

City of Delray Beach

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Minutes - Draft

Tuesday, April 2, 2019

4:00 PM

Regular Meeting at 4:00 PM

Delray Beach City Hall

City Commission

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

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

Others present were:

Neal de Jesus, Interim City Manager
Lynn Gelin, City Attorney
Katerri Johnson, City Clerk

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. AGENDA APPROVAL

The City Attorney requested to remove Item 6.I., Approval of An Access Easement Agreement and Termination of Easement for Azure Delray Located at 116 Marine Way to the next agenda.

Mayor Petrolia requested that Attachment F for Item 6.K.1.F. for 215 NE 7th Avenue - Appealable Report be moved to the regular agenda as Item 7.A.A.

Commissioner Frankel moved to approve the 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

4. PRESENTATIONS:

- 4.A. [19-343](#) RESOLUTION NO. 71-19 RECOGNIZING CHIEF JEFFREY GOLDMAN FOR 30 YEARS OF SERVICE

Recommendation: Motion to approve Resolution No. 71-19 honoring Chief Jeffrey Goldman for 30 years of service.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)
[71.19 Resolution Jeffrey Goldman.doc](#)

Mayor Petrolia read Resolution No. 71-19 recognizing Jeffrey Goldman for 30 years of service.

Duane D'Andre introduced Interim City Manager Neal de Jesus.

Interim City Manager Neal de Jesus gave a few brief comments regarding Jeffrey Goldman's tenure with the City of Delray Beach. Jeffrey Goldman came forward to accept the resolution and invited everyone to attend the Transfer of Command Ceremony on Friday, April 5, 2019 at Atlantic High School at 6:00 p.m. Mr. Goldman congratulated and recognized the new Police Chief Javaro Sims.

4.B. [19-306](#) SPOTLIGHT ON EDUCATION - ATLANTIC COMMUNITY HIGH SCHOOL EAGLE NEST CONSTRUCTION ACADEMY

Recommendation: Atlantic Community High would like to present to the City Commission the great things Eagle Nest has developed with the help of the City and the CRA. We will present the house plans for Eagle Nest 4, and the students who have graduated and are working in the industry.

Sponsors: Community Improvement and Quinlan

Attachments: [Agenda Cover Report](#)

Janet Meeks, Education Coordinator for the City of Delray Beach, introduced the Atlantic Community High School Eagle Nest Construction Academy and stated they are getting ready to embark on their fourth house.

Tim Sachse, Building Trades and Construction Teacher at Atlantic Community High School, introduced the Eagle Nest Construction Academy students and explained the program.

A member of the Eagle Nest Construction Academy displayed the Eagles Nest 4 floor plan which is the winning design.

4.C. Internal Auditor's Report

4.C.1. None

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

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

None.

B. From the Public

Gabby DiAngelis, 305 N.E. 2nd Street, Delray Beach, commended City workers in particular those employees in City Hall. She commented about a leak in her rental unit which proposed a mold problem and she commended Code Enforcement for showing compassion in handling the situation.

Arlene Ustin, 1327 High Point Way SE, Delray Beach, and Henry Felicia, invited everyone to the Haitian-American Cultural Arts Day on May 4th. Ms. Ustin thanked the City Commission for their support. In addition, Ms. Ustin announced that September 13-22, 2019 is going to be welcoming America and they will join all the municipalities and counties in the nation that have stepped up to make the inclusion of all of their residents. She noted that per capita, Delray Beach is the second largest city in the United States with a Haitian population.

Rodolfo Plancarte, 5004 N.W. 5th Street, Delray Beach (Rainberry Woods), stated the Haitian-American community feel neglected and he expressed concern over the HOA and Code Enforcement being too harsh on the Haitian-Americans within Rainberry Woods. Mr. Plancarte stated he will bring this issue before the Palm Beach Tenants Union and urged the City Commission to resolve this.

Irwin Nesi, 561 N.W. 48th Avenue, Delray Beach (Rainberry Woods), stated the HOA only held one meeting the entire year with Rainberry Woods. He expressed concern over violations issued by Code Enforcement and urged the City to come to the community and explain what is going on.

Kene Promaphile, 538 Davis Road, Delray Beach, Junior at Atlantic Community High School and Board Member at the EGS Program responsible for team coordinating (i.e. volunteering activities working with Community Greening, educational workshops, after-school mentoring at Village Academy with second graders), stated last month at a PITCH competition some members hosted by Healthier Delray won \$1,000 to host a community cookout for a college in Delray Beach. Also, Mr. Promaphile announced that the 2nd Annual Block Party will be held on May 18, 2019 and invited the City Commission to attend.

