

City of Delray Beach

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Minutes - Draft

Tuesday, October 15, 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 meeting to order at 4:00 p.m.

The roll call was taken by the Deputy City Clerk.

The following were in attendance:

Mayor Shelly Petrolia

Commissioner Adam Frankel

Deputy Vice Mayor Bill Bathurst

Commissioner Ryan Boylston

Absent:

Vice Mayor Shirley Ervin Johnson

Others present were:

Neal de Jesus, Interim City Manager

Lynn Gelin, City Attorney

Beverly Searvogel-Graikowski, Deputy City Clerk

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

Mayor Petrolia requested that item 6.C. be moved to the regular agenda as item 7.A.A.

Commissioner Boylston moved to approve the 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 4-0.

Approved as amended.

4. PRESENTATIONS:

**4.A. [19-901](#) PRESENTING JAMES WINTEMUTE, FLEET COORDINATOR, WITH
EMPLOYEE OF THE MONTH FOR OCTOBER 2019**

Body: Recommended Action:

Recommendation: Motion to present James Wintemute, Fleet Coordinator, with Employee of the Month for October 2019.

Attachments: [Agenda Cover Report](#)
 [Wintemute Nomination Form](#)

Duane D' Andrea, Human Resource Director, on behalf of the City Commission, presented Mr. James Wintemute, Fleet Coordinator with a plaque and certificate for a personal day off for Employee of the Month for October 2019.

Chief Sims, Delray Beach Police Chief, gave a few brief comments about Mr. James Wintemute.

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

Liliana Pomareda, 5135 Ventura Drive, Delray Beach, spoke about how aggressive the panhandlers on Military Trail and Atlantic Avenue have become. She thanked the Police Department and Code Enforcement Department, but she feels that the ordinances aren't being enforced.

Rosalie Olortegi, address unverifiable, agrees that the panhandlers have become aggressive and she has seen a rise in the number of homeless people.

Gail Clark, 124 NE 7th Avenue, Delray Beach, stated the residents of Marine Way had an expert from the Department of Environmental Protection Agency come out to address the situation with the mangroves, etc. He told the residents that in his opinion the invasive mangrove species were less than one percent and they were healthy and vital to the community, which contradicts the report previously given by Deputy Director and Project Manager, Public Works, Missie Barletto.

Pauline Moody, address unverifiable, expressed her condolences for Mr. Donald Cooper, former Delray Beach City Manager, who recently passed away. Ms. Moody expressed her concerns that the large population of drug rehab facilities in the City are contributing to the homeless and panhandling, as well as the garbage situation.

Claire Johnson, 46 Marine Way, stated he would like to see the Commissioners meet with the residents of Marine Way.

Laura Simon, DDA, wished to speak about the following two items on the agenda:

- 7.A. Buddha Sky Bar Project
- 9.A. Noise Control

Ms. Simon said she was looking forward to hearing the new noise control redesign and ordinance, as well as working with Deputy Vice Mayor Bathurst on the Nighttime Committee. She also said that Buddha Sky Bar has come before the DDA on many previous occasions.

Montray Ben, 323 NW 2nd Avenue, expressed his disappointment that his community continues to suffer because they are promised change, but it never happens and thinks that it is a color issue.

With no others present for public comments, Mayor Petrolia closed the public comments.

Mayor Petrolia wanted to take a moment to express her condolences to the families of those who passed away this past week:

- Miss Rosetta Mc Griff Rolle, who led her community through the Civil Rights.
- Miss Libby Wesley, who was a schoolteacher and brought many things to our City as well as having a park named after her.
- Mr. Bob Curry, who has many buildings in the City and has been a part of the flavor throughout Delray Beach.
- Mr. Donald Cooper, former Delray Beach City Manager.

6. CONSENT AGENDA: City Manager Recommends Approval

Commissioner Frankel 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 4-0.

Approved as amended.

6.A. [19-1006](#) RETROACTIVE APPROVAL OF AMENDMENT NO. 1 WITH CRAIG B. KUSHNIR D.O., LLC FOR MEDICAL DIRECTOR SERVICES (RFP 2016-078L) - \$25,300

Body: Recommended Action:

Recommendation: Motion to retroactively approve Amendment No. 1 with Craig B. Kushnir D.O., LLC . for Medical Director Services (RFP 2016-078L) in the estimated annual amount of \$25,300 and to authorize the City Manager to exercise any and all renewal options, in the amounts below, contingent upon the appropriation of funds.

