

# City of Delray Beach

100 NW 1st Avenue - Delray Beach, Florida 33444  
Phone: (561) 243-7000 - Fax: (561) 243-3774  
[www.mydelraybeach.com](http://www.mydelraybeach.com)



## Minutes - Draft

**Tuesday, November 27, 2018**

**4:00 PM**

**Regular Meeting at 4:00 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 4:00 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 (arrived at 4:03 p.m.)  
Commissioner Bill Bathurst  
Commissioner Ryan Boylston

Others present were:

Mark R. Lauzier, City Manager  
Lynn Gelin, Interim City Attorney  
Katerri Johnson, City Clerk

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

Commissioner Boylston made a motion to approve the agenda. It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 4-0.

**4. PRESENTATIONS:**

4.A. None

**4.B. Internal Auditor's Report**

4.B.1. None

**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

None.

5.B. From the Public

Margie Waldo, 6103 Caladium Road, Delray Beach, Palm Beach County Sports Commission and Delray Beach Sports Destination Committee, invited the City Commission to the 27th Annual Lou Grossa Collegiate Place Kicker Award Banquet on Monday, December 3, 2018 at 6:30 p.m. at the Kravis Center. Ms. Waldo announced that Atlantic High School Football Coach TJ Jackson is a finalist for Coach of the Year and noted the Atlantic High School Eagles are a finalist for team of the year.

Secondly, Ms. Waldo invited the City Commission to the Delray Beach Pickleball Classic held from November 29 thru December 2, 2018 and to the International Federation of Beach Tennis Tournament held on the beach near the volleyball courts December 15, 2018.

Juli Casale, 3717 Satin Leaf Court, Delray Beach (Sabal Lakes), speaking on behalf of 695 local residents who signed a petition in opposition to Banyan Cove's proposed multi-unit development for the following reasons: (1) it would fundamentally change the character of the neighborhood, (2) add to the traffic problem and related safety concerns on Barwick Road, (3) set a precedent for other developers to seek to take advantage of. Ms. Casale stated the applicant sought an amendment in the County and in his initial application was for 102 apartments and at some point he reduced it to 53 multi-unit density. She noted the County staff recommended denial.

Alice Finst, 707 Place Tavent, Delray Beach (Chatelaine), gave a brief history of how developers were looking for land in the western area since 1985. Ms. Finst explained Barwick Park was put at the corner of Lake Ida Road and Barwick Road to send a message to developers that this area was single-family residential and it preserves the area. She opposes any change in the zoning.

Willie Potts, Jr., 135 S.W. 7th Avenue, Delray Beach (representing the Florida Youth Foundation), stated there is a dire need for an extra gym in the city because Pompey Park gym and the Community Center gym are always full.

George Long, 46 N.W. Swinton Avenue, Delray Beach, commented about the redevelopment of Block 60 a sidewalk was placed in the alley lengthwise and it cut off the normal access to parking behind the subject house. Mr. Long stated this presents an issue if the property is ever converted to a business because parking is not allowed in front of a commercial structures in the historic district.

Sandra Jones, 13238 Barwick Road, Delray Beach, gave a few brief comments regarding the proposed Banyan Cove project.

Mike Teng, Director of the Sabal Lakes Homeowners' Association, speaking on behalf of Davenport Professional Property Management who oversees the Sabal Lakes Master Association, 6620 Lake Worth Road Ste. #F, Lake Worth, FL 33467, submitted a statement into the record and stated Sabal Lakes Homeowners' and Master Association objects to the following: (1) the Future Land Use Map Amendment Rezoning redesignating from Palm Beach County Medium Density 5 units per acre to City Medium Density Residential to 5-12 dwelling units per acre, (2) the rezoning and redesignating the zoning district from Palm Beach County Agricultural Residential inpart and Residential High inpart and establishing a City zoning of Medium Density Residential for three parcels of land located on the east side of Barwick Road also known as Banyan Cove. Mr. Teng stated the City Commission should also have a copy of the email that was sent out a few hours prior to this meeting as well as the email sent on October 11, 2018.

Andrew Broadbent, 13214 Barwick Road, Delray Beach (property south of this proposed annexation), stated Bexley Park subdivision also has access to Military Trail not just to Barwick Road whereas this new development ingress and egress is only Barwick Road. He expressed concern over the traffic on Barwick Road that is generated by Banyan Creek Elementary School.

Alexander Orozco, 4629 Palmridge Boulevard, stated there is already a traffic issue on Barwick Road and noted that after performing his own vehicle density/vehicle flow analysis on this area. Mr. Orozco stated this area is currently at 85% vehicle density/vehicle flow. He urged the City Commission to keep this area single-family residential versus medium density residential.

There being no one else from the public who wished to address the City Commission, Mayor Petrolia closed the public comment.

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

Mayor Petrolia requested that Item 6.E., Approval of a Consent to Assignment and Assumption Agreement for RMS Properties to Rosebud 110, LLC. be moved to the Regular Agenda as Item 7.A.A.