Mitzi Kaitz, 331 N.E. 8th Avenue, Delray Beach, suggested to bring back a public meeting to discuss funding the golf course. Secondly, Ms. Kaitz commented about the CRA funding illustrated properties interior building and she feels to have to pay for someone's interior design is not a good use of money. Lastly, Ms. Kaitz expressed concern over the 4:00 p.m.

meeting time and it potentially excludes working people.

Simon Mussely, 901 Gardenia Drive #280, Delray Beach, stated he was recently advised that pickleball courts may replace the lawn bowling courts and urged the City to not eliminate the bowling courts, but to allow it to co-exist with pickleball. Mr. Mussely stated this lawn bowling facility is unique because it is the only one of its kind in South Florida. He urged the City to allow lawn bowling to stay in Delray Beach.

6. CONSENT AGENDA: City Manager Recommends Approval

Commissioner Boylston moved to approve the Consent Agenda as amended. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.

- 6.A.** [19-238](#) APPROVAL OF AMENDMENT NO. 1 WITH DUBIN & ASSOCIATES, INC FOR MANAGEMENT SERVICES FOR DELRAY BEACH TENNIS CENTER AND DELRAY SWIM & TENNIS CLUB - \$70,000

Recommendation: Motion to approve Amendment No. 1 with Dubin & Associates, Inc. to extend the Agreement, under the same terms and conditions at a cost of \$70,000 and authorize the City Manager to approve renewal options, options, in the same amounts, contingent upon appropriation of funds.

Sponsors: Parks & Recreation Department and Fisher

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist Amd #1 Solicitation 2016-086-2 Tennis and Swim Club](#)
[Amendment No. 1 2016-086-2](#)

approved

- 6.B.** [19-239](#) APPROVAL OF AMENDMENT NO. 1 WITH BJCE, INC FOR MANAGEMENT SERVICES FOR DELRAY BEACH AND LAKEVIEW GOLF CLUBS - \$140,000

Recommendation: Motion to approve Amendment No. 1 with BJCE, Inc. to extend the Agreement, under the same terms and conditions at a cost of \$140,000 and authorize the City Manager to approve renewal options, options, in the same amounts, contingent upon appropriation of funds.

Sponsors: Parks & Recreation Department and Fisher

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist Amd #1 to 2016-079 golf club](#)
[Amendment No. 1 2016-079](#)

approved

- 6.C. [19-292](#) APPROVAL TO ASSIGN ALL INTERESTS AND RIGHTS UNDER ANY AND ALL ACTIVE AGREEMENTS WITH KEITH AND SCHNARS, P.A. TO KCI TECHNOLOGIES, INC. IN ACCORDANCE WITH THE JANUARY 1, 2019 BUSINESS ACQUISITION

Recommendation: Motion to approve assignment of all interests and rights under any and all active agreements with Keith and Schnars, P.A. to KCI Technologies, Inc. in accordance with the January 1, 2019 business acquisition.

Sponsors: Public Works Department - Programs & Project Management and Development Services Department

Attachments: [Agenda Cover Report](#)
[2016-139-2 Amendment No. 2, vendor executed](#)
[2017-048 Amendment No. 2, vendor executed](#)
[2017-075 Amendment No. 1, vendor executed](#)
[Legal Review Checklist form v. 5 Amend No 2 name change keith and schnars phase 1 seacrest beautification](#)
[Legal Review Checklist form v. 5 Amend No 2 name change keith and schnars 2017-048](#)
[Legal Review Checklist form v. 5 Amend No 1 to 2017-075 keith and schnars name change](#)
[Executed 2016-139-2 Agreement](#)
[2017-048 Agreement with Keith and Schnars, P.A.](#)
[2017-075 Agreement, executed](#)

approved

- 6.D. [19-295](#) APPROVAL TO ASSIGN ALL INTERESTS AND RIGHTS UNDER ANY AND ALL ACTIVE AGREEMENTS WITH INTERLINE BRANDS, INC. TO HOME DEPOT U.S.A., INC. IN ACCORDANCE WITH THE FEBRUARY 3, 2019 BUSINESS ACQUISITION

Recommendation: Motion to approve assignment of all interests and rights under any and all active agreements with Interline Brands, Inc. to Home Depot U.S.A., Inc. in accordance with the February 3, 2019 business acquisition.