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 6 Amend No 1 MEdical Servies agreement](#)
[Amendment No. 1 - Medical Director Services](#)

Approved.

- 6.B. [19-982](#) RETROACTIVE APPROVAL OF AMENDMENT NO. 3 WITH BALLARD PARTNERS, INC. FOR STATE LEGISLATIVE LOBBYIST SERVICES (RFP 2015-076) - \$60,000

Body: **Recommended Action:**

Recommendation: Motion to retroactively approve Amendment No. 3 with Ballard Partners, Inc. for State Legislative Lobbyist Services (RFP 2015-076) in the estimated amount of \$60,000 for the agreement and to authorize the City Manager to exercise any and all renewal options, in the amounts below, contingent upon appropriation of funds.

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 6 Ballard Amend No 3](#)
[2015-76 Amendment No. 3](#)

Approved.

- 6.C. [19-824](#) APPROVAL OF AMENDMENT NO. 3 TO THE SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND WASTE MANAGEMENT INC. OF FLORIDA

Body: **Recommended Action:**

Recommendation: Motion to Approve Amendment No. 3 to the Solid Waste and Recycling Collection Agreement dated March 9, 2015, between the City of Delray Beach and Southern Waste Systems, LLC and assigned to Waste Management Inc. of Florida on December 14, 2015.

Attachments: [Agenda Cover Report](#)

[ATTACHMENT 1 - Legal Review Checklist Amendment #3 to Waste Management Agreement](#)

[ATTACHMENT 2 - 2014-37 - Waste Management Agreement Amendment No. 3](#)

[ATTACHMENT 3 - Exhibit 13 to Amendment No 3 of Waste Management Agreement Redline\(10-4-19230P\)](#)

Mayor Petrolia expressed concern about the renewal contract for Waste Management and the possibility of providing inferior service to the City due to the age of the trucks being used for City refuse pick up. Assistant City Manager Suzanne Fisher stated the renewal contract with Waste Management was for clarification purposes only regarding the age of the trucks being used for services.

Neil Schiller, Saul, Ewin, Arnstein and Lehr, LLP, 515 N. Flagler Drive, Attorney representing Waste Management, Inc., assured the Commission that Waste Management, Inc. will continue to provide the City with excellent service and there was no changes made on what trucks will be used for the City.

Deputy Vice Mayor Bathurst inquired about the Tree Fund; Assistant City Manager Suzanne Fisher explained that the monies collected must be for trees to be planted in the City. A discussion ensued with the Mayor, Interim City Manager and Commissioners regarding other provisions of this renewal contract.

Deputy Vice Mayor Bathurst made a motion to approve the contract with Waste Management. It was seconded by Commissioner Boylston. A roll call vote was taken, and all were in favor. The motion carried 4-0.

Approved.

6.D. [19-951](#) INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY FIRST RESPONDER AGENCIES

Body: **Recommended Action:**

Recommendation: Motion to approve the Interlocal Agreement between Palm Beach County First Responder Agencies, which provides for inter-agency communications as required under the Marjory Stoneman Douglas Act.

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist](#) [LW review](#)
[Interlocal Agreement between PB County and First Responder Agencies](#)

Approved.

6.E. [19-977](#) APPROVAL OF GRANT APPLICATION AND AWARD/FDOT/OCCUPANT PROTECTION/CHILD PASSENGER SAFETY

Body: **Recommended Action:**

Recommendation: Motion to approve application and award of the Florida Department of Transportation (FDOT) FY 19/20 Occupant Protection/Child Passenger Safety program grant.

Attachments: [Agenda Cover Report](#)
[M2HVE-20-20-06 - Draft Application Occupant 2019](#)
[Part V](#)

Approved.

6.F. [19-948](#) APPROVE AND EXECUTE Two consent to easement agreements to use Army Corps of Engineers rightS-of-way to newly construct, use, maintain, repair and remove, two water utility lines under the Intracoastal Waterway (ICWW) for the SubaqUeOUS Watermain Project. (Project #17-156)

Body: **Recommended Action:**

Recommendation: Approve and execute two consent to easement agreements to use Army Corps of Engineers rights-of-way to newly construct, use, maintain, repair and remove two water utility lines under the Intracoastal Waterway for the Subaqueous Watermain Project.

Attachments: [Agenda Cover Report](#)
[Legal Review - Consent to Easement Army](#)
[USACE Consent to Easement 0083](#)
[USACE Consent to Easement 0082](#)

Approved.