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. [18-757](#) MEETING MINUTES**

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

## October 16, 2018 Regular City Commission Meeting Minutes

**Sponsors:** City Clerk Department

**Attachments:** [Agenda Cover Report](#)  
[Minutes October 16, 2018 Regular City Commission Meeting](#)

approved

- 6.B.**     [18-703](#)     APPROVAL OF AMENDMENT NO. 1 FOR PLUMBING MAINTENANCE AND REPAIR SERVICES WITH GREEN TEAM PLUMBING D/B/A GREEN TEAM SERVICE CORP TO INCREASE THE APPROVED NOT-TO-EXCEED CONTRACT VALUE TO \$150,000 THROUGH APRIL 30, 2019

**Recommendation:** Motion to approve Amendment No. 1 for plumbing maintenance and repair services with Green Team Plumbing d/b/a Green Team Service Corp to increase the approved not-to-exceed value to \$150,000 through April 30, 2019.

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

**Attachments:** [Agenda Cover Report](#)  
[Legal Review Checklist Amendment to RFP 2017-019 - Annual Spending Cap on Plumbing Services.pdf](#)  
[Amendment No. 1 GreenTeam.pdf](#)  
[GreenTeam Contract.pdf](#)  
[RFP No.2017-019.pdf](#)  
[GreenTeam Service Corp Bid.pdf](#)

approved

- 6.C.**     [18-742](#)     RESOLUTION NO. 137-18: HISTORIC PROPERTY AD VALOREM TAX EXEMPTION FOR 1109 NASSAU STREET

**Recommendation:** Motion to Adopt Resolution No. 137-18; approving a historic property ad valorem tax exemption for improvements to the contributing structure and property located at 1109 Nassau Street, based upon positive findings with respect to LDR Section 4.5.1(J).

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[1109 Nassau Street Tax Exemption-Attachments](#)  
[2018-10-03-Tax Exemption HPB SR-1109 Nassau Street Staff Report](#)  
[Resolution 137-18-Tax Exemption-1109 Nassau Street](#)

approved

- 6.D. [18-743](#) RESOLUTION NO. 138-18: HISTORIC PROPERTY AD VALOREM TAX EXEMPTION FOR 219 SE 7th AVENUE

**Recommendation:** Motion to approve Resolution No. 138-18; approving a historic property ad valorem tax exemption for improvements to the contributing structure and property located at 219 SE 7th Avenue, based upon positive findings with respect to LDR Section 4.5.1(J).

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[Attachments Tax Exemption-219 SE 7th Avenue](#)  
[2018-10-03-Tax Exemption HPB SR-219 SE 7th Avenue Staff Report](#)  
[Resolution 138-18-Tax Exemption-219 SE 7th Avenue](#)

approved

- 6.E. [18-798](#) APPROVAL OF A CONSENT TO ASSIGNMENT AND ASSUMPTION AGREEMENT FOR RMS PROPERTIES TO ROSEBUD 110, LLC

**Recommendation:** Motion to approve a Consent to Assignment and Assumption Agreement from RMS Properties to Rosebud 110, LLC, and authorize the City Manager to execute any other actions necessary to effectuate this Agreement.

**Sponsors:** City Attorney Department

**Attachments:** [Agenda Cover Report](#)  
[Consent to Assignment](#)  
[Parking Space Lease Support Agreement \(7387345x7AB84\)](#)  
[Parking Agreement Amendments \(7387343x7AB84\)](#)

Mayor Petrolia stated originally some parking spaces were designated public and wants to ensure that these spaces are not part of this item.

Lynn Gelin, Interim City Attorney, stated this is for the Robert Federspiel Garage and is an assignment of the current lease to a new potential property owner.

Commissioner Boylston made a motion to approve Item 7.A.A. (formerly Item 6.E.). 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.F. [18-807](#) SETTLEMENT IN THE CASE OF KIMBERLY ARDILA-MORGAN V. CITY

## OF DELRAY BEACH

**Recommendation:** Motion to settle the case of Kimberly Ardila-Morgan v. the City of Delray Beach for the reasons discussed in the confidential memorandum previously distributed to the City Commission.

**Sponsors:** City Attorney Department

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

approved

**6.G. PROCLAMATIONS:****6.G.1. [18-758](#) PICKLEBALL MONTH PROCLAMATION**

**Recommendation:** Motion to proclaim November 2018 as Pickleball Month in recognition of the 2018 Delray Beach Pickleball Classic that begins on November 29, 2018.

**Sponsors:** Parks & Recreation Department

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

Mayor Petrolia read the Pickleball Month proclamation into the record proclaiming November 2018 as Pickleball Month.

**6.H. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**

approved

**6.H.1. [18-728](#) REPORT OF APPEALABLE LAND USE ITEMS FROM OCTOBER 8, 2018 THROUGH OCTOBER 19, 2018.**

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

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[Appealable Items Map](#)  
[A. Crossroads Club - 1700 Lake Ida Road](#)  
[B. Cove 4 - 344 Venetian Drive](#)

approved

**6.I. AWARD OF BIDS AND CONTRACTS:****6.I.1. [18-724](#) APPROVAL OF RESOLUTION NOS. 133-18, 134-18, AND 135-18 TO**

AWARD AGREEMENTS WITH BODY SHOP BY MIKE & JOE, INC., COLLISION MOTOR REPAIRS, LLC, AND SOUTHEAST COLLISION CENTER, INC. FOR FLEET REPAIR AND PAINTING SERVICES IN A TOTAL CONTRACT VALUE NOT-TO-EXCEED \$300,000 FOR THE INITIAL THREE-YEAR TERM

**Recommendation:** Motion to approve Resolution Nos. 133-18, 134-18, and 135-18 to award agreements with Body Shop by Mike & Joe, Inc., Collision Motor Repairs, LLC, and Southeast Collision Center, Inc. for fleet repair and painting services in a total contract value not-to-exceed \$300,000 for the initial three-year term.

