIT A TEMPORARY USE OF A TEMPORARY PARKING LOT TO BE LOCATED ON VACANT PROPERTY SITUATED AT 601 SE 5TH AVE, 604 SE 6TH AVE, 630 SE 6TH AVE, 660 SE 6TH AVE, AND 666 SE 6TH AVE. (QUASI-JUDICIAL HEARING)

**Recommendation:** Motion to Approve the Temporary Use Permit with associated waivers from Sections 2.4.6.(F)(3)(e)1, 3, 4, and 5, to permit a temporary parking lot by adopting the findings of fact and law presented and finding that the request and approval thereof is consistent with the criteria set forth in Section 2.4.7(B)(5) of the Land Development Regulations, subject to the following conditions of approval:

1. Applicant shall be required to obtain a building permit prior to improving the site and storing vehicles.
2. When placing a perimeter fence, sight visibility triangles shall comply with LDR Sec.4.6.14(B).
3. Applicant must coordinate with FDOT and either secure all permit(s) required or provide documentation that permits are not required for any improvements at the site.
4. If the site is not to be paved, the site shall be graded with gravel.

5. The Applicant shall be required to provide a Stormwater Pollution Prevention Plan demonstrating how tracking of dirt/dust off-site from the storage area will be accomplished if it is not paved or graded with gravel.
6. To screen the vehicles, provide a 6-feet high all-vinyl coated chain-link fence system (black or green) with windscreen (black or green) around the entire perimeter, including gates. If non-vinyl-coated fence is utilized then a hedge shall be installed per LDR 4.6.5(D).
7. The fence system shall be located on the property, not within the road right-of-ways. It shall be set back a minimum of 3' on the Federal Highway side to allow for the planting of a lawn grass. There is a requirement for lawns to be maintained. Note: if the area is to not be irrigated, then Bahia grass should be utilized.
8. To screen the vehicles from the upper floors of the existing multi-story condominiums east of Federal Highway, a row of Cabbage Palms (*Sabal palmetto*) shall be planted along that entire property line. The Palms shall be planted 10' on center. (From the northeast corner of the property, south approximately 100' to the existing building, then south of the building approximately 300' to the southeast corner of the property. Note: this will be approximately 40 trees/one truckload.) The height of the trees shall be a minimum of 12' to 16' clear trunk and shall be hand watered.
9. Security lighting shall be provided.
10. The gates will have to be well secured to avoid vandalism and theft from occurring on the property.
11. No parking, loading, or unloading of the vehicles shall be permitted within the adjacent right-of-ways or in areas outside of the property.
12. No sales activity shall be permitted on the property. No customers are permitted on the property.
13. Signage is not permitted around the property's perimeter.
14. Advertising is not permitted on or around the property's perimeter.
15. The temporary use permit for the temporary parking lot is valid until July 15, 2020. Extension requests shall be approved by the City Commission and must be requested 90 days prior to the expiration.
16. The applicant shall place a cash deposit of \$19,500.00 in escrow to be returned after the expiration of the permit when the site is vacated. If the permit is not extended by the City Commission, the City Commission may authorize a portion of the funds to be retained by the City based upon the amount of time the temporary parking lot use occupies the site beyond the expiration date.

Motion to Deny the waiver from Section 2.4.6.(F)(3)(e)8, to permit a temporary parking lot which does not comply with the specifications in subsections a through g by adopting the findings of fact and law presented and finding that the request and approval thereof is not consistent with the criteria set forth in Section 2.4.7(B)(5) of the Land Development Regulations.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)  
[601 SE 5th Ave Waiver Board Order](#)  
[Location Map](#)  
[Request Letter](#)  
[Survey and sketch](#)  
[Lease Agreement](#)  
[Warranty Deed](#)  
[Areas Designated for Temporary Parking lots as a temporary use](#)

Mayor Petrolia read the City of Delray Beach quasi-judicial rules into the record.

The City Clerk swore in those individuals who wished to give testimony on this item.

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

Tim Stillings, Planning and Zoning Director, gave a brief presentation and recommended approval of the Temporary Use Permit with associated waivers.

Mr. Stillings briefly reviewed the conditions and stated positive findings can be made with the exception of Condition #8.

Michael Weiner, 6111 Broken Sound, Boca Raton, Attorney representing Mr. Paul Balay, gave a few brief comments.

Paul Balay, 2001 South Federal Highway, Delray Beach, stated he obtained an extension on the lease to his property and urged the Commission to support a decision to move forward on what they are trying to do which is to get some relief for some additional parking when they start the two new buildings on Federal Highway. Mr. Balay stated the use is temporary for only 24 months and he would like to do a perimeter fence with the screening and keep the landscape.

Mr. Stillings reviewed all 16 conditions for the record and made the following comments: **condition #4** - if the site is not to be paved, the site shall be graded with gravel. Mr. Stillings stated it is currently dirt and old asphalt and noted that the grading was to provide service for the vehicles but also for dust and mud control. He stated the minimum provided now is 3 inches and staff is okay with something less than that or an alternative

proposal. Mr. Stillings stated **condition #5** - that the applicant shall be required to provide a Stormwater Pollution Prevention Plan demonstrating how tracking of dirt/dust off-site from the storage area will be accomplished if it is not paved or graded with gravel, **condition #7** - the fence system shall be located on the property, not within the road right-of-ways; it shall be set back a minimum of 3 feet on the Federal Highway side to allow for the planting of a lawn grass; **condition #8** - with respect to the palms on the east side to provide additional shield for the condos to the east of S.E. 6th Avenue. Mr. Balay stated all the other conditions are acceptable; **condition #3** - something from FDOT indicating that they do not need to review and/or approve any of the fencing or other work on the site.

Mayor Petrolia stated if anyone from the public would like to comment on this item, to come forward at this time.

Christina Morrison, 2809 Florida Boulevard, Delray Beach (previously sworn in), stated it was difficult trying to keep the cars in close proximity of Mr. Balay's properties because there is not much land left in the city.