- 6.G.** [19-922](#) ALTERNATIVE WATER SUPPLY AND WATER CONSERVATION GRANT APPLICATIONS THROUGH SFWMD FOR THREE CITY OF DELRAY BEACH PROJECTS; WATER CONSERVATION EDUCATION PROGRAM; AUTOMATIC WATER LINE FLUSHER PROGRAM; AND THE CONSTRUCTION OF RECLAIMED WATER MAINS WITHIN THE SW NEIGHBORHOOD IMPROVEMENTS PROJECT, ALONG SW 4TH ST, INCLUDING SW 6TH ST, SW 7TH AVE, AND SW 3RD COURT

Body: **Recommended Action:**

Recommendation: Staff is requesting retroactive approval from Commission for submittal of Alternative Water Supply (AWS) and water conservation grant applications to the South Florida Water Management District (District). Three (3) qualifying City of Delray Beach projects were submitted to the District on August 16, 2019 for funding consideration.

Attachments: [Agenda Cover Report](#)
[19-0816_SFWMDC Grant Funding-FY 2019-20 APPROVAL by ICM for Submittal.pdf](#)
[Delray_AWS_Application_fillable_8-16-19](#)
[Delray_WaterConservation_Application_8-16-19](#)
[Delray_WaterConservation_Application_AutomaticFlushers_8-16-19](#)

Approved.

6.H. PROCLAMATIONS:

- 6.H.1.** [19-940](#) PROCLAMATION FOR FLORIDA CITY GOVERNMENT WEEK

Body: **Recommended Action:**

Recommendation: Motion to proclaim October 21 - 27, 2019 as Florida City Government Week.

Attachments: [Agenda Cover Report](#)
[Proclamation FLORIDA CITY GOVERNMENT WEEK 2019](#)

Approved.

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

- 6.I.1. [19-971](#) REPORT OF APPEALABLE LAND USE ITEMS FROM SEPTEMBER 2, 2019, THROUGH SEPTEMBER 27, 2019.

Body: **Recommended Action:**

Recommendation: By motion, receive and file this report.

Attachments: [Agenda Cover Report](#)
[Appealable Items Map 10.15.19](#)
[A - 98 SE 6th Avenue - Appealable Report](#)

Approved.

6.J. AWARD OF BIDS AND CONTRACTS:

- 6.J.1. [19-970](#) APPROVAL OF RESOLUTION NO. 129-19 TO AWARD AN AGREEMENT TO DEV-LAND DEMOLITION & SITE, INC. FOR LIME SLUDGE REMOVAL AND DISPOSAL - \$915,750

Body: **Recommended Action:**

Recommendation: Motion to approve Resolution No. 129-19 to award an agreement to Dev-Land Demolition & Site, Inc. for lime sludge removal and disposal in an amount of \$915,750, and authorize the City Manager to approve renewal options, contingent upon appropriation of funds, in the amounts shown below.

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 5 Dev Land](#)
[ITB 2019-033 Tabulation Sheet](#)
[Res 121-19 for DevLand ITB](#)
[Agreement Dev Land Agreement](#)

Approved.

7. REGULAR AGENDA:

Attorney Gelin apologized to the Commission that the Resolutions for these three items were not provided ahead of time and were placed on the dais for each of them; with a reminder that all the motions must reflect the Resolution numbers.

- 7.A. [19-910](#) APPEAL OF THE SITE PLAN REVIEW AND APPEARANCE BOARD (SPRAB) FINAL ACTION ON A CLASS IV SITE PLAN, LANDSCAPE PLAN, AND ARCHITECTURAL ELEVATIONS FOR BUDDHA SKYBAR LOCATED AT 217 E. ATLANTIC AVENUE. (QUASI-JUDICIAL HEARING)

Body: **Recommended Action:**

Recommendation: Review and consider a Class IV Site Plan modification, Landscape Plan, and the Architectural Elevations application for Buddha Skybar located at 217 E. Atlantic Avenue.

Attachments: [Agenda Cover Report](#)

[Buddha Skybar CLIV Site Plan Mod. - Location Map](#)

[Buddha Skybar CLIV Site Plan Mod. - SPRAB Staff Report](#)

[Buddha Skybar CLIV Site Plan Mod. - Plans](#)

[Buddha Skybar CLIV Site Plan Mod. - Color Elevations](#)

[Buddha Skybar CLIV Site Plan Mod. - Renderings](#)

[Buddha Skybar CLIV Site Plan Mod. - Site Photos](#)

Mayor Petrolia read the City of Delray Beach Quasi-Judicial rules into the record for Items 7.A- 7.C.