**Sponsors:** Public Works Department - Fleet Division

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

[2018-053 Agreement with Body Shop By Mike & Joe, vendor executed](#)

[2018-053 Agreement with Collision Motor, vendor executed](#)

[2018-053 Agreement with Southeast, vendor executed](#)

[Resolution No. 133-18 with Collision Motor Repairs CA rev](#)

[Resolution No. 134-18 with Southeast Collision Center CA rev](#)

[Resolution No. 135-18 with Body Shop by Mike & Joe CA rev](#)

[Legal Review Checklist form v. 5 Body Shop by Mike and Joe](#)

[Legal Review Checklist form v. 5 Collision Motor Repairs](#)

[Legal Review Checklist form v. 5 Southeast Collision Center](#)

[2018-053 Pool of Contractors for Fleet Repair Painting Services and Welding Services \(rev 4 CA rev clean\) body shop by mike & joe proposal](#)

[Collision Motor Repairs Proposal](#)

[Southeast Collision Center Proposal](#)

**approved**

**6.I.2. [18-741](#)**

APPROVAL OF RESOLUTION NO. 139-18 TO AWARD TWO FIVE-YEAR AGREEMENTS WITH OPTIONS FOR FIVE, ONE-YEAR, RENEWALS WITH ASHBRIITT, INC. AND CROWDERGULF JOINT VENTURE, INC. FOR DISASTER AND DEBRIS MANAGEMENT SERVICES.

**Recommendation:** Motion to approve Resolution No. 139-18 to award two five-year agreements (Agreements), with options for five, one- year renewals, with Ashbriitt, Inc. as the primary contractor and CrowderGulf Joint Venture, Inc as the secondary contractor, for disaster and debris management services.

**Sponsors:** Public Works Department



**Attachments:** [Agenda Cover Report](#)[Attachment 1 RFP 2018-001 Disaster and Debris Management R3](#)[Attachment 2 AshBritt Inc. Response to the City of Delray Beach, FL  
RFP 2018-001 for Disaster and Debris Management Services  
Attachment 2 CrowderGulf FINAL PROPOSAL](#)[Attachment 3 Reso 139-18 final ca rev](#)[Attachment 4 Legal Review Checklist Crowdergulf Disaster Debris  
Agreement](#)[Attachment 4 Legal Review Checklist form v. 5 Ashbritt debris and  
disaster removal](#)[Attachment 5 Ashbritt Agreement](#)[Attachment 5 CrowderGulf Agreement](#)[Attachment 6 RFP 2018-001 Scoring Summary](#)

approved

**7. REGULAR AGENDA:**

- 7.A.**     [18-581](#)     APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE SERVICE EMPLOYEES INTERNATIONAL UNION, FLORIDA PUBLIC SERVICES UNION, CTW, CLC.

**Recommendation:** Motion to approve Collective Bargaining Agreement between the City of Delray Beach and the Service Employees International Union, Florida Public Services Union, CTW, CLC.(SEIU).

**Sponsors:** Human Resources Department

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

Duane D'Andrea, Assistant Human Resources Director, presented the Collective Bargaining Agreement between the City of Delray Beach and the Service Employees International Union (SEIU) for 2018. Mr. D'Andrea stated this agreement was ratified the second week of November 2018 with a vote of 94 yes and 1 no.

Vice Mayor Frankel made a motion to approve the Collective Bargaining Agreement between the City of Delray Beach and the Service Employees International Union, Florida Public Services Union, CTW, CLC (SEIU). 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.**     [18-747](#)     ALWAYS     DELRAY     COMPREHENSIVE     PLAN     UPDATE:

## PRESENTATION OF THE HOUSING ELEMENT

**Recommendation:** Provide comment and direction regarding the proposed update of the Housing Element for the Always Delray Comprehensive Plan.

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[Cover Memo](#)  
[Housing Element DIA 11.20.18 Draft](#)  
[HousingGOPs 11.20.18 Draft](#)  
[HOU Maps\\_092218](#)  
[HOU Florida Statutes](#)  
[Current Housing Element edited 07202015](#)  
[Planning and Zoning Board Comp Plan Memo 10.1.2018](#)

Tim Stillings, Development Services Director, presented the Always Delray Comprehensive Plan Update Presentation of the Housing Element.

A brief discussion between Mayor Petrolia and Mr. Stillings ensued.

7.C. [18-748](#) ALWAYS DELRAY COMPREHENSIVE PLAN UPDATE:  
PRESENTATION OF THE ECONOMIC PROSPERITY  
ELEMENT

**Recommendation:** Provide comment and direction regarding the proposed Economic Prosperity Element for the Always Delray Comprehensive Plan.

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[ECP DIA PZB 10.01.18](#)  
[ECP GOP PZB 110818](#)  
[MAP ECP1 Underutilized Lands](#)  
[MAP ECP2 Percent Underutilized Lands](#)  
[ECP PZB Staff Report](#)  
[ECP Statutes](#)

Tim Stillings, Development Services Director, presented the Always Comprehensive Plan Update Presentation of the Economic Prosperity Element.

A brief discussion between Mayor Petrolia and Mr. Stillings ensued.