There was one (1) additional individual that was sworn in.

Mitzi Kaitz, 331 N.E. 8th Avenue, Delray Beach, expressed concern over all the building that is going on throughout the city and the green screen fencing that is placed around these buildings. She urged the City Commission to start implementing businesses to keep Delray looking nice.

There being no one else from the public who wished to address the City Commission regarding Item 7.A., the public comment was closed.

There was no cross-examination or rebuttal.

A brief discussion between the City Commission and staff followed.

The City Attorney stated condition #4 is deleted; condition #6 if the applicant chooses to put in a vinyl-coated chain link fence, then the applicant does not have to provide a hedge; if the applicant does not put in a vinyl-coated chain link fence, then he does have to provide a hedge; condition #8 is deleted, and the rest of the conditions remain.

The City Attorney briefly reviewed the Board Order with the City Commission. The City Commission unanimously approved the Board Order.

Vice Mayor Frankel made a motion to approve the application subject to the deletion of conditions #4 and #8. It was seconded by Commissioner

Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved**

**7.B.**     [18-548](#)     AMENDMENT NO. 2 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. 2 to the Solid Waste and Recycling Collection Franchise Agreement dated March 9, 2015, between the City of Delray Beach and Southern Waste Systems, LLC and assigned to Waste Management Inc. of Florida (WMIF) on December 14, 2015.

**Sponsors:** Community Improvement

**Attachments:**   [Agenda Cover Report](#)  
[WM Overage Insert Commercial 10inches 092518](#)  
[2nd Amend Delray Franchise 2018](#)  
[Legal Review Checklist form v. 5 Amend. No. 2 to Waste](#)  
[Management agreement](#)  
[Clean Program 09252018 revised 2](#)

Michael Coleman, Neighborhood Community Services Director, gave a brief presentation regarding Amendment No. 2 to the Solid Waste and Recycling Collection Franchise Agreement between the City of Delray Beach and Waste Management, Inc. of Florida. Mr. Coleman also commented about the Community Litter Environment Avoid Notice Program (CLEAN) Program which would hold merchants more accountable for the trash outside their communities. He stated each time Waste Management services a business downtown if there is an overage of trash, Waste Management will take a picture of the dumpster and bill the business. He stated if someone wishes to appeal to Mr. Coleman or Waste Management, they will have the pictures to show the business owner. Mr. Coleman reviewed the recommendations: (1) immediate abatement of trash by Waste Management, (2) Charge merchants for overflowing receptacles and litter on the ground, (3) recommend options to habitual violators; frequency of pickups or a compactor. Mr. Coleman stated the first offense is a fine up to \$1,000.00 and a fine up to \$5,000.00 for a repeat violator.

The City Attorney informed the City Commission about the Notice of Violation process.

Mayor Petrolia expressed concern about the fine process. Mayor Petrolia stated she is hesitant about supporting a program if there is no timeframe to see if it is working and she does not want to see the city get into a situation that they can no longer change.

Neil Schiller, Attorney representing Waste Management, gave a few brief comments.

A brief discussion between Neil Schiller and the City Commission ensued.

Vice Mayor Frankel made a motion to approve Item 7.B. It was seconded by Commissioner Boylston. A roll call vote was taken and the motion carried a vote of 4-1 with Mayor Petrolia dissenting.  
**approved**

**7.C.**     [18-579](#)     APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE POLICE BENEVOLENT ASSOCIATION INC, (DELRAY BEACH OFFICERS AND SERGEANTS)

**Recommendation:** Motion to approve the Collective Bargaining Agreement and Memo of Understanding (MOU) between the City of Delray Beach and the Police Benevolent Association Inc, (Delray Beach Officers and Sergeants)

**Sponsors:** Human Resources Department

**Attachments:** [Agenda Cover Report](#)  
[Memo to Mayor and Commission Officers and Sergeants.pdf](#)  
[Collective Bargaining Agreement Officers and Sergeants.pdf](#)

Duane D'Andrea, Assistant Human Resources Director, stated staff is seeking approval for the Collective Bargaining Agreement between the City of Delray Beach and the Police Benevolent Association, Inc. (Delray Beach Officers and Sergeants) and noted it was completed before the expiration of the current agreement.

Vice Mayor Frankel expressed concern with respect to the turnover in the Police Department and he feels that based on the last contract, the Police Department is a training ground for officers who then leave after a year or two to go somewhere else for a more enhanced benefits package.

Commissioner Boylston stated he is glad to see that this was a smooth process.

Deputy Vice Mayor Johnson echoed comments expressed by Vice Mayor Frankel and Commissioner Boylston.

Commissioner Barthurst thanked everyone involved in the process and stated from a corporate perspective he understands the cost of turnover is expensive and the city needs to be competitive to avoid turnover.

Mayor Petrolia commented about the step program that was implemented before and how difficult it was to maintain. She expressed disappointment

because she feels that in another three years the City will end up in the same situation. She expressed concern over the turnover rate and noted the millions of dollars the City has lost due to this situation. Mayor Petrolia stated she would like to have seen the Collective Bargaining give a benefit in the lower years for those individuals that have been employed with the city for a certain number of years rather than continuing to reward those that are making over \$100,000.00 a year on the force. She feels the City will pay more, but will still lose these people to other entities.

Commissioner Boylston made a motion to approve Item 7.C. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 5-0.

Gary Ferreri, Police Benevolent Association (PBA), stated eliminating the outside counsel and having Mr. D'Andrea fill that role helped the process and is a cost savings.

**approved**

**7.D.**     [18-580](#)     APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE POLICE BENEVOLENT ASSOCIATION INC, (DELRAY BEACH LIEUTENANTS)

**Recommendation:** Motion to approve the Collective Bargaining Agreement and Memo of Understanding (MOU) between the City of Delray Beach and the Police Benevolent Association Inc, (Delray Beach Lieutenants)

**Sponsors:** Human Resources Department

**Attachments:** [Agenda Cover Report](#)  
[Memo to CM Approval of Collective Bargaining Agreement PBA Lieutenants 2018.doc](#)  
[Collective Bargaining Agreement Police Lieutenants.pdf](#)

Vice Mayor Frankel made a motion to approve Item 7.D. It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.