Deputy City Clerk Graikowski swore in those individuals who wished to give testimonies for Items 7.A. - 7.C.

Mayor Petrolia disclosed her ex-parte conversations with the owner and a friend of the owner's, as well as City staff regarding item 7.A. There were no other ex-parte communications.

Anthea Gianniotis, Development Services Director, entered File No. 2019-148 into the record.

Simeon Kirilov, with Steve Siebert Architecture, Boynton Beach, gave a brief presentation on the Buddha Sky Bar project.

Anthea Gianniotis gave a presentation on the plans for the renovations for Buddha Sky Bar, outlined in Resolution No. 177-19.

Mayor Petrolia opened the floor for public comment:

Public Comment:

- Laura Simon, Downtown Development Authority, Delray Beach, stated that upon review at their meeting in June 2019, the DDA gave their full support for the renovations for Buddha Sky Bar and

recommend approval; however they did have concerns about parking.

- Pauline Moody, unverifiable address, expressed concern that this will be just another bar and that it would affect parking.
- Victor Korodba, General Manager of Buddha Sky Bar, spoke about Buddha Sky Bar needing a change to better suit the City's needs, and that the new configuration would allow for different venues.

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

Deputy Vice Mayor Bathurst expressed that he thought having retail on the lower level would be a help. He also stated there should be verification that they are doing what they said they would be doing.

Mayor Petrolia stated that based on the drawings, it appeared to look more like a bar and a lounge rather than a restaurant and expressed concerns about the in-lieu parking fees agreement also.

Commissioner Boylston commented the Downtown Development Authority previously had other plans for the usage of Buddha Sky Bar and that they never came to fruition. He stated that the Commission will be closely watching the project, if it goes through, for compliance.

Interim City Manager de Jesus stated he is concerned about the versatility of the proposed plans. Victor Korodba told the Commission that the new plan will allow different floor plans based on the venue.

Commissioner Boylston moved to approve Resolution No. 177-19. It was seconded by Deputy Vice Mayor Bathurst to open it for further discussion. Attorney Gelin explained that if the Commission would like a zoning look-back, it would need to be stated as a condition of approval. She also clarified that there are mechanisms in place to address non-compliance.

Commissioner Boylston amended his motion to approve Resolution No. 177-19 to include a 6-month review or zoning look-back. A roll call vote was taken, with Mayor Petrolia and Commissioner Frankel dissenting. Motion failed 2-2.

City Attorney Gelin stated that the appeal did not pass and suggested that the Commission take a vote for the record to deny the resolution.

Commissioner Frankel moved to deny Resolution No. 177-19. It was

seconded by Commissioner Boylston. A roll call vote was taken, with Deputy Vice Mayor Bathurst and Commissioner Boylston dissenting. Motion failed 2-2.

Approval of Resolution No. 177-19 failed.

- 7.B. [19-949](#) APPEAL OF THE HISTORIC PRESERVATION BOARD (HPB) DENIAL OF A CERTIFICATE OF APPROPRIATENESS (2018-211) AND VARIANCE REQUESTS (2018-212) ASSOCIATED WITH THE SINGLE-FAMILY RESIDENCE LOCATED AT 415 NORTH SWINTON AVENUE, DEL-IDA PARK HISTORIC DISTRICT. (QUASI-JUDICIAL HEARING)

Body: **Recommended Action:**

Recommendation: Review and consider an appeal of a Certificate of Appropriateness (2018-211) and Variance (2018- 212) requests associated with the single-family residence located at 415 North Swinton Avenue, Del-Ida Park Historic District, pursuant to LDR Section 2.4.6(H) and 2.4.7(A). Specifically, the requests include: demolition of a portion of the contributing structure, construction of a new 1,215 sq. ft. addition & new 220 sq. ft. carport, construction of a new swimming pool decking & fencing.

Attachments: [Agenda Cover Report](#)

[Applicant Justification Statements-415 Swinton Avenue-2019-08-07](#)

[Photos-415 North Swinton Avenue-2019-08-07](#)

[Architectural Plans-415 N Swinton Avenue-2019-08-07](#)

[2019-08-07-HPB Staff Report-415 N Swinton Ave](#)

[2019-08-20-Applicant Appeal Letter-415 N. Swinton Ave](#)

Anthea Gianniotis, Development Services Director, entered File No. 2018-211 into the record for Certificate of Appropriateness and File No. 2018-212 for the Variance Request into the record.