Sponsors: Purchasing Department

Attachments: [Agenda Cover Report](#)
[2017-052 Amendment No. 1, vendor executed](#)
[Legal Review Checklist form v. 5 Homedepot Assignment](#)
[Executed 2017-052 Agreement with Supplyworks](#)
[Notice of Merger - Interline to Home Depot](#)

approved

6.E. [19-330](#) REVOCABLE LICENSE AGREEMENT - COMMUNITY GREENING

Recommendation: Motion to approve a revocable license agreement with Community Greening for use of classroom No. 4 at Catherine Strong Park for staff preparations in support of environmental programming sponsored by Delray Beach Parks and Recreation and Community Greening.

Attachments: [Agenda Cover Report](#)
[Attachment 1: Legal Review Checklist CommunityGreening](#)
[Attachment 2: Revocable License Agreement Community Greening](#)
[Attachment 3: Award Recognition](#)

approved

6.F. [19-333](#) Revocable License Agreement - Knights Of Pythagoras (KOP) Mentoring Network, Inc.

Recommendation: Motion to approve a revocable license agreement with Knights of Pythagoras (KOP) Mentoring Network, Inc. for use of classroom No. 5 at Catherine Strong Park for purpose of tutoring and mentoring students aged 7- 17, and for staff preparation in support of such programs.

Attachments: [Agenda Cover Report](#)
[Attachment 1: Legal Review Checklist KOP](#)
[Attachment 2: Revocable License Agreement KnightsPythagoras 2019](#)

approved

6.G. [19-350](#) APPROVAL OF AN EASEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD (SCRWTD) FOR THE ATLANTIC CROSSING PROJECT

Recommendation: Motion to approve Easement Agreement for Atlantic Crossing.

Sponsors: City Attorney Department and Inglese

Attachments: [Agenda Cover Report](#)

[Easement Agreement](#)

approved

**6.H. [19-362](#) ACCEPTANCE OF SUBGRANT AWARD FROM THE CITY OF MIAMI
FOR PARTICIPATION IN THE REGIONWIDE EXERCISE**

Recommendation: Motion to enter into an agreement and accept subgrant award from the City of Miami in the amount of \$9,900 for the purpose of participating in the one day Regionwide exercise to prepare communities for complex coordinated terror attack

Attachments: [Agenda Cover Report](#)

[Legal review form_LW review](#)

[CCTA MOA-LW review](#)

[MOA Revised Budget Breakdown for FSE Ex 2](#)

[CCTA \(award reso sig page\) Exh 1](#)

approved

**6.I. [19-373](#) APPROVAL OF AN ACCESS EASEMENT AGREEMENT AND
TERMINATION OF EASEMENT FOR AZURE DELRAY LOCATED AT
116 MARINE WAY**

Recommendation: Motion to approve Access Easement Agreement and Termination of Easement for Azure Delray.

Sponsors: City Attorney Department and Inglesse

Attachments: [Agenda Cover Report](#)

[Doc - Limited Access Easement form v.01 \(116 Marine Way\)](#)

[Sketch & Legal - 116 Marine Way Easement - both pages](#)

[Doc - Termination of Access Easement form v.01 \(116 Marine Way\)](#)

This item has been removed from the agenda.

6.J. PROCLAMATIONS:

6.K. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:

**6.K.1. [19-374](#) REPORT OF APPEALABLE LAND USE ITEMS FROM FEBRUARY 11,
THROUGH MARCH 22, 2019.**

Recommendation: By motion, receive and file this report.

Attachments: [Agenda Cover Report](#)
[Appealable Items Map](#)
[A - 335 & 365 SE 6th Avenue - Appelable Report](#)
[B - 801 Palm Trail - Appelable Report](#)
[C - 524 W. Atlantic Ave -Appelable Report](#)
[D - 2201 N. Federal Hwy. Gunther Volvo - Appealable Report](#)
[E - 36 SE 2nd Ave - Appelable Report](#)
[F - 215 NE 7th Ave - Appelable Report](#)
[G - 16000 S. Military Trail. 7 Eleven - Appealable Report](#)
[H - 1901 S. Ocean Blvd. Ocean Delray - Appelable Report](#)
[I - 4 E. Atlantic Ave. Tapas 35 Restaurant - Appealable Report](#)
[J - 102 George Bush Blvd. - Appealable Report](#)
[K - 230 George Bush Blvd. - Appealable Report](#)
[L - 242 SE 7th Ave - Appealable Report](#)

Item 6.K.1.(F) was removed from the Consent Agenda to the Regular Agenda as Item 7.A.A.