## 8. PUBLIC HEARINGS:

8.A. [18-559](#) ORDINANCE NO. 11-18: A City-initiated Amendment to modify Table L-6

within the Future Land Use Element of the Comprehensive Plan to add an "X" to the table to include Old School Square Historic Arts District as a zoning district that is compatible with the Community Facilities (CF) Future Land Use Map Designation, pursuant to Land Development Regulation Section 2.2.2(E)(6)(a). (SECOND READING/2ND PUBLIC HEARING)

**Recommendation:** Motion to Adopt Ordinance No. 11-18, a City-initiated amendment to the Future Land Use Element of the Comprehensive Plan, modifying Table L-6 to add an "X" to the table to include the OSSHAD zoning district as a zoning district that is compatible with the CF FLUM designation, by finding that the request is consistent with the requirements of Florida Statutes.

**Sponsors:** Development Services Department

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

[2018-07-16 LDR Amendment CBD Overlay in OSSHAD Ord 11-18](#)

[FINAL](#)

[2018-07-16-PZB Staff Report Ordinance No 11-18 with attachments](#)

Lynn Gelin, Interim City Attorney, read the title of Ordinance No. 11-18 into the record.

Tim Stillings, Director of Development Services, stated during some of staff's work with Old School Square, staff found that the Old School Square site which has a CF (Community Facilities) Zoning District was not identified as a compatible land use for the Historic Arts Zoning District. Therefore, staff is adding the "X" on the map rather than changing the land use for that property and making the zoning district compatible with that land use. Mr. Stillings stated this went to the State and they found it in compliance. The Planning and Zoning Board recommended approval with a 5-0 vote and staff 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. 11-18, the public hearing was closed.

Commissioner Boylston moved to approve Ordinance No. 11-18 on Second and Final Reading. 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.B. [18-759](#)**

ORDINANCE NO. 20-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, ARTICLE 1.3 NONCONFORMING USES, LOTS AND STRUCTURES, BY REPEALING THIS ARTICLE AND READOPTING IT TO PROVIDE

UPDATED REGULATIONS FOR NONCONFORMING LOTS, USES OF LAND AND STRUCTURES IN ADDITION TO REGULATIONS ON REMODELING NONCONFORMING STRUCTURES OR RECONSTRUCTING SUCH STRUCTURES IF AFFECTED BY AN ACT OF GOD; AND AMENDING ARTICLE 7.8 UNSAFE BUILDINGS AND STRUCTURES, BY REPEALING AND READOPTING SECTION 7.8.4 REQUIREMENTS FOR ALTERATIONS, ADDITIONS, OR REPAIRS TO PROVIDE FOR CONSISTENCY WITH ARTICLE 1.3 NONCONFORMING USES, LOTS AND STRUCTURES; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (SECOND READING)

**Recommendation:** Approve Ordinance No. 20-18 the amendments to Land Development Regulations regarding Article 1.3, as presented.

**Sponsors:** Development Services Department

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

[Ordinance No. 20-18](#)

[P&Z Board Report 09.17.2018 Complete with Attachments](#)

[P&Z Board Report 7.17 2017](#)

[Legal Review Form Ord 20-18](#)

Lynn Gelin, Interim City Attorney, read the title of Ordinance No. 20-18 into the record.

Tim Stillings, Director of Development Services, briefly reviewed the significant changes of Ordinance No. 20-18. Staff 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. 20-18, the public hearing was closed.

Vice Mayor Frankel made a motion to approve Ordinance No. 20-18 on Second and Final Reading. 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.C.**     [18-760](#)

ORDINANCE NO. 22-18: 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 4.6.7 "SIGNS", BY AMENDING PARAGRAPH 4.6.7(D) "AESTHETIC QUALIFICATIONS", SUBPARAGRAPH (2) "BASIS" TO PROVIDE AESTHETIC QUALIFICATION CRITERIA FOR SCALE, DESIGN AND LOCATION, AND AMENDING PARAGRAPH 4.6.7(J) "PROHIBITED SIGNS", SUBPARAGRAPH (3) " "ROOF SIGNS"

TO AMEND THE "DEFINITIONS" OF "ROOF SIGNS" TO BE CONSISTENT WITH SECTION 4.6.7, PROVIDING A CONFLICTS CLAUSE, AND AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES. (SECOND READING)

**Recommendation:** Motion to Approve Ordinance No. 22-18 amending the Land Development Regulations at Section 4.6.7 "Signs", as presented.

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[Ordinance 22-18 Roof signs 09.06.18.docx](#)  
[PZB 091718\\_Roof signs\\_090618.pdf](#)

Lynn Gelin, Interim City Attorney, read the title of Ordinance No. 22-18 into the record.

Tim Stillings, Development Services Director, gave a brief presentation regarding Ordinance No. 22-18 and stated the amendment to the ordinance allows to add in language regarding the aesthetic quality of signs. Mr. Stillings stated the amendment does not change the number of signs, but it does allow the types of signs that staff has brought before the City Commission as waivers. Staff 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. 22-18, the public hearing was closed.