**approved**

**7.E.**     [18-586](#)     APPROVAL OF 2019 THROUGH 2023 CAPITAL IMPROVEMENT PROGRAM BUDGET.

**Recommendation:** Motion to approve Capital Improvement Program (CIP) Budget for 2019 through 2023.

**Sponsors:** Public Works Department - Programs & Project Management

**Attachments:** [Agenda Cover Report](#)  
[CIP Final FY19 23 book](#)

Susan Goebel-Canning, Public Works Director, gave a brief presentation

of the 2019-2023 Capital Improvement Program (CIP).

A brief discussion followed by the City Commission with respect to the historic train depot and suggested that a Request for Proposal (RFP) be done. Vice Mayor Frankel inquired if there are any limitations on what can be done because of this historic designation.

Ms. Goebel-Canning stated staff is pursuing grants.

Caryn Gardner-Young, Assistant City Manager, stated the City Manager plans to bring this forward in January 2019 for discussion on what the City Commission thinks this area should be utilized for. She stated with respect to historic there are limitations when there is a specific designation. Ms. Cardner-Young stated the City Commission does not have to accept a grant, but they could consider going into a public/private partnership.

Commissioner Bathurst stated the train depot is the first nationally historic designation that is registered historic.

Deputy Vice Mayor Johnson stated the historic train depot is a landmark and a public asset worthy to be saved.

A brief discussion between Mayor Petrolia and Ms. Goebel-Canning ensued regarding the poor conditions of the roads throughout the city in particular Swinton Avenue.

Ms. Goebel-Canning clarified that from S.W. 10th Street to 4th Street (north) is a Florida Department of Transportation (FDOT) project that is currently under design and then they will move forward with construction the year after that. She stated improvements will be made north of 4th Street immediately and Swinton Avenue will be in the five-year road plan.

The City Commission concurred that improvements to Swinton Avenue is a priority because it is a main corridor.

Vice Mayor Frankel stepped away from the dais briefly and returned.

Deputy Vice Mayor Johnson left the dais at 8:32 p.m. and she returned at 8:37 p.m.

Missie Barletto, Assistant Director of Public Works, stated FDOT will reimburse the City for the cost of the roadway reconstruction work for the Swinton Avenue repaving project before they release the project and close it out with the contractor.

Deputy Vice Mayor Johnson commented about the sidewalk project in the southwest section of the community. Ms. Barletto stated there are some problems with the contractor who was chosen for this project.

Commissioner Boylston left the dais at 8:48 p.m. and he returned at 8:50 p.m.

Commissioner Bathurst left the dais at 8:51 p.m. and he returned at 8:52 p.m.

Vice Mayor Frankel made a motion to approve Item 7.E. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved**

**7.F.**     [18-602](#)     WELCOMING CITY - WELCOMING DELRAY RESOLUTION NO. 121-18

**Recommendation:** A resolution of the City Commission of the City of Delray Beach, Florida, approving the designation of the City of Delray Beach as a Welcoming City.

**Sponsors:** City Manager Department

**Attachments:**   [Agenda Cover Report](#)  
                          [Res 121-18 Welcoming City](#)  
                          [Welcoming America- Cities Committment](#)

Item 7.F. was moved up on the agenda as Item 7.A.A.

Deputy Vice Mayor Johnson moved to approve Item 7.A.A. (formerly Item 7.F.). It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved**

**7.G.**     [18-598](#)     NOMINATION FOR APPOINTMENT TO THE EDUCATION BOARD

**Recommendation:** Motion to approve nomination for appointment for one (1) regular member to serve on the Education Board for unexpired terms ending July 31, 2019.

**Sponsors:** City Clerk Department

**Attachments:**   [Agenda Cover Report](#)  
                          [Exhibit A](#)  
                          [Education Board Member List](#)  
                          [Education Board Attendance List](#)  
                          [Education Board Applications](#)

Commissioner Bathurst nominated Ross David O'Connor to the Education Board. It was seconded by Vice Mayor Frankel. A roll call vote was taken

and all were in favor. The motion carried 5-0.  
**approved**

**7.H.     [18-599](#)     NOMINATION FOR APPOINTMENT TO THE POLICE ADVISORY BOARD**

**Recommendation:** Motion to approve nomination for appointment for one (1) regular member to serve on the Police Advisory Board for an unexpired term ending July 31, 2019.

**Sponsors:** City Clerk Department

**Attachments:** [Agenda Cover Report](#)  
[Exhibit A](#)  
[Police Advisory Board Member List](#)  
[Police Advisory Board Attendance List](#)  
[Police Advisory Board Applications](#)

Vice Mayor Frankel nominated Ron Gilinsky to the Police Advisory Board (PAB). It was seconded by Commissioner Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.  
**approved**

**8. PUBLIC HEARINGS:**

**8.A.     [18-522](#)     RESOLUTION NO. 106-18 FINAL MILLAGE LEVY FOR THE CITY OF DELRAY BEACH (CITY)**

**Recommendation:** Motion to approve Resolution No. 106-18 Final Millage Levy for FY 2019 for the City of Delray Beach.

**Sponsors:** City Manager Department

**Attachments:** [Agenda Cover Report](#)  
[Res 106-18 Millage Levy FY 2019](#)

The City Attorney read the title of Resolution No. 106-18 into the record.

The City Attorney stated the intent of the City Commission is to adopt an operating millage rate of 6.7611 per 1,000. The proposed operating millage is greater than the rolled back rate of 6.5482 per 1,000 by 2.99%. The City Attorney stated this includes a debt millage of 0.2108 per 1,000 assessed which is necessary due to the change in the Collective Bargaining Agreements and to fund the budget.