Mayor Petrolia stated she would like to move **Attachment F for Item 6.K.1. - 215 N.E. 7th Avenue - Appealable Report** to the next agenda for discussion.

Mr. Stillings gave a few brief comments.

Commissioner Frankel moved to **appeal Attachment F for Item 6.K.1. (F) for 215 N.E. 7th Avenue and place this item on the next agenda**. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.

6.L. AWARD OF BIDS AND CONTRACTS:

6.L.1. [19-272](#) RESOLUTION 64-19 FOR AWARD OF A FIVE YEAR AGREEMENT WITH FLSC, LLC DBA FLORIDA TEXTILE RECYCLING PROGRAMS FOR RECYCLING SERVICES

Recommendation: Motion to approve a five year revenue agreement with FLSC, LLC DBA Florida Textile Recycling Programs - (\$75,000.00).

Sponsors: Purchasing Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 5 textile recycling agreement](#)
[RFP 2018-012 Textile Recycling Initiative](#)
[RFP 2018-012 Textile Recycling Resolution](#)
[Textile Recycling PPT](#)
[Textile Recycling Initiative Agreement](#)

approved

- 6.L.2.** [19-293](#) APPROVAL OF RESOLUTION NO. 61-19 TO AWARD A SOLE SOURCE AGREEMENT WITH TEN-8 FIRE EQUIPMENT, INC. FOR PIERCE OEM EQUIPMENT AND RELATED SERVICES - \$50,000

Recommendation: Motion to approve Resolution No. 61-19 to award a sole source agreement with Ten-8 Fire Equipment, Inc. for Pierce OEM equipment and related services in an estimated cost of \$50,000 and authorize the City Manager to approve renewal options, in the same amounts, contingent upon appropriation of funds.

Sponsors: Public Works Department - Fleet Division and Fire Rescue Department

Attachments: [Agenda Cover Report](#)
[SS2019-002 Agreement, vendor executed](#)
[SS2019-002 Resolution No. 61-19 CA rev](#)
[Legal Review Checklist form v. 5 Ten-8 Fire Equipment](#)
[Sole Source Approval - Pierce Apparatus and Equipment](#)

approved

7. REGULAR AGENDA:

- 7.A.** [19-407](#) WAIVER REQUEST TO INCREASE THE WIDTH OF THE BUILDING FRONTING A STREET (SOUTH SWINTON AVENUE) FROM THE MAXIMUM ALLOWABLE OF 60' TO 64' 3½" FOR PROPERTY LOCATED AT 143 SOUTH SWINTON AVENUE IN THE OLD SCHOOL SQUARE HISTORIC DISTRICT (QUASI-JUDICIAL HEARING)

Recommendation: Approve the Waiver to increase the width of a building fronting a street (South Swinton Avenue) from the maximum allowable of 60' to 64' 3½" for property located at 143 South Swinton Avenue in the Old School Square Historic District.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[2019-02-06-HPB SR Class V COA Waiver Variances-143 S. Swinton Ave
Combined Plans](#)

[Attachment - Justification Statements](#)

[2019-03-12-CC Board Order-143 S Swinton Ave-Waiver](#)

Mayor Petrolia read the City of Delray Beach Quasi-Judicial rules into the record.

Mayor Petrolia stated if anyone from the public would like to speak in favor or in opposition of **Items 7.A., 7.B., or 7.D.**, to stand and be sworn in.

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. Vice Mayor Johnson stated she met with the attorney. Commissioner Boylston stated he had a telephone conversation with the attorney. Commissioner Frankel stated he spoke with Mr. Weiner but no new ex parte communications since the first time this was discussed. Deputy Vice Mayor Bathurst stated he met with the applicant and spoke with staff. Mayor Petrolia stated she had communications with the attorney and the applicant, but not since the last time the City Commission spoke on this.

Tim Stillings, Development Services Director, entered the project file #2018-155 and project file #2019-156 into the record.

Michael Weiner, Attorney, 6111 Broken Sound Parkway, Boca Raton, entered Mr. Mayo's and Mr. Hanlon's resumes into the record.

Jamie Mayo, HNM Architecture, LLC, 3705 N. Federal Highway, Delray Beach, gave a brief presentation regarding the project.

Michael Weiner gave a few comments regarding the required standards.

Mr. Stillings stated the following are under consideration: the waiver regarding the width of the building on Swinton Avenue, the Certificate of Appropriateness (COA), Class V Site Plan, Landscape Plan, Architectural Elevations, Waiver, and Variances (setback variance and landscape variance).

Mayor Petrolia stated if anyone from the public would like to address the City Commission, to come forward.