Mayor Petrolia asked for disclosure of ex-parte communications and there were none, except for the email that was received from the applicant the day of this meeting.

Kurt Steinhardt, 415 N. Swinton Avenue, Delray Beach, addressed the Commission as the applicant. He provided the Commission with some photos of his project and read a statement that he prepared.

Anthea Gianniotis, Development Services Director, stated this project is outlined in Resolution 178-19, which includes the Certificate of Appropriateness and the two variances. She gave a brief presentation about the project.

Mayor Petrolia opened the floor for public comment on this project.

Public Comment:

Andrea Harden, 516 N. Swinton Avenue, Delray Beach stated she served

on the Historic Preservation Board when this project was presented. She shared her concerns regarding the project with the Commission, especially concerning the provisions of LDR 2.4.7(A).

Andrea Sherman, 222 NW 15th Street, Delray Beach stated that she served with Ms. Horden on the Historic Preservation Board and concurs with her concerns about this project. She suggested that the owner landscape the front of the property to make it more aesthetically appealing.

John Cline, 214 NE 5th Street, Delray Beach shared his concerns with the Commission about the historic rehabilitation of this property not being followed by the owner.

David Harden, 516 N. Swinton Avenue, Delray Beach shared the findings of the Historic Preservation Board with the Commission regarding this project. He feels the setback variance should not be granted on this property.

Pauline Moody, unverifiable address, shared her views regarding this project and the timing of this. She felt the Commission should not be denying the applicant since he has already started.

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

A conversation ensued with the Mayor and Commissioners regarding this project. City Attorney Gelin instructed the Commission that they would need to make specific findings as a Board, because it is a variance.

Commissioner Frankel made a motion to deny Resolution 178-19 on the basis that the applicant has not met the required findings for a variance, specifically that the Commission finds that the conditions and circumstances have resulted from the actions of the applicant; thereby creating a loss of the historic character of the property by granting the variances. It was seconded by Commissioner Boylston. A roll call vote was taken, and all were in favor. Motion carried 4-0.

Approval of Resolution No. 178-19 was denied.

- 7.C. [19-960](#) WAIVER REQUEST TO INCREASE THE WIDTH OF THE BUILDING FRONTING A STREET (NW 1st AVENUE) FROM THE MAXIMUM ALLOWABLE OF 60' TO 63'- 8" FOR PROPERTY LOCATED AT 131 NW 1st AVENUE IN THE OLD SCHOOL SQUARE HISTORIC DISTRICT (QUASI-JUDICIAL HEARING)

Body: **Recommended Action:**

Recommendation: Review and consider a Waiver to increase the maximum width of a building fronting a street (NW 1st Avenue) from the maximum allowable of 60' to 63' 8" for property located at 131 NW 1st Avenue in the Old School Square Historic District.

Attachments: [Agenda Cover Report](#)

[Waiver-131 NW 1st Ave- 2019-10-15](#)

[Waiver Graphic-131 NW 1st Avenue-2019-10-15](#)

[Plans-131 NW 1st Ave- 2019-10-15](#)

Anthea Gianniotis, Development Services Director, read file 2019-150 into the record.

Commissioner Frankel and Commissioner Boylston said that they both had ex-parte communications with Mr. Weiner and his staff.

Mayor Petrolia opened the floor for public comment on this project.

Public Comment:

- Mr. Michael Weiner, Attorney, Boca Raton, for the applicant gave a brief presentation on item 7.C.
- Donna Marion, 131 NW 1st Ave, Delray Beach, stated that she and her husband are dedicated to preserving their historic house and are requesting a couple of short steps to build out rather than up on their proposed renovations.
- Fredy Paolania, with Randall Stofft Architect Firm, Delray Beach, gave a presentation about the project.
- Pauline Moody, unverifiable address, asked for clarification for the planned renovations.

Mr. Weiner asked that if the Commission has any further questions to contact his office as they have more information, which he couldn't present due to time constraints.

Mayor Petrolia stated if anyone else from the public would like to address

the City Commission
to come forward. *There being no one from the public who wished to
speak, Mayor Petrolia closed the public comments.*

Resolution No. 179-19 was approved.