Caryn Gardner-Young, Assistant City Manager, gave a brief presentation regarding the final budget adoption and reviewed the changes that have occurred since the tentative budget. She explained that the following changes to the General Fund since the tentative adoption of the budget: (1) reduction of the CRA sponsorship for the tennis tournament of

\$904,783 to \$905,000.

Ms. Gardner-Young stated staff was notified today at 2:30 p.m. that the Police and Fire lowered their assumption rate from 8% to 7.25% and the difference needs to be made up by the city. She stated staff will come back to the City Commission with options they may have either at the October 2, 2018 meeting or October 16, 2018 meeting. Ms. Gardner-Young stated the difference to be paid is between \$1.9-\$2.5 million.

Kimberly Ferrell, Finance Director, stated that approximately two weeks ago all three pension boards met on the same day where the votes actually occurred. Ms. Ferrell stated today staff received the calculations from the actuarial consultant. Ms. Ferrell stated the Police and Fire-Rescue Collective Bargaining moved to lower their return assumption.

Vice Mayor Frankel inquired about the board vote because it was previously discussed that this would be reduced gradually. Ms. Ferrell stated the vote of the board was to take the return assumption from 8% to 7.25% all at once.

Mayor Petrolia asked if these are separate boards and inquired if they are still functioning as one board. Ms. Ferrell reiterated that these boards met on the same day. She stated these separate meetings. The General Employees' Pension Board had discussions about lowering the return assumption over six years to 6.75%. Ms. Ferrell stated the General Employees' Pension Board asked that the City get an experienced person to perform a study that will give a number of expert opinions on what the city will see on investment returns before they decide to lower. Ms. Ferrell stated if the city could pay this by October 1st, it would cost \$1.9 million; however, this is not budgeted, therefore, the city is going to have to pay \$2.5 million.

Mayor Petrolia stated she would have rather seen a small incremental decrease so that they city could have absorbed it slowly rather than on the eve of the last night the City Commission is approving the budget.

Deputy Vice Mayor Johnson commented that she would have preferred someone other than the Finance Director to be present to explain why this happened.

Ms. Gardner-Young stated the adjustment is not unreasonable based upon what is out there; however, she stated it is the timing and the length of notice.

Mayor Petrolia concurred with comments expressed by Vice Mayor Frankel and the Commission has previously asked that it be lowered because they are underfunded continuously. Mayor Petrolia stated if any of the history continues to repeat itself every year, she believes the reserves will grow and as a result of that she is hopeful that the money can come from the reserves and not affect services or jobs.

The City Attorney stated that the City Manager's office will have to work on an amendment to the budget.

Commissioner Boylston stated the city is in its third year of a 3-year program that was put in place for the hiring of fire-fighters and the city does not have money to fund the third year of the program.

Mayor Petrolia stated last year the city hired more firefighters than normal.

Neal de Jesus, Fire Chief, clarified the 3-year plan for hiring firefighters. He stated that he initially requested 24 firefighters (8 firefighters per year). He stated this being the 3rd year, they are asking for 4 *additional* firefighters which would be funded by Highland Beach and with respect to the lifeguards was a request for 3 full-time positions reducing their part-time hours and overtime costs (approximately \$87,000.00). The City of Delray Beach would be responsible for funding 4 of the final 8 positions.

Ms. Gardner-Young stated the City Manager recommends not funding it this year based upon the other budgetary needs.

Mayor Petrolia declared the public hearing open. There being no one from the public who wished to speak on Resolution No. 106-18, the public hearing was closed.

A brief discussion by the City Commission followed with respect to not funding the 3rd year now, but possibly funding it next year (completing it in 4 years rather than 3 years).

Lisa Herrman, Budget Manager, stated the parking revenue is going up \$800,000.00 which is already included in the budget; it is not additional money.

Ms. Gardner-Young stated there have been discussions about the revenue from the parking being put back into the parking (i.e. parking garage, signage, etc.).

Commissioner Boylston made a motion to approve Resolution No. 106-18 as submitted assessing an operating millage rate of 6.7611 and a debt

service millage of 0.2108 for a total millage of 6.9719 necessary to fund the budget. The increase is necessary to cover the increase in salaries due to Collective Bargaining Agreements and funding for Capital Improvement Projects inline with the City Commission's strategic plan priorities. It was seconded by Commissioner Bathurst. A roll call vote was taken and the motion carried a vote of 3-2 with Mayor Petrolia and Vice Mayor Frankel dissenting.

**approved**

**8.B.**     [18-523](#)     RESOLUTION NO. 107-18 FINAL MILLAGE LEVY FOR THE DOWNTOWN DEVELOPMENT AUTHORITY (DDA)

**Recommendation:** Motion to approve Resolution No. 107-18 Final Millage Levy for the DDA.

**Sponsors:** City Manager Department

**Attachments:**   [Agenda Cover Report](#)  
                          [Res 107-18 Tax Levy DDA FY 2019](#)  
                          [DDA Budget](#)

The City Attorney read the title of Resolution No. 107-18 into the record.

The City Attorney stated the proposed operating millage rate is \$1.00 per 1,000 of assessed value. It is more than the rolled back rate of 0.9285 per 1,000 by 7.70% necessary to fund the increase in cost of operations and maintenance for the Downtown Development Authority (DDA) and adopt the DDA millage.

Mavis Benson, Downtown Development Authority (DDA) board member, stated the DDA recommends approval of the DDA millage rate of 1.0000 for fiscal year 2018-2019.

Deputy Vice Mayor Johnson moved to approve Resolution No. 107-18 the millage rate of 1.0000 for the Downtown Development Authority (DDA) for fiscal year 2018-2019. It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.

**approved**

**8.C.**     [18-524](#)     RESOLUTION NO. 108-18 BUDGET ADOPTION FOR FY 2019

**Recommendation:** Motion to approve Resolution No. 108-18 Final Budget Adoption for FY 2019 FOR THE CITY OF DELRAY BEACH (CITY).