Vice Mayor Frankel made a motion to approve Ordinance No 22-18 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.D.**     [18-761](#)

ORDINANCE NO. 24-18: 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 CHAPTER 2, "ADMINISTRATIVE PROVISIONS", ARTICLE 2.1, "DEVELOPMENT MANAGEMENT SERVICES GROUP," SECTION 2.1.2, "ADMINISTRATIVE ORGANIZATION AND RESPONSIBILITIES," BY ADDING APPROVAL OF ZONING CERTIFICATE OF USE AND OCCUPANCY AS A RESPONSIBILITY OF THE PLANNING AND ZONING DIRECTOR; AMENDING ARTICLE 2.4, "GENERAL PROCEDURES", SECTION 2.4.4, GENERAL PROCEDURES PERTAINING TO APPROVAL OF LAND USE AND DEVELOPMENT APPLICATIONS", BY AMENDING SUBSECTION (E), "EXPIRATION OF APPROVALS", TO PROVIDE AN EXPIRATION DATE FOR A ZONING CERTIFICATE OF USE AND OCCUPANCY; AMENDING SECTION 2.4.5, "PROCEDURES FOR OBTAINING DEVELOPMENT APPROVALS", BY AMENDING

SUBSECTION (F), "SITE AND DEVELOPMENT AND MASTER DEVELOPMENT PLANS (MDP)," TO DEFINE AND CLARIFY THE APPROVAL PROCESS FOR A CLASS V SITE PLAN AND MASTER SITE DEVELOPMENT PLAN; AMENDING SUBSECTION (G), MODIFICATIONS TO SITE AND DEVELOPMENT PLANS," TO FURTHER CLARIFY SITE AND MASTER DEVELOPMENT PLANS, AND ADD A PROCESS FOR ZONING CERTIFICATE OF USE AND OCCUPANCY; AMENDING APPENDIX A, "DEFINITIONS," BY ADDING "ZONING CERTIFICATE OF USE AND OCCUPANCY," PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (SECOND READING)

**Recommendation:** Motion to approve Ordinance No. 24-18 to amend Land Development Regulations Section 2.1.2, 2.4.5(F), 2.4.5(G), to provide a new process for Zoning Certificate of Use and Occupancy, and clarify review requirements associated with Site Plans and Master Development Plans, by adopting the findings of fact and law contained in the staff report and finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M), as presented.

**Sponsors:** Development Services Department

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

[Ordinance 24-18 Zoning Certificate of Use and Occupancy CC Changes](#)

[Planning and Zoning Board Memo 091518](#)

[Zoning Certificate of Use and Occupancy Application \(Draft\)](#)

Lynn Gelin, Interim City Attorney, read the title of Ordinance No. 24-18 into the record.

Tim Stillings, Development Services Director, stated this Land Development Regulation amendment is to improve and simplify the process for a change of use. Mr. Stillings stated currently it would allow for a process for uses that is the same use but a different tenant taking over, or if it is a change of use that requires no other site modifications (i.e. elevation changes, expansion, adjacent to the building, parking or side area). Mr. Stillings stated this is intended to save time and money for business owners, property owners, and staff. Staff 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. 24-18, the public hearing was closed.

Commissioner Bathurst made a motion to approve Ordinance No. 24-18 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.D.1.** [18-642](#)

RESOLUTION NO. 146-18: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ESTABLISHING A SCHEDULE OF FEES FOR A ZONING CERTIFICATE OF USE AND OCCUPANCY, PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, FLORIDA, SECTION 2.4.5, "PROCEDURES FOR OBTAINING DEVELOPMENT APPROVALS"; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

**Recommendation:** Motion to approve Resolution No. 146 -18 to establish a fee for the Zoning Certificate of Use and Occupancy.

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[Resolution 146-18 Zoning Certificate of Use and Occ Fee](#)

Lynn Gelin, Interim City Attorney, read the title of Resolution No. 146-18 into the record.

Tim Stillings, Development Services Director, stated this is the fee associated with the Zoning Certificate of Use and Occupancy which will be \$50.00 for a home-based business and \$150.00 for any other.

Mayor Petrolia declared the public hearing open. There being no one from the public who wished to address the City Commission regarding Resolution No. 146-18, the public hearing was closed.

Commissioner Bathurst made a motion to approve Resolution No. 146-18. 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.** [18-715](#)

ORDINANCE NO. 30-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED MIXED RESIDENTIAL, OFFICE AND COMMERCIAL (MROC) DISTRICT TO SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT; AMENDING SECTION 4.4.25 (H) OF THE LAND DEVELOPMENT REGULATIONS TO ADD THE 1690-2350 SOUTH CONGRESS AVENUE SAD; SAID LAND LYING GENERALLY ON THE WEST SIDE OF CONGRESS AVENUE BETWEEN OLD GERMAN TOWN ROAD AND THE DELRAY OAKS NATURAL AREA TO

THE SOUTH; AS MORE PARTICULARLY DESCRIBED HEREIN;  
AMENDING THE "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. (FIRST READING/FIRST PUBLIC HEARING)

ALONG WITH A WAIVER FROM LAND DEVELOPMENT REGULATION  
4.4.25(D) TO WAIVE THE REQUIREMENT THAT A SITE PLAN BE PROCESS  
CONCURRENTLY WITH THE SAD ORDINANCE. (QUASI-JUDICIAL - TO BE  
CONSIDERED PRIOR TO 2ND READING AND ADOPTION OF ORDINANCE  
NO. 30-18)

**Recommendation:** Move to approve Ordinance No. 30-18 for the privately-initiated rezoning from MROC (Mixed Residential Office and Commercial) to SAD (Special Activities District) with a Master Development Plan (MDP) for 1690-2350 South Congress Avenue, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Sections 3.1.1 (Required Findings), 3.2.2 (Standards for Rezoning Actions), 2.4.5(F)(6), and 2.4.5(D)(5)(Rezoning Findings), subject to the following conditions:

1. That the traffic issues identified by the Palm Beach County Traffic Engineering Division are addressed and a finding of concurrency be provided prior to consideration of the rezoning request by the City Commission.