Andrea Harden, 516 N. Swinton Avenue, Delray Beach, speaking on her own behalf, stated the Historic Preservation Board (HPB) has to go by the LDRs when making a determination and she suggested if the City does not like their rules then they should look into changing them.

Andrea Sherman, 222 N.W. 15th Street, Delray Beach, commented about the Historic Preservation Guidelines and the proposed structure.

Carolyn Patton, 1020 Tamarind Road, Delray Beach (Co-President of the Delray Beach Preservation Trust), speaking on behalf of the Delray Beach Preservation Trust, stated this does not meet the requirements of LDR Section 4.5.1 and the elevations did not show the cottages to the north of this property, but instead the applicant displayed a building to the south. Ms. Patton stated the comparison should be to the historic buildings in the district, not to the new buildings in the district.

The following individual was sworn in by the City Clerk:

Linda Oxford, 148 Coconut Road, Delray Beach, urged the City Commission to send this back to the board and let them scale it down.

George Long, 46 N. Swinton Avenue, Delray Beach, stated he sees this as a counterbalance to something attractive for the corner rather than the existing two-story apartment building.

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

Mr. Weiner gave a brief rebuttal.

A brief discussion by the City Commission ensued.

The City Attorney reviewed the Board Order with the City Commission. The City Commission voted 3-2 to **deny** the Board Order, with Commissioner Frankel and Commissioner Boylston dissenting.

Commissioner Boylston moved to **deny** the waiver request. It was seconded by Deputy Vice Mayor Bathurst. The roll call vote was taken and the motion carried 3-2, with Commissioner Frankel and Vice Mayor Johnson dissenting.

denied

7.B. [19-406](#)

APPEAL OF THE HISTORIC PRESERVATION BOARD (HPB) DENIALS OF A CLASS V SITE PLAN, CERTIFICATE OF APPROPRIATENESS 2018-155, LANDSCAPE PLAN, ARCHITECTURAL ELEVATIONS,

SETBACK VARIANCE, AND LANDSCAPE VARIANCE FOR THE CONVERSION OF AN EXISTING SINGLE-FAMILY RESIDENCE TO AN OFFICE AND ASSOCIATED 2,789 SQUARE FOOT ADDITION FOR PROPERTY LOCATED AT 143 SOUTH SWINTON AVENUE IN THE OLD SCHOOL SQUARE HISTORIC DISTRICT. (QUASI-JUDICIAL HEARING)

Recommendation: Approve the Class V Site Plan, Certificate of Appropriateness 2018-155, Landscape Plan, Architectural Elevations, and Landscape Variance for the conversion of the existing 1,571 sq. ft. single-family residence to office and associated 2,789 square foot 1-story addition for property located at 143 South Swinton Avenue, subject to conditions.

Deny the Setback Variance to reduce the side setback (north) from 7.5' to 5'.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Attachment - Plans-143 S Swinton Ave](#)

[Attachment - Justification Statements-143 S Swinton Ave](#)

[2019-02-14-Applicant Appeal Letter](#)

[2019-02-06-HPB SR Class V COA Waiver Variances-143 S. Swinton Ave](#)

[2019-03-12-CC Board Order-143 S Swinton Ave-Site Plan COA LP AE Var](#)

The City Attorney reviewed the Board Order with the City Commission. It was the consensus of the City Commission to deny the appeal of the Historic Preservation Board (HPB) denials of a Class V Site Plan.

Commissioner Boylston moved to **deny the appeal** of the Historic Preservation Board (HPB) denials of a Class V Site Plan. It was seconded by Vice Mayor Johnson. A roll call vote was taken and all were in favor to **deny the appeal**. The motion carried 5-0.

denied

7.C. [19-130](#)

USE AGREEMENT FOR SOUTH FLORIDA COLLEGIATE BASEBALL LEAGUE - INITIAL THREE (3) YEAR TERM WITH TWO (2) ONE-YEAR RENEWAL OPTIONS FOR A COMPLETE TERM OF FIVE (5) YEARS

Recommendation: Motion to approve the Agreement of Use of Little Fenway at Miller Park with the South Florida Collegiate Baseball League per the terms and conditions set forth in the attached agreement.

Sponsors: Parks & Recreation Department and Fisher

Attachments: [Agenda Cover Report](#)[ATTACHMENT 1: Legal Review Checklist South Florida Collegiate Baseball League](#)[ATTACHMENT 2: Reso for SFlo Baseball League Miller Park](#)[ATTACHMENT 3: South Florida Collegiate Baseball League - signed contract](#)

Sam Metott, Parks and Recreation Director, gave a brief explanation of the agreement for the South Florida Collegiate Baseball League and noted this is a three (3) year term with two (2) one-year renewal options for a complete term of five (5) years.