**Sponsors:** City Manager Department

**Attachments:** [Agenda Cover Report](#)  
[Resolution No. 108-18](#)  
[Exhibit A subtotals](#)

The City Attorney read the title of Resolution No. 108-18.

Mayor Petrolia declared the public hearing open.

Craig Mahoney, Professional Fighters of Delray Beach, 13770 Standford Drive, Wellington, FL, thanked the city for the strides that have taken to better the Fire-Rescue Department and expressed his disappointment with the City Commission for not fulfilling the fire-rescue request. Secondly, the pension board has reduced its rate of return assumption set by the City Commission in the last negotiations.

Ms. Gardner-Young gave a few brief comments.

The City Attorney stated they are required to use the same actuary advisor, pension attorney, and administrator to consolidate and save costs. The City Attorney stated this is also one of the reasons they all meet on the same day so that the same pension attorney for all three pension boards is there one time.

There being no one else from the public who wished to address the City Commission regarding Resolution No. 108-18, Mayor Petrolia closed the public hearing.

Lisa Herrman, Budget Officer, commented about the budget amendment and stated \$125,000.00 move from the Chamber grant to the City Manager's contingency fund.

Commissioner Boylston moved to approve Resolution No. 108-18 amending the budget to move \$125,000.00 Chamber grant to the City Manager's contingency fund. It was seconded by Commissioner Bathurst. The motion carried a vote of 4-1 with Mayor Petrolia dissenting.  
**approved**

**8.D.**     [18-560](#)

ORDINANCE NO. 09-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING LAND PRESENTLY ZONED SINGLE FAMILY RESIDENTIAL (R-1-A) DISTRICT TO CENTRAL BUSINESS (CBD) DISTRICT, LOCATED WITHIN THE RAILROAD CORRIDOR SUB-DISTRICT; SAID LAND IS LOCATED ON THE WEST SIDE OF SE 3RD AVENUE, 137 FEET SOUTH OF SE 2ND STREET (206 SE 3RD AVENUE), AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017";

PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (SECOND READING)

**Recommendation:** Move to deny on First Reading, Ordinance No. 09-18, a privately-initiated rezoning from Single Family Residential (R-1-A) District to Central Business (CBD) District, within the Railroad Corridor Sub-District, for a parcel of land located on the west side of SE 3rd Avenue, 137 feet south of SE 2nd Street (206 SE 3rd Avenue), by adopting the findings of fact and law contained in the staff report, and finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Sections 2.4.5(D)(5), Findings, and 3.2.2(D), Standards for Rezoning Actions.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)  
[Ord. No. 09-18](#)  
[Location Map](#)  
[Detailed Aerial Location Map](#)  
[Planning and Zoning Board Staff Report](#)

The City Attorney read the title of Ordinance No. 09-18 into the record.

Tim Stilling, Planning and Zoning Director, entered the Planning and Zoning Department project file #2015-003 into the record.

Michael Dutko, Attorney representing the applicant, stated the City Commission previously approved the land use map amendment and the residential zoning is inconsistent with the future land use map. Mr. Dutko stated this rezoning would change that and urged the Commission to support this application.

Mayor Petrolia declared the public hearing open. There being no one from the public who wished to address the City Commission regarding Ordinance No. 09-18, the public hearing was closed.

Vice Mayor Frankel made a motion to approve Ordinance No. 09-18 on Second and Final Reading. It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.

approved

**8.E. [18-605](#)**

ORDINANCE NO. 12-18: A CITY-INITIATED AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS TO CREATE AN ENTIRELY NEW SUBSECTION REGARDING HISTORIC SITE AND BUILDINGS

MAINTENANCE REGULATIONS, TO REVISE PROCEDURES FOR CERTIFICATES OF ECONOMIC HARDSHIP, AND TO REVISE REGULATIONS REGARDING TAX EXEMPTION REVOCATION PROCEEDINGS WITHIN LDR SECTION 4.5.1. (SECOND READING)

**Recommendation:** Motion to Approve Ordinance No. 12-18 adopting the City-initiated amendment to Land Development Regulation Article 4.5 “Overlay and Environmental Management Districts”, Section 4.5.1 “Historic Preservation: Designated Districts, Sites and Buildings” to create an entirely new subsection regarding Historic Site and Buildings Maintenance Regulations, to revise procedures for Certificates of Economic Hardship, and to revise regulations regarding Tax Exemption Revocation Proceedings, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in pursuant to LDR Section 2.4.5(M).

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)

[2018-07-16-PZB Staff Report Ordinance No 12-18-With Attachments](#)

[ORD 12-18 LDR 4.5.1 REV-2018-09-14 FINAL](#)

[ORD 12-18 LDR 4.5.1 Changes since 1st reading-REV-2018-09-14](#)

The City Attorney read the title of Ordinance No. 12-18 into the record.

Tim Stillings, Planning and Zoning Director, stated this ordinance proposes to improve the historic maintenance provisions within the historic sites and buildings. Mr. Stillings briefly reviewed the following changes: (1) referencing the new name for community services which is now Neighborhood and Community Services, (2) representing the new name of development services Planning, Zoning and Building, (3) clarifying two new sections in the previous ordinance relating to the applicant providing information for the boards determination for an undue hardship and what happens in the event the information is not reasonably available. Staff recommends approval of the ordinance as presented.

Mayor Petrolia declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 12-18, the public hearing was closed.

Mr. Stillings briefly reiterated the changes relative to LDR Text Amendment 4.5.1, LDR Text Amendment 4.5.1(E)(9), and LDR Text Amendment 4.5.1(H). Mr. Stillings stated this was reviewed by all the advisory boards and the Historic Preservation Board (HPB) and the Planning and Zoning Board (PZB) unanimously recommended approval to LDR regulation Section 4.5.1.

Commissioner Boylston made a motion to approve Ordinance No. 12-18. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 5-0.