(Condition satisfied, Letter from Palm Beach Co Traffic attached; recommend revising condition to require conditions outlined in PBC Traffic letter)

2. That the sewer capacity issue be resolved prior to consideration of the rezoning request by the City Commission.

(Status of the condition will be reported at the meeting)

3. That the proposed development standards be revised to require the tandem parking spaces be attended by a valet operator during the hours of operation of the commercial components only.

(Condition satisfied)

4. That the Master Development Plan be revised to include an internal road (one-way or two-way) between the residential apartments and "The Annex" park or an expanded sidewalk that accommodates emergency services. At a minimum the sidewalk must be one-way, nine feet wide to accommodate emergency vehicle access and multi-modal pathway.

(If approved and adopted by the City Commission, the MDP will be modified to reflect the referenced road.)



Move to approve the waiver to LDR Section 4.4.25(D), which requires a SAD rezoning be accompanied by a site development plan to be approved by the SPRAB (Site Plan Review and Appearance Board) prior to adoption of the rezoning, based on positive findings with LDR Section 2.4.7(B)(5), to allow the Master Development Plan (MDP) to be approved by the City Commission and subsequent site plans, consistent with the adopted MDP, to be approved by SPRAB. Please note that this action needs to occur prior to action on the second reading of the SAD rezoning ordinance.

**Sponsors:** Development Services Department

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

[Clean-10-24-2018-Ord 30-18](#)

[1690-2350 South Congress Avenue Site Final Staff Report for P&Z meeting 10.05.18.](#)

[180616 - 1690-2350 South Congress Avenue 10-18-18](#)

[Waiver Board Order City Commission](#)

Lynn Gelin, Interim City Attorney, read the title of Ordinance No. 30-18 into the record.

Deputy Vice Mayor Johnson stepped away from the dais briefly.

Tim Stillings, Development Services Director, entered the project file #2018-176 into the record.

The meeting was paused briefly due to some technical difficulty at 5:11 p.m. and reconvened at 5:17 p.m.

Bonnie Miskel, Attorney representing the applicant and owner, stated this is a rezoning from Mixed Residential, Office and Commercial (MROC) to Special Activities District (SAD) and the property is comprised of two different ownerships and this is the southwest corner of Old Germantown Road and South Congress Avenue known as the former Office Depot complex and the Arbors office building. Ms. Miskel gave a brief presentation of the history of the property.

Tim Stillings, Development Services Director, stated this is a proposal for a privately-initiated rezoning from Mixed Residential Office and Commercial (MROC) to Special Activities District (SAD) with a Master Development Plan for a mixed-use project. Mr. Stillings stated the large scale mixed use is the 42 acres less the Arbor site and it is referred to as the Congress Village Regional Activity Center. He stated it is defined in the City's LDRs that SAD is the most appropriate for this zoning and

property. Mr. Stillings reviewed the required findings, the Master Plan Proposed Elements, displayed the proposed renderings, and reviewed the waiver. Also, Mr. Stillings reviewed the four conditions of approval. At its meeting of October 15, 2018, the Planning and Zoning Board recommended approval. Mr. Stillings noted that the second reading will be December 11, 2018.

Mayor Peterolia declared the public hearing open.

Dr. Provenzano, 1921 S.W. 36th Avenue, Delray Beach (resident of the Oakmont Development for 30 years), expressed concern over the traffic impact on Germantown Road from this proposed development.

Neil Cohen, 2922 Calabria Way, Delray Beach (Verona Woods), echoed the concerns about Old Germantown Road, Linton Boulevard, and Congress Avenue. Mr. Cohen stated Old Germantown Road is utilized by many pedestrians who walk their dogs and he is concerned for their safety. He suggested some potential solutions to help the traffic congestion.

Woodie McDuffie, 2364 S.W. 3th Avenue, Delray Beach (Oakmont Development), Delray resident since 1946, expressed concern over the traffic in this area and urged the City Commission to wisely consider everything with respect to this project.

Arlean Willman, 2945 Salerno Way, Delray Beach (lived in Verona Woods for 28 years), expressed concern over the heavy traffic generated by vehicles and the heavy pedestrian traffic along the entire corridor along Old Germantown Road. Ms. Willman expressed concern over the widening of the streets at Clintmoore Road and Congress Avenue which is two miles from where the main development is located. She also expressed concern that by adding another eastbound lane at Military Trail and Linton Boulevard will do nothing for the proposed development.

Ari Whiteman, 5091 Washington Road, Delray Beach, stated between City planners, the developer, and the engineers, that they come up with a compromise to the site plan to limit access to this project off Congress Avenue.

Patrick O'Bryant, 3050 Salerno Way, Delray Beach (Verona Woods), stated he lived and farmed on Old Germantown Road since 1979. He expressed concern over the traffic congestion at both traffic lights when Office Depot and the other businesses were at Congress Avenue and Old Germantown Road. Mr. O'Bryant expressed concern over the impact that the amount of homes will have on the surrounding neighborhoods. Mr. O'Bryant urged the City Commission that when making their decision to

consider the long-time residents who live there.

There being no one else who wished to address the City Commission, Mayor Petrolia closed the public comment.

A brief discussion by the City Commission followed.

Vice Mayor Frankel stepped away from the dais briefly.