Commissioner Boylston moved to approve the Use Agreement for South Florida Collegiate Baseball League. It was seconded by Commissioner Frankel. A roll call vote was taken and all were in favor. The motion carried 5-0.

approved

- 7.D. [19-329](#) REQUEST FOR A CONDITIONAL USE TO ESTABLISH A CONVENIENCE MART (GASOLINE STATION WITH FOOD SALES) WITH 24-HOUR OPERATION AT 16211 S. MILITARY TRAIL (MURPHY OIL) (QUASI-JUDICIAL HEARING)

Recommendation: Motion to approve the Conditional Use for a Convenience Mart (Gasoline Station with food sales) at 16211 S. Military Trail for Murphy Oil by adopting the findings of fact and law contained in the staff report and the finding that the request is consistent with Section 2.4.5(E)(5), Conditional Use Findings, Chapter 3, Performance Standards, and Section 4.3.3(J) -Gasoline Stations, of the Land Development Regulations, and is consistent with the Comprehensive Plan.

Motion to approve the Conditional Use request for a 24-hour operation at 16211 S. Military Trail for Murphy Oil by adopting the findings of fact and law contained in the staff report and the finding that the request is consistent with Section 2.4.5(E)(5), Conditional Use Findings, Chapter 3, Performance Standards, and Section 4.3.3(VV)-24-hour Operations, Conditional Use Findings, of the Land Development Regulations, and is consistent with the Comprehensive Plan.

Attachments: [Agenda Cover Report](#)
[Murphy Oil Conditional Use Board Order v2 03.11.19](#)
[Murphy Oil Location Map](#)
[Murphy Oil- Staff Report](#)
[Murphy Oil-Survey](#)
[Murphy Oil -Site Plan](#)
[Murphy USA - Security Narrative](#)
[Murphy Oil-Justification Statement - 1400SF](#)
[Murphy Oil-Justification Statement - 24Hr](#)

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

Tim Stillings, Development Services Director, entered the project file #2019-106 into the record.

Jillian Janovsky, Greenburg, Ferrow, Architects & Engineer for the project stated the site is located at 16211 S. Military Trail, Delray Beach and gave a brief overview of the project.

Andrew Bashears, Project Manager with Murphy USA, gave a few brief comments.

Mr. Stillings gave a few brief comments with respect to the project. Mr. Stillings stated positive findings are made for the requirements to the conditional use for the 24-hour operation. Staff recommends approval of the conditional use modification for Murphy Oil for: (1) Convenience mart for Murphy Oil, (2) 24-hour Operation. The Planning and Zoning Board heard in February and recommended 7-0 for the use modification and 6-1 for the 24-hour operation. He noted that a site plan consideration is pending this approval.

Mayor Petrolia stated if anyone would like to speak in favor or opposition of the conditional use request, to come forward. There being no one from the public who wished to address the City Commission regarding the Conditional Use, the public comment was closed.

A brief discussion by the City Commission ensued.

The City Attorney reviewed the Board Order with the City Commission. It was the consensus of the City Commission to support the Board Order.

Commissioner Frankel moved to approve the Board Order (approving the Conditional Use). 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. [19-337](#) POLICY DIRECTION: AMERICAN LEGION POST 188

Recommendation: Provide comment and direction regarding the responsibility for the repairs of 196 NW 8th Avenue, a City of Delray Beach (City) facility also referred to as the American Legion Post 188.

Attachments: [Agenda Cover Report](#)
 [Delray 196 NW 8th Avenue - hsw](#)
 [american legion summary](#)

The City Attorney explained that the City sent a Notice of Termination of the lease to the American Legion. The City Attorney stated the lease was a land lease. The City Attorney stated if the City Commission wishes to create a new lease, to be mindful of the condition of the building because there are ADA issues and habitability issues and although it is a land lease and the City is ultimately the property owner, from a liability perspective, the City needs to consider that before allowing anyone into the building. The City Attorney suggested that all the maintenance responsibilities would fall on the lessee.

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

James Dildy, 243 S.W. 3rd Avenue, Delray Beach, stated the American Legion responded via email before the 180 days were up.

Jimmy Weatherspoon, 1640 N.W. 18th Avenue, #102, Delray Beach, speaking on behalf of the American Legion, urged the City Commission to not draft a new lease, but to honor the existing lease. Mr. Weatherspoon stated this building is a place that Veterans can gather to reminisce and call home.