**approved**

**8.F. [18-606](#)**

ORDINANCE NO. 13-18: A CITY-INITIATED AMENDMENT TO THE CODE OF ORDINANCES TO AMEND CHAPTER 100, "NUISANCES", AT TITLE 9. "GENERAL REGULATIONS" BY REPEALING SECTION 100.10 AND READOPTING IT WITH NEW TITLE, "BOARDING CERTIFICATE; REQUIREMENTS", TO PROVIDE FOR REGULATIONS REGARDING THE BOARDING AND SECURING OF VACANT BUILDINGS, STRUCTURES, OR DWELLINGS IN THE CITY. (SECOND READING)

**Recommendation:** Motion to approve Ordinance No. 13-18 amending the Code of Ordinances to create new requirements and regulations regarding the boarding and securing of vacant buildings, structures, or dwellings in the City, by adopting the findings of fact and law and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in pursuant to LDR Section 2.4.5(M).

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)

[ORD 13-18 Code of Ord-Changes since 1st Reading-2018-09-14](#)

[ORD 13-18 Code of Ord-2018-09-14-FINAL](#)

The City Attorney read the title of Ordinance No. 13-18 into the record.

Tim Stillings, Planning and Zoning Director, briefly reviewed the new Code of Ordinance requirements.

Mr. Stillings stated the advisory boards (DDA, Pineapple Grove Mainstreet, and the West Atlantic Redevelopment Coalition) reviewed this and recommended approval. Staff also recommends approval.

Mayor Petrolia declared the public hearing open. There being no one from the public who wished to address the City Commission regarding Ordinance No. 13-18, the public hearing was closed.

Commissioner Bathurst made a motion to approve Ordinance No. 13-18 on Second and Final Reading. It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 5-0.

**approved**

**8.G. [18-600](#)**

ORDINANCE NO. 19-18: 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 AMENDING ALL SUBSECTIONS, EXCEPT SUBSECTION (H), OF SECTION 4.4.13. "CENTRAL BUSINESS (CBD) DISTRICT" AT ARTICLE 4.4, "BASE ZONING DISTRICT" OF CHAPTER 4, "ZONING REGULATIONS", IN ORDER TO MODIFY REGULATIONS, INCLUDING BUT NOT LIMITED TO, ALLOWABLE USES, RETAIL FRONTAGE, PARKING, BUILDING CONFIGURATIONS, FRONTAGE STANDARDS, STREET TREES, ARCHITECTURAL STANDARDS, CIVIC OPEN SPACES, TRAFFIC CIRCULATION AND APPLICATION REVIEW PROCESSES IN THE CBD DISTRICT, PROVIDING FOR NEW FIGURE 4.4.13-8A ALONG WITH REDESIGNATION OF OTHER TABLES OR FIGURES, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES. (FIRST READING/FIRST PUBLIC HEARING)

**Recommendation:** Motion to Approve Ordinance No. 19-18 amending the Land Development Regulations at Section 4.4.13 "Central Business District (CBD)", as presented.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)  
[Ord 19-18 CBD Update](#)  
[PZB 082018 Ord No 19-18 CBD](#)

Tim Stillings, Planning and Zoning Director, thanked Michelle Hoyland, Principal Planner/Historic Preservation and Lynn Gelin, Deputy City Attorney for all their hard work with making this happen.

The City Attorney read the title of Ordinance No. 19-18 into the record.

Mr. Stillings thanked Anthea Gionnotes, Principal Planner and Amy Alvarez, Senior Planner/Historic Preservation for their assistance with this ordinance.

Mr. Stillings stated in February 2015 the Central Business District (CBD) rules were adopted in a modified form and as part of that the ordinance included a provision that the regulations would be re-evaluated within three years and this is what is in front of the City Commission for consideration. Mr. Stillings reviewed a few approved projects for the CBD and reviewed some changes to the language within the ordinance (i.e. outdoor uses in the railroad corridor sub-district, openings on side elevations, street trees, stoop frontage type, bicycle parking, vehicular use-area along primary streets).

Mayor Petrolia declared the public hearing open. There being no one from

the public who wished to address the City Commission regarding Ordinance No. 19-18, the public hearing was closed.

A brief discussion between Mr. Stillings and the City Commission ensued regarding future projects. The City Commission gave staff direction to create a Conservation District for Atlantic Avenue and regulate national chains to make a top priority.

Mr. Stillings stated staff will be discussing in-lieu parking at the next City Commission Workshop Meeting and other items such as height and density.

A brief discussion by the City Commission followed regarding the timeframe and priority of these projects.

After a brief discussion with respect to the items requiring a policy direction, it was the consensus of the City Commission to direct staff to make the following top priority and begin working on: (1) create a conservation district for Atlantic Avenue in order to support preservation, and (2) regulate national chains in the Downtown Development Authority (DDA). It was noted that the other items will be discussed at a later date.

Commissioner Boylston stated according to the retail study when he was on the DDA, a good mix is 80% local business and 20% national chains.

Deputy Vice Mayor Johnson stated she also feels another important topic to discuss is to reduce building height to 3 stories to the West Atlantic Avenue Neighborhood Sub-district (The SET) and give some character to this area.

A brief discussion by the City Commission followed with respect to rooftop bars.

Mayor Petrolia stated that if someone is at the story limit but not at the height limit, they would be able to create an environment on a roof that has not reached the height limit.

Commissioner Boylston stated as long as someone is under the height limit and it is under 25% or less of the rooftop, then you should be able to enclose it in the air conditioning and also be able to put in a kitchen.

Deputy Vice Mayor Johnson asked how many existing rooftop bars or rooftop venues are currently in Delray Beach. Mr. Stillings stated iPic is the first building to have a rooftop bar.

Commissioner Boylston stated currently with restaurants it includes seating and patio in calculations for parking. Mr. Stillings stated it would also include the kitchens as well as a gross square footage.

A brief discussion between the City Commission and Mr. Stillings ensued regarding the height and length proportion with respect to the Aloft building. Mr. Stillings stated staff addressed the civic open space requirement from 7 percent to 9 percent and within the architectural guidelines.