Deputy Vice Mayor Johnson inquired about the anticipated start date of this project and the number of phases involved with it. Ms. Miskel stated before they can move forward with the project, they have to bring back site plans through the Site Plan Review and Appearance Board (SPRAB) for approval.

Scott Porten, 112 Basin Drive, Delray Beach (representing the applicant), stated they are planning a food hall and some recreational/family uses as well as restaurant and retail.

A brief discussion between Ms. Miskel and the City Commission ensued.

A brief discussion by the City Commission followed about certain roads (i.e. Congress Avenue, Linton Boulevard) in Delray Beach being under the County's jurisdiction.

Commissioner Boylston made a motion to approve Ordinance No. 30-18. It was seconded by Vice Mayor Frankel. A roll call vote was taken and the motion carried a vote of 4 to 1 with Mayor Petrolia dissenting.

**approved**

## **9. FIRST READINGS:**

### **9.A. [18-733](#)**

**ORDINANCE NO. 27-18:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ANNEXING INTO THE CITY OF DELRAY BEACH, THREE (3) PARCELS OF LAND LOCATED ON THE EAST SIDE OF BARWICK ROAD IMMEDIATELY SOUTH OF LAKE WORTH DRAINAGE DISTRICT L-30 CANAL, INFORMALLY KNOWN AS BANYAN COVE, WITH THE SAME BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS HEREIN, COMPRISING APPROXIMATELY 6.68± ACRES IN SIZE AND SITUATED CONTIGUOUS TO THE EXISTING MUNICIPAL LIMITS OF THE CITY OF DELRAY BEACH; PROVIDING FOR INCLUSION OF THESE THREE (3) PARCELS INTO THE CITY AND A REDEFINITION OF THE CITY

BOUNDARIES PURSUANT TO SUB-SECTION 171.044(2), FLORIDA STATUTES; PROVIDING FOR CONFORMANCE WITH ALL VOLUNTARY ANNEXATION PROCEDURES AS SET FORTH IN SECTION 171.044, FLORIDA STATUTES; PROVIDING FOR FILING WITH PALM BEACH COUNTY AND THE DEPARTMENT OF STATE; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

**Recommendation:** Move to approve on First Reading, Ordinance No. 27-18, annexing three parcels of land located on the east side of Barwick Road, immediately south of the Lake Worth Drainage District L-30 Canal, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with F.S. 171.044, in that the property is contiguous to the City, reasonably compact and does not create an enclave; consistent with the Comprehensive Plan, and meets the criteria set forth in Sections 2.4.5 (C) of the Land Development Regulations.

**Sponsors:** Development Services Department

**Attachments:** [Agenda Cover Report](#)  
[Annexation Ordinance No. 27-18](#)  
[BanyanCove-Aerial Map](#)  
[Survey](#)  
[Planning Area Map](#)  
[PZ Board Staff Report](#)  
[Letters of Opposition](#)  
[City Attorney's Office Approval Memorandum](#)

Lynn Gelin, Interim City Attorney, read the title of Ordinance No. 27-18 into the record.

Tim Stillings, Development Services Director, entered the Banyan Cove Voluntary Annexation file #2018-162 into the record.

Bradley Miller, Miller Land Planning, representing the property owner as well as the contract purchaser, stated this project involves 6.68 acres known as Banyan Cove and the application submitted to the City includes the annexation, land use amendment, and the zoning is going from the County's designation to the City's designation. Mr. Miller gave a brief presentation of the history of the property, reviewed the objectives and policies of the Comprehensive Plan, and stated that this is a voluntary annexation.

Mr. Stillings reviewed the location map and gave a brief description of the parcel. He stated the County's current land use is Medium Density (MD)

Residential 5-12 du/ac, the City's advisory land use is medium density, and the requested land use is medium density. He also reviewed the existing zoning and stated the County zoning is Agricultural Residential (AR) and Residential High (RH), the requested zoning is Medium Density (RM-8) Residential, 8 units per acre, and the recommended zoning is Medium Density (RM-6) Residential, 6 units per acre. At its meeting of October 15, 2018, the Planning and Zoning Board recommended approval of the annexation with a 6-0 vote and staff recommends approval of the annexation.

A brief discussion between the City Commission and Mr. Stillings followed.

Vice Mayor Frankel stated the traffic issue needs to be addressed.

Commissioner Boylston posed a question that if the City Commission approves the annexation what are their options with respect to the rezoning. Mr. Stillings stated the first consideration would be the land use and from there the City Commission would decide what the appropriate zoning would be applicable. Mr. Stillings if the requested land use of medium density is approved, then the zoning would have to commensurate with that and it has generally been applied with multi-family designated zoning districts. He stated in terms of the City Commission's action, the land use is legislative and is where the City Commission has the most discretion. The Comprehensive Plan provides for an advisory land use, but the City Commission would have to provide some rationale from departing from that if they chose to do so. Mr. Stillings stated once the City Commission addresses the zoning, this will be quasi-judicial and they would have to apply the zoning that is compatible and suitable for that particular land.

Ms. Gelin stated the City Commission has the most discretion on the land use because it is a legislative act as long as the City Commission has a study or something that they can rationally base their decision on.

Mayor Petrolia expressed concern about adding more traffic to Barwick Road Road and stated this is a safety issue for Police and Fire.

Commissioner Bathurst commented about the traffic issues on Barwick Road and stated he supports the annexation with the caveat that he would like to see single family residential.