Jennifer Hill, 196 N.W. 8th Avenue (American Legion), teacher for 23 years and came to Delray Beach to facilitate tutoring students in the neighborhood that cannot stay after school because they do not have transportation to their home. Ms. Hill stated she would like to see a place for Veterans to call home.

Jimmy Nelson, 223 S.W. 2nd Court, Deerfield Beach, Post Commander, holds his membership at 196 N.W. 8th Avenue, American Legion Post #188, Delray Beach, urged the City Commission to give the Veterans their home.

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

A brief discussion between the City Attorney and the City Commission followed.

Commander Nelson gave a few brief comments.

Vice Mayor Johnson stated any agreements should have the understanding that the American Legion is going to be responsible for bringing the building no matter how old it is, back to an acceptable, liveable code.

Mayor Petrolia requested that Interim City Manager de Jesus be very clear with respect to what he found and what is going to be required to bring this building up to standard. Interim City Manager de Jesus stated staff did not perform this study, but the City hired certified engineers, architects, planners, and a construction management firm to do the assessment.

Brief discussion between the City Commission, the City Attorney, and Mr. Weatherspoon ensued.

For clarification and based on the City Attorney's comments, Interim City Manager de Jesus stated that this would be a new lease based on leasing the City's building on the City's land. He noted what the American Legion would like to do in addition to this would be okay. Interim City Manager de Jesus stated staff is looking for these issues that address the health, safety, and welfare and make it code compliant, fire compliant, and Americans with Disabilities Act (ADA) compliant.

Interim City Manager stated staff will meet with the members of the American Legion and work on the list as to whether or not they would like to move forward with the repairs to the building with licensed contractors they would like to use and through the permit process. Once this is done, Interim City Manager de Jesus stated the next issue will be the terms and conditions that will have to be put in the new lease and to see if they are willing to enter into that lease under those conditions before doing any of the work. Then, he stated if they are able to reach that agreement, staff will bring back a complete presentation to the City Commission. Interim City Manager directed Ms. Caryn-Gardner Young to reach out to the American Legion to discuss with staff and come to a compromise.

In the meantime, Commissioner Boylston stated if staff is not already assisting with finding meeting space in the current City buildings for the American Legion, that we make sure to reach out.

7.F. [19-352](#) NOMINATION FOR APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD

Recommendation: Motion to approve nomination for appointment for one (1) regular member (Citizen-at-Large) to serve on the Parking Management Advisory Board for a two (2) year term ending July 31, 2021.

Sponsors: City Clerk Department

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

Vice Mayor Johnson moved to nominate John Gergen to the Parking Management Advisory Board. It was seconded by Commissioner Frankel. A roll call vote was taken and all were in favor. The motion carried 5-0.

approved

7.G. [19-353](#) NOMINATION FOR APPOINTMENT TO THE BOARD OF ADJUSTMENT

Recommendation: Motion to approve nomination for appointment for one (1) regular member to serve on the Board of Adjustment for an unexpired term ending August 31, 2020.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Exhibit A](#)
[Board of Adjustment Member List](#)
[Board of Adjustment Applications](#)

Commissioner Frankel moved to nominate Alessandro De Angelis to the Board of Adjustment. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.

approved

8. PUBLIC HEARINGS:

9. FIRST READINGS:

9.A. [19-351](#) ORDINANCE NO. 02-19: 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 4.3.4 "BASE DISTRICT DEVELOPMENT STANDARDS", BY AMENDING PARAGRAPH 4.3.4(J) "HEIGHT", TO AMEND THE BASIS FOR BUILDING HEIGHT MEASUREMENT; AMENDING SECTION 4.6.2 "DISTANCE BETWEEN RESIDENTIAL

BUILDINGS” TO AMEND THE BASIS FOR BUILDING HEIGHT MEASUREMENT; AND AMENDING APPENDIX A “DEFINITIONS” OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES TO ADD DEFINITIONS FOR “BASE FLOOD ELEVATION”, “BASE BUILDING ELEVATION”, AND “FREEBOARD”, AND TO REMOVE THE DEFINITION OF “GRADE”; 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. 02-19, a City-initiated amendment Land Development Regulations, Section 4.3.4 “Base District Development Standards” and Section 4.6.2 “Distance between Residential Buildings” to amend the basis for building height measurement; and, amending Appendix A “Definitions” to add definitions for “Base Flood Elevation,” “Finished Grade Elevation,” and “Freeboard,” and to remove the definition of “Grade,” 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).