7.D. [19-776](#) PUBLIC ART ADVISORY BOARD - REQUEST FOR APPROVAL FOR ARTIST CONTRACT, LOCATION, AND INSTALLATION - RISE UP AGAINST RISING SEAS MURAL

Body: **Recommended Action:**

- Recommendation:**
1. Motion to contract with Renda Writer (artist) in the amount of \$2400 to produce the Rise Up Against Rising Seas mural, in collaboration with the Delray Beach Green Implementation Advisory Board for the 2019 Climate and Art Festival. (Contract: ATTACHMENT A)
 2. Motion to approve the location for the installation of the Rise Up Against Rising Seas mural inside the Federspiel Garage on the inside east facing wall as noted in the attached picture (Attachment B - Mural Rendering and Proposed Location).

Attachments: [Agenda Cover Report](#)

[ATTACHMENT A: Agreement for Public Artwork - Renda Writer Rise Mural - signed by artist](#)

[ATTACHMENT B: Mural rendering and proposed location](#)

[ATTACHMENT C - RISE-POSTER v04 \(1\)](#)

[ATTACHMENT D: PAAB Minutes July 2019](#)

[ATTACHMENT E - 8.12.2019 PZ Letter - Federspiel Mural COA](#)

[ATTACHMENT F: HPB - Climate and art Mural Application HPB](#)

[ATTACHMENT: G - HPB Staff Report-22 SE 1st Avenue-2019-09-04](#)

[ATTACHMENT H: Legal Review Checklist - Brian Renda for Public Artwork](#)

Suzanne Fisher, Liaison to the Public Art Advisory Board, spoke about the approval of this mural which was denied by the Downtown Development Authority but approved by the Historic Preservation Board.

Mayor Petrolia stated she was supportive of the mural.

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

Deputy Vice Mayor Bathurst made a motion to approve the location for the installation of said mural. It was seconded by Commissioner Boylston. A roll call vote was taken, and all were in favor. The motion carried 4-0.

Approved.

7.E. [19-913](#) PROPOSAL TO REPURPOSE ONE LANE OF TWO-LANE ROADWAY IN THE HOMEWOOD BOULEVARD ROAD PROJECT TO PROVIDE FOR BICYCLE AND PEDESTRIAN MOBILITY IMPROVEMENTS

Body: **Recommended Action:**

Recommendation: Motion to approve lane repurposing to provide sidewalks and bicycle lanes on Homewood Boulevard between Linton Boulevard and Lowson Boulevard.

Attachments: [Agenda Cover Report](#)

[SA_MemoHomewoodBlvdLaneRepurpose_2019-08-29-merged \(1\)](#)

[HomewoodLaneRepurposing_CODB-Commission_2019-10-15](#)

Missie Barletto, Assistant Public Works Director, introduced the new Transportation Engineer, Mr. Richard Pereiva. Mr. Pereiva gave a presentation on the Homewood Blvd project.

Mayor Petrolia stated the bicycle and pedestrian improvements were good.

Commissioner Boylston made a motion to approve 7.E. It was seconded by Deputy Vice Mayor Bathurst. A roll call was taken, and all were in favor. The motion carried 4-0.

Approved.

7.F. [19-976](#) INTERNAL AUDITOR'S MERIT INCREASE

Body: **Recommended Action:**

Recommendation: Motion to consider the City Auditor's performance and salary review.

Attachments: [Agenda Cover Report](#)

Duane D'Andrea, Human Resource Director, reported that based on the performance evaluation completed by the City Commission for Ms. Julia Davidyan, she will be receiving a 4.5 percent merit increase.

Commissioner Frankel made a motion to approve Ms. Davidian's merit increase of 4.5 percent. It was seconded by Commissioner Boylston. A roll call vote was taken, and all were in favor. The motion carried 4-0.

Approved.

7.G. [19-980](#) MAYOR AND COMMISSIONER COMPENSATION INCREASE**Body: Recommended Action:**

Recommendation: Motion to approve compensation increase for the Delray Beach Mayor and Commissioners to be considered by voters at the next election.

Attachments: [Agenda Cover Report](#)
[Mayors & Commissioners Salary Analysis 2019](#)

City Attorney Gelin informed the Commission that by creating an ordinance for salary increases, they could take effect after the next General Election, provided there was a referendum on the ballot before the public for the March 2020 election.

There was consensus to have City Attorney Gelin draft an ordinance.

7.H. [19-981](#) NORTHWEST/SOUTHWEST ADVISORY BOARD NOMINATIONS FOR APPOINTMENT**Body: Recommended Action:**

Recommendation: Motion to approve nomination for appointment of five (5) members to serve on the Northwest/Southwest Advisory Board. Three (3) members to serve a one (1) year term ending in 2020 and two (2) members to serve a two (2) year term ending in 2021.