Deputy Vice Mayor Johnson stated she does not support the annexation.

Mr. Miller stated their initial application was for 102 units using workforce housing bonuses and transfer development right bonuses, but this did not

last. Therefore, Mr. Miller stated they reduced this down to 53 units. He stated there is still a current application that is pending at the County from what is increasing it from 5 dwelling units per acre to 8 units per acre.

Mayor Petrolia commented about Ms. Juli Casale's presentation that referenced a 2017 memo where the City stating that they would only give the water service agreement with single family residential.

There was a brief discussion regarding the support of the annexation with the understanding that this would be for single family residential.

It was the consensus of the City Commission to continue discussions regarding the land use and rezoning and what is appropriate for this area on December 11, 2018.

Commissioner Boylston thanked the public for their emails.

Deputy Vice Mayor Johnson thanked Ms. Juli Casale for her efforts.

Commissioner Boylston made a motion to approve Ordinance No. 27-18 on First Reading with the understanding that this be for single family residential. It was seconded by Commissioner Bathurst. A roll call vote was taken and the motion carried a vote of 3 to 2 with Deputy Vice Mayor Johnson and Vice Mayor Frankel dissenting.

approved

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

### **10.A. City Manager**

None.

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

Lynn Gelin, Interim City Attorney, stated she will not be present on Tuesday, December 4, 2018 and Mr. William Bennett, Assistant City Attorney will be attending the City Commission Meeting in her absence.

Secondly, Ms. Gelin stated in looking at the City Attorney's strengths and weaknesses there are some areas that the City Attorney's office will need to request the assistance of outside counsel to assist and facilitate with certain ordinances and presentations. Ms. Gelin stated staff's goal is to streamline and do things in-house; however, there may be times where staff may need to seek the expertise of outside counsel.

Lastly, Ms. Gelin stated staff has prepared the WARC/Pineapple Grove ordinance, the straw ordinance, and the Parking Management Advisory Board (PMAB) ordinance and these will be presented to the City Commission very soon.

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

Vice Mayor Frankel thanked Lieutenant Major for identifying things in his Clean and Safe Monthly Report and gave a few brief comments regarding some of those issues.

Vice Mayor Frankel thanked the Police Officer who after the Chris Evert event stopped a truck from driving down Atlantic Avenue from Swinton Avenue through the downtown core. He stated diesel trucks and trailers are not allowed to drive along Atlantic Avenue from Swinton Avenue through the downtown core which says "No Trucks".

Vice Mayor Frankel invited everyone to the Hannukah Menorah Lighting on Sunday, December 2, 2018 at 5:30 p.m. at Old School Square.

Commissioner Bathurst stated Ms. Gelin is doing a great job as Interim City Attorney.

Secondly, Commissioner Bathurst stated there was a horrible bicycling accident south of Delray Beach.

Commissioner Bathurst stated when considering new projects in Delray Beach, pedestrian safety is a top priority.

Lastly, Commissioner Bathurst stated he hopes that everyone had a great Thanksgiving.

Commissioner Boylston stated Ms. Gelin is doing a great job; however, if for some reason the City Commission chooses to hire a City Attorney, that Ms. Gelin's previous position would always be there for her.

Commissioner Boylston stated he will be at the 100 foot Christmas Tree Lighting, but he will be out of town on Sunday for the Menorah Lighting.

Deputy Vice Mayor Johnson stated there are problems nationwide with anti-semitism and racism.

Secondly, Deputy Vice Mayor Johnson stated Amendment #1 was defeated and she attended the Florida League of Cities Conference

and came away with the Municipal Administrative Policies and the #1 priority is the short-term rentals because the entire state is being impacted by it. Deputy Vice Mayor Johnson stated she will establish a group of citizens and lobby with the City of Delray Beach about it and lobby on "We Live Local Homerule" and will present a ten minute video at the next meeting.

Deputy Vice Mayor Johnson stated she hopes that everyone had a nice Thanksgiving and she is looking forward to all the holiday festivities.

Mayor Petrolia stated she hopes everyone had a great Thanksgiving.

Secondly, Mayor Petrolia announced that the Christmas Tree Lighting will be in the evening on Thursday, November 29, 2018.

Mayor Petrolia gave kudos to Ms. Gelin for doing a great job.

Mayor Petrolia commented about the Swinton Corridor being considered with the grant money for bicycle paths and walkways; however, they are best in places that are going to have the least amount of ability for the congestion. She commented about the horrific bicycle accident that occurred south of Delray Beach. Mayor Petrolia stated the City is re-routing the big trucks to the Swinton Corridor area and now the bicycle paths are going to be mixed in. She stated there is money that has been designated to do this by Human Powered Delray (HPD) who was leading this through the City to the Transportation Planning Organization (TPO) or the Metropolitan Planning Organization (MPO). Mayor Petrolia directed the City Manager that from now on all grants need to come before the City Commission first.

Commissioner Boylston stated he is open to options; however, he stated it is extremely dangerous to go southbound on Swinton Avenue on a bicycle and this needs to be addressed.

Commissioner Bathurst stated he supports looking at options.

There being no further business to discuss, Mayor Petrolia adjourned the meeting at 7:17 p.m.



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City Clerk

ATTEST:

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MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the \_\_\_\_\_ Meeting of the City Commission held on \_\_\_\_\_, which Minutes were formally approved and adopted by the City Commission on \_\_\_\_\_.

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City Clerk

NOTE TO READER:

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.