A brief discussion by the City Commission followed with respect to the noise that may be potentially generated from this and everyone needs to be cognizant and noted on three sides of The Ray Hotel there will be people living there on three sides at the same level. Mayor Petrolia stated she had a discussion with Ms. Gionnotes that they regulate these things with times these things are allowed to function.

Mr. Stillings stated the parking in these areas will also need to be addressed and it was noted that a pool or amenity for a residence would fall into the category for a patio.

Mr. Stillings the Aloft project started prior to the Central Business District (CBD) rules were adopted; however, it was modified to meet the LDR requirements and noted that the length to width proportion of the civic open space has been modified.

Anthea Gionnotes, Principal Planner, explained that with respect to the Aloft project a diagram was added after the 2015 original amendments (pg. 61). In addition, Ms. Gionnotes stated configuration standards were added to The Ray Hotel.

Vice Mayor Frankel returned to the dais at 10:34 p.m.

Commissioner Bathurst left the dais at 10:38 p.m. and he returned at 10:40 p.m.

Commissioner Boylston left the dais at 10:40 p.m. and returned at 10:42 p.m.

Vice Mayor Frankel moved to approve Ordinance No. 19-18 on First Reading/First Public Hearing with the proposed changes as discussed. It was seconded by Commissioner Boylston. A roll call vote was taken and the motion carried a vote of 3-2 with Commissioner Bathurst and Mayor Petrolia dissenting.

**approved**

**9. FIRST READINGS:**

- 9.A.**     [18-601](#)     ORDINANCE NO. 25-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING SECTION 4.4.13 "CENTRAL BUSINESS (CBD) DISTRICT", BY AMENDING SUB-SECTION (D), "CONFIGURATION OF BUILDINGS", SUB-SUB SECTION (1), "STANDARDS FOR CBD GENERALLY", PARAGRAPH (a), "BUILDING HEIGHT", TO DEFINE THE PROPERTIES LOCATED WITHIN THE ATLANTIC AVENUE HEIGHT LIMIT AREA; 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 No. 25-18 amending the Land Development Regulations at Section 4.4.13(D)(1)(a) of the "Central Business District (CBD)", as presented.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Agenda Cover Report](#)

[Ord 25-18](#)

[Exhibit A Ord 25-18](#)

[Staff Report](#)

The City Attorney read the title of Ordinance No. 25-18 into the record.

Tim Stillings, Planning and Zoning Director, gave a brief presentation regarding Ordinance No. 25-18. On September 17, 2018, the Planning and Zoning Board recommended approval with a 5 to 1 vote; on September 10, 2018, the Downtown Development Authority (DDA) recommended approval. Staff recommends approval.

Vice Mayor Frankel moved to approve Ordinance No. 25-18 on First Reading. It was seconded by Commissioner Boylston.

For clarification and prior to the roll call vote, Commission Boylston stated the City Commission is not removing the height restriction; the City Commission is going from the 3-stories to the 4-stories (reverting back to what it was previously).

A roll call vote was taken and the motion carried a vote of 3-2 with Commissioner Bathurst and Mayor Petrolia dissenting.  
**approved**

- 9.B.**     [18-585](#)     ORDINANCE NO. 26-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER

35, "EMPLOYEE POLICIES AND BENEFITS", BY REPEALING "PUBLIC EMPLOYEE RELATIONS", SECTIONS 35.030 THROUGH 35.041 IN ITS ENTIRETY; 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 No. 26-18.

**Sponsors:** City Attorney Department

**Attachments:** [Agenda Cover Report](#)  
[Ord 26-18](#)

The City Attorney read the title of Ordinance No. 26-18 into the record.

Vice Mayor Frankel made a motion to approve Ordinance No. 26-18 on First Reading. It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.  
approved

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

### 10.A. City Manager

#### 10.A.1. [18-628](#) Lobbyist contract renewal

**Sponsors:** City Manager Department

**Attachments:** [Amendment No. 2 Ballard Partners Lobbyist Agreement](#)

Caryn Gardner-Young, Assistant City Manager, stated this is a one-year contract with Ballard Partners for the same amount of money. It was the consensus of the City Commission to proceed with the Lobbyist contract renewal.

#### 10.A.2. [18-629](#) City Commission Compensation

**Sponsors:** City Manager Department

**Attachments:** [Commissioner Compensation Memo](#)

Caryn Gardner-Young, Assistant City Manager, stated the City Commission salary is below what its peers are and there is currently no automobile allowance. Staff recommends a \$500.00 per month car allowance effective October 1, 2018 and the money will come from the City Manager's contingency fund.

Vice Mayor Frankel made a motion to approve to proceed as recommended. It was seconded by Commissioner Boylston. A roll call vote was taken and all were in favor. The motion carried 5-0.

**10.A.3. [18-630](#)****Downtown Trolley**

**Sponsors:** City Manager Department

Caryn Gardner-Young, Assistant City Manager, gave a brief update on the status of the Downtown Trolley.

Susan Goebel-Canning, Public Works Director, stated most of the telephone calls were from students trying to figure out how they could get to the university or employees that were more in manual labor field trying to get downtown to work (i.e. housekeepers, dishwashers). Ms. Goebel-Canning stated she is requesting staff to tally the telephone calls as they come in.

Mayor Petrolia made several comments about the core of downtown and to make sure money is coming into the core and that it is economically feasible for everyone. She stated that this information can be gathered during a pilot program.

Steve Murray, 252 N.W. 12th Street, Delray Beach, stated a pilot program would take a little more than three weeks to set up. He stated they have all of their data even when people put their addresses in and do not book a ride, the data will show why a user did not book a ride.

Commissioner Boylston questioned how they would track a fixed route where people are getting on and off. Mr. Murray replied they are designing technology to be implemented in approximately two weeks where tracking for the user to get from their house to a fixed route and then connect to tri-rail.

Commissioner Bathurst stated he was in Stuart this weekend and they have a tram downtown that is more of a gem car/cart (i.e. electric, solar, and gas solar assist).