Attachments: [Agenda Cover Report](#)
[Exhibit A 10152019](#)
[NWSW Applications](#)

Mayor Petrolia stated there were five applicants to choose from. Commissioner Boylston expressed that there wasn't a clear definition of what this board's responsibilities are and thought there wasn't a need for this board, since no other communities have one.

Commissioner Boylston made a motion to revisit this item in a year. It was seconded by Vice Mayor Bathurst to open it up for further discussion. A roll call vote was not taken since the consensus was to have further discussion when Vice Mayor Johnson was present.

Commissioner Boylston amended his motion to table this item until the next Commission meeting. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken, and all were in favor. The motion carried 4-0.

This Request was tabled.

7.I. [19-985](#) CODE ENFORCEMENT BOARD NOMINATIONS FOR APPOINTMENT**Body: Recommended Action:**

Recommendation: Motion to approve nominations for appointment for one (1) regular member to serve an unexpired term ending January 14, 2020; one (1) regular member to serve an unexpired term ending January 14, 2021; and one (1) alternate member to serve an unexpired term ending January 14, 2022.

Attachments: [Agenda Cover Report](#)
[10012019 Exhibit A](#)
[Member List](#)
[Attendance](#)
[Code Enforcement Applications](#)

Commissioner Boylston nominated Mr. John Brewer to the Code Enforcement Board. It was seconded by Commissioner Frankel. Deputy Vice Mayor Bathurst informed the Commission that Mr. Brewer was already serving on the Site Plan Review and Appearance Board (SPRAB). Commissioner Boylston withdrew his nomination of Mr. John Brewer.

Mayor Petrolia stated to the Commission that she has an alternate applicant for the Code Enforcement Board.

Mayor Petrolia made a motion to nominate Ms. Carla Stewart. It was seconded by Commissioner Frankel. A roll call vote was taken, and all were in favor. The motion carried 4-0.

Mayor Petrolia's Appointment was approved for the Code Enforcement Board.

8. PUBLIC HEARINGS:

City Attorney Gelin read Ordinance No. 30-19 and Ordinance No. 31-19 into the record.

- 8.A. [19-978](#) ORDINANCE NO. 30-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING LAND APPROXIMATELY 0.957± ACRES IN SIZE FROM MEDIUM DENSITY (MD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6TH AVENUE, 40 SOUTHWEST 6TH AVENUE, 46 SOUTHWEST 6TH AVENUE, 48 SOUTHWEST 6TH AVENUE, 41 SOUTHWEST 7TH AVENUE, AND 37 SOUTHWEST 7TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)

Body: Recommended Action:

Recommendation: Review and Consider Ordinance No. 30-19 on Second Reading.

Attachments: [Agenda Cover Report](#)
[Ordinance No. 30-19](#)
[Ordinance No. 30-19 Current FLUM](#)
[Ordinance No. 30-19 Proposed FLUM](#)
[PZB Staff Report Frog Alley-BH3](#)

Neil Schiller, Attorney with Saul, Erwin, Amstein and Lehr, LLP, 515 N. Flagler Drive, Ft Lauderdale, representing the CRA and the private property owners of these homes, spoke to the Commission about the proposed plans.

Mayor Petrolia expressed her concern that by approving the enrichment of these homes it may interfere with future projects. Commissioner Boylston made a motion to approve Ordinance No. 30-19.

Attorney Gelin informed the Mayor she hadn't made an announcement about Public Comment yet, so a motion could not be accepted at this time.

Mayor Petrolia stated that if anyone from the public would like to address the City Commission to come forward. *There being no one from the public who wished to address the Commission, Mayor Petrolia closed the public comments.*

Commissioner Boylston made a motion to approve Ordinance No. 30-19. It was seconded by Commissioner Frankel. A roll call vote was taken, and all were in favor of approving Ordinance No. 30-19. The motion carried 4-0.

Ordinance 30-19 was approved.

8.B. [19-979](#)

ORDINANCE NO. 31-19: 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 REZONING AND RE-DESIGNATING LAND PRESENTLY ZONED MULTIPLE FAMILY RESIDENTIAL - MEDIUM DENSITY (RM) DISTRICT TO CENTRAL BUSINESS (CBD) DISTRICT, WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT; FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6TH AVENUE, 40 SOUTHWEST 6TH AVENUE, 46 SOUTHWEST 6TH AVENUE, 48 SOUTHWEST 6TH AVENUE, 41 SOUTHWEST 7TH AVENUE, AND 37 SOUTHWEST 7TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017" AND FURTHER AMENDING THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT AND REGULATING MAPS IN SECTION 4.4.13, LAND DEVELOPMENT REGULATIONS ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)

Body: **Recommended Action:**

Recommendation: Review and Consider Ordinance No. 31-19 on Second Reading.