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Ordinance 02-19](#)
[02-19 PZB Staff Report](#)

The City Attorney read the title of Ordinance No. 02-19.

Tim Stillings, Director of Development Services, gave a brief presentation regarding Ordinance No. 02-19 for building height measurement. Mr. Stillings stated the Planning and Zoning Board considered the proposed amendment in February and recommended approval (7-0). Staff recommends approval of Ordinance No. 02-19 as presented.

Commissioner Boylston moved to approve Ordinance No. 02-19 on First Reading. It was seconded by Commissioner Frankel. A roll call vote was taken. The motion carried 5-0.

approved

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. City Manager

Interim City Manager de Jesus stated the City has been dealing with a pump station issue on the barrier island and staff had a meeting with an

engineering firm that specializes in lift stations, pump stations, wastewater and water treatment facilities. He stated the short-term solution is that there are several by-pass pumps acting in-lieu of the current pump station and staff has figured out a combination of multiple by-pass pumps that are exceeding the capacity of the existing lift station. Interim City Manager stated staff will rent the by-pass pumps for several weeks and noted that this is a pump and/or motor issue. The long-term plan has been in the planning phase for many years and is a big ticket solution. He stated the mid-term solution is going to be \$300,000 and up and that plan can get the City out 5-6 years; however, that is not a permanent solution and we still need to plan moving forward. Interim City Manager de Jesus stated whatever plan the City goes with, staff will order additional pumps so that if and when they fail, the City is in place to mitigate it before any property damage is done to the surrounding homes. He stated if the City goes with the first recommended pump and ordered today, it would be at least 12 weeks to manufacture.

Secondly, Interim City Manager de Jesus stated the next flood issue involves the two bathrooms on the first floor of City Hall and the leak is due to corroded steel lines and noted that *all* the lines are corroded. Therefore, he stated the pipes would all have to be replaced with new plumbing, standard fixtures, stalls, handrails, ADA compliant, new tiling, and new walls due to the amount of water damage. Staff will expedite this as soon as possible.

B. City Attorney

None.

C. City Commission

Vice Mayor Johnson commended City Attorney Lynn Gelin and Interim City Manager de Jesus for doing an outstanding job.

Secondly, Vice Mayor Johnson stated she has been wheelchair-bound for six weeks and pointed out that City Hall is not ADA compliant. She asked her colleagues if she is not able to attend the Goal Setting session, to make the topic of a new City Hall the number one issue.

Vice Mayor Johnson inquired about Delray's status in the Strong Town Contest.

Lastly, Vice Mayor Johnson reminded everyone that there is going to be a "Rock the Block" on S.W. 9th Circle.

Commissioner Boylston stated he had the opportunity to attend the

Opening Day Ceremony for the Little League. He extended kudos to the Parks and Recreation Department and everyone involved for helping make this a success.

Commissioner Frankel thanked Joan Goodrich, Economic Development Coordinator for her quick response to his email this afternoon regarding a local business that is looking to relocate.

Deputy Vice Mayor Bathurst concurred that a discussion regarding the condition of City facilities be discussed at Goal Setting.

Secondly, Deputy Vice Mayor Bathurst stated he would like to know the status of the discussion regarding the improvements to the golf course.

He also stated there were discussions about pursuing something with Swinton Avenue and asked about what improvements the City is going to do and not do.

Lastly, Deputy Vice Mayor Bathurst stated he attended the Transportation Planning Agency (TPA) meeting and noted that the City needs to communicate to Mr. Nick Uhren on the Lowson Boulevard project about what they want, don't want, and where they are connecting.

Mayor Petrolia reminded everyone about the Haitian-American Cultural Day and invited everyone to support this event.

Secondly, Mayor Petrolia stated she has received very positive comments about Interim City Manager de Jesus. On behalf of the City Commission, Mayor Petrolia thanked and commended Interim City Manager de Jesus for doing a great job.

Lastly, Mayor Petrolia extended kudos to Laura Simon, Executive Director of the Downtown Development Authority (DDA) for making "Savor the Avenue" such a successful event. Mayor Petrolia noted that approximately 1,100 people were served and a couple of cities from the northeast attended the event and are going back to try and do the exact same thing during the summer in their cities.

Interim City Manager de Jesus stated he appreciates the compliments expressed by Mayor Petrolia regarding his job performance; however, he recognized the entire staff for working extremely hard.

There being no further business to discuss, Mayor Petrolia adjourned the meeting at 7:24 p.m.