Commissioner Boylston expressed concern over people who are not getting to work because of the trolley being gone. He would like to see the CRA move forward with a pilot program. Commissioner Boylston stated he supports the transportation from the tri-rail to the downtown core for the people who need it.

Mayor Petrolia suggested having three different types utilizing the gem cars because that is a big reason why people say they would support the city funding this versus not supporting it.

Mayor Petrolia stated the city still has funding for the trolley and the contract that is still provided through January 2019.

Commissioner Bathurst stated he supports the transportation from the tri-rail to the downtown core for the people who need it.

Deputy Vice Mayor Johnson made a motion to extend the meeting past 11:00 p.m. It was seconded by Commissioner Boylston. A roll call vote was taken and the motion carried 4-1, with Vice Mayor Frankel dissenting.

Deputy Vice Mayor Johnson stated she feels a vital community is being overlooked that is currently utilizing the trolley and many students who attend Atlantic High School are outside of the walkability area; these students are riding the trolley, getting off at Congress Avenue, and walking to school. Deputy Vice Mayor Johnson stated some students take the trolley to the tri-rail and go to other schools and other cities.

The City Commission expressed concern over the urgency of a pilot program.

Ms. Gardner-Young stated the City had a contract with First Transit, however, a termination notice was sent to them and currently there is no contract. With respect to the pilot program, the City does not have the funding, but the Community Redevelopment Agency (CRA) has the funding.

It was the consensus of the City Commission to support a pilot program via the CRA since they are the funding source for the trolley.

**10.A.4. [18-631](#)** Auto-pay Efficiency Improvement for City's Utilities Bills

**Sponsors:** City Manager Department

Caryn Gardner-Young, Acting City Manager, stated the auto-pay will save approximately \$16,000.00 a year.

**10.A.5. [18-632](#)** Workshop Calendar

**Sponsors:** City Manager Department

**Attachments:** [2018-2019 City Commission Workshop Agenda Schedule rev. 9-10-18](#)

Caryn Gardner-Young, Assistant City Manager, stated the next Workshop Meeting is October 9, 2018 and requested that the Old School Square discussion take place in the First Floor Conference Room and then the City Commission can move into the Commission Chambers to discuss the rest of the items.

The City Commission moved to **Item 10.A.6., Hometown Events Discussion.**

Caryn Gardner-Young, Assistant City Manager, stated the Community Redevelopment Agency (CRA) may not be able to fund non-profits and the concern was that the Delray Beach Marketing Cooperative (DBMC) could not operate without the funding from the CRA.

Stephanie Immelman, Executive Director of the Delray Beach Marketing Cooperative (DBMC), as of October 31st the DBMC ends because they are running out of money. Ms. Immelman stated the City of Delray Beach and the Chamber are working with the Destination Marketing Funding Agreement and until things are worked out with this agreement, the Chamber will not have enough money to hire her team. Therefore, Ms. Immelman stated for the holiday events to happen, she and her team are offering to handle the events on a contract basis for 12 weeks. She is hopeful that the Destination Marketing Funding Agreement will be worked out with the Chamber by January 2019.

Ms. Gardner-Young stated the DBMC is requesting \$87,000.00 administrative costs for her team, \$35,000.00 for First Night, \$24,000.00 for the Christmas tree lighting, \$12,000.00 for inside the tree for electricity and sound, with a total cost of \$158,000.00. Ms. Immelman stated the request also includes the marketing costs and 8-10 part-time people on-site for the month.

The City Attorney stated rather than bring an agreement back to the City Commission for ratification, he declared that this is a sole source as well as an emergency acquisition and recommended that the City Commission authorize the City Manager to execute an agreement.

Vice Mayor Frankel made a motion to authorize the City Manager to execute an agreement with respect to the terms as outlined tonight and per the City Attorney's direction that this be declared an emergency acquisition. It was seconded by Commissioner Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.

#### **10.B. City Attorney**

The City Attorney announced that there was a mediation last Friday over the Match Point litigation. Prior to the motion, the City Attorney stated there was a motion for summary judgement filed by Match Point that was scheduled for a hearing this Friday (September 28, 2018) and the City of Delray Beach is also on the non-jury trial Docket with a scheduled date of Monday, December 17, 2018. The City Attorney stated in consideration of granting the motion to amend the complaint, the judge conditioned it upon the City of Delray Beach waiving its right to seek a continuance. As a result of the mediations, the City Attorney stated they agreed to file a joint motion that Mr. Hart filed Monday

cancelling the hearing for Friday, September 28, 2018 and removing the trial from the trial Docket to give the parties the opportunity to revisit the Matchpoint agreement as expressed previously by the City Commission to renegotiate the terms. The City Attorney thanked Mr. Hart and Mr. Baron for their participation and also thanked John Herin and Commissioner Bathurst. The City Attorney stated at the October 2, 2018 City Commission Meeting he will request to schedule a Shade Meeting (Closed Door/Attorney Client Session) regarding Matchpoint.

Secondly, the City Attorney stated there is a lawsuit pending against Florida Association of Recovery Residences (FARR) that is attacking the ability for FARR to certify or not certify recovery residences. The City Attorney stated if the lawsuit is successful, it will undo the City's ordinances. The City Attorney stated he would like permission to intervene on behalf of FARR allowing the City to join as a co-defendant. He stated Delray Beach would be able to leverage his experience as well as Terrill Pyburn's experience.

#### **10.C. City Commission**

Deputy Vice Mayor Johnson displayed a poster that Atlantic High School and Village Academy students signed thanking Mayor Petrolia for stopping by their schools. Deputy Vice Mayor Johnson stated they registered over 100 students who will be the next generation of voters. Secondly, Deputy Vice Mayor Johnson stated she attended the Florida League of Cities and #1 on their Municipal Administrative Legislative Policy Committee was short-term rentals. Lastly, Deputy Vice Mayor Johnson expressed concern over the gun shootings in the city and stated a man was recently injured in the cross-fire and is now permanently disabled.

There being no further business to discuss, the meeting was adjourned at 11:31 p.m.