Attachments: [Agenda Cover Report](#)

[Ordinance No. 31-19](#)

[Ordinance No. 31-19 Current Zoning](#)

[Proposed Zoning_090519](#)

[Proposed W Atlantic Regulating Plan 100319](#)

[Ordinance No. 31-19 PZB Staff Report](#)

Mayor Petrolia stated if anyone from the public would like to address the City Commission to come forward. There being no one from the public who wished to address the City Commission, Mayor Petrolia closed the public comments.

Commissioner Frankel made a motion to approve Ordinance No. 31-19. It was seconded by Commissioner Boylston. A roll call vote was taken, and all were in favor of approving Ordinance No. 31-9. The motion carried 4-0.

Ordinance 31-19 was approved.

9. FIRST READINGS:

- 9.A.** [19-987](#) ORDINANCE NO. 39-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 99 "NOISE CONTROL" OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, BY ADOPTING NEW REGULATIONS DEFINING "EXCESSIVE, LOUD AND UNNECESSARY NOISE," "NOISE DISTURBANCE," "PLAINLY AUDIBLE" AND OTHER RELATED TERMS; PROHIBITING AND REGULATING ACTIVITIES THAT CREATE A NOISE DISTURBANCE AND "EXCESSIVE, LOUD AND UNNECESSARY NOISE"; DEFINING AND REGULATING "EXCESSIVE, LOUD AND UNNECESSARY NOISE"; ESTABLISHING CRITERIA FOR DETERMINING WHEN A NOISE DISTURBANCE OCCURS; PROVIDING FOR THE ENFORCEMENT OF CHAPTER 99; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

Body: **Recommended Action:**

Recommendation: Motion to approve Ordinance 39-19 amending Chapter 99 "Noise Control" of the Code of Ordinances of the City of Delray Beach, by adopting new regulations.

Attachments: [Agenda Cover Report](#)
 [Ordinance 39-19](#)

City Attorney Gelin read Ordinance No. 39-19 into the record.

Anthea Giannoites, Development Services Director, entered the file No. 2000-19 159 into the record.

Mr. Tim Hernandez, Atlantic Grove Partners, 200 Congress Park Drive, gave a presentation on the project.

City Attorney Gelin explained to the Commission that this is a very difficult Ordinance to enforce and that there needs to be consistency. Commissioner Boylston stated that he would like to see the Downtown Development Authority get involved.

Commissioner Boylston made a motion to approve Ordinance No. 39-19. It was seconded by Commissioner Frankel. A roll call vote was taken, and all were in favor. The motion carried 4-0 to approve Ordinance 39-19 on first reading.

Ordinance 39-19 was approved on first reading.

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

Interim City Manager de Jesus addressed the aggressive pan handlers, homeless etc. and said that unless the law is being broken there is nothing that can be done without violating the individual's civil rights.

Mayor Petrolia stated that she can't resolve the issues that are being brought to her attention by the residents concerning the homeless, drug use, etc. and that she looks to the Police Department and ICM de Jesus to try and resolve those issues.

ICM de Jesus spoke about the Marina Way project and the conflict that continues. A conversation ensued with the Mayor and Commissioners about the Marina Way project.

B. City Attorney

None.

C. City Commission**Commissioner Boylston made the following comments:**

- The updated document for the West Atlantic Development plan is ready with the items that the Commission requested to be removed. He hopes the Commission will adopt the new plan.

Deputy Vice Mayor Bathurst made the following comments:

- There will be updates to the Nighttime Success and Safety Group.
- The School Board has plans for the Old Plumosa School site to be a school for children who need stringent rules, as well as, affordable housing for parents and teachers in the area.

Mayor Petrolia made the following comments:

- She will be attending the Florida Mayors Summit about the rising tide. With the sandbags being taken away, the high tides are getting worse.
- The A Loft and the Courtyard are two new hotels that opened in Delray recently. The Friday night concerts, and the Green Market are also great venues for the City.

There being no further business to discuss, Mayor Petrolia adjourned the Regular Commission Meeting at 7:32 p.m.