

# **City of Delray Beach**

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## **Minutes - Draft**

**Tuesday, May 5, 2020**

**4:00 PM**

**Regular Meeting at 4:00 PM**

**Delray Beach City Hall**

## **City Commission**

*Mayor Shelly Petrolia  
Vice Mayor Ryan Boylston  
Deputy Vice Mayor Shirley Ervin Johnson  
Commissioner Adam Frankel  
Commissioner Juli Casale*

## 1. ROLL CALL

Mayor Petrolia called the Regular meeting to order at 4:11 p.m.

The roll call was taken by the City Clerk.

**Present:** 5 - Mayor Shelly Petrolia, Deputy Vice Mayor Shirley Ervin Johnson, Commissioner Adam Frankel, Vice-Mayor Ryan Boylston, and Commissioner Juli Casale

Others present were:

George Gretsas, City Manager  
Lynn Gelin, City Attorney  
Katerri Johnson, City Clerk

## 2. PLEDGE OF ALLEGIANCE TO THE FLAG

## 3. CITY COMMISSION MEETING PROCEDURES UTILIZING COMMUNICATIONS MEDIA TECHNOLOGY (CMT)

City Attorney Gelin explained the Delray Beach City Commission Procedures for Communications Media Technology and how it will apply to City Commission meetings during the public health emergency declared by Governor DeSantis on March 9, 2020 - Executive Order 20-52. The Governor also established Executive Order 20-69, which suspended the physical quorum requirements for local government meetings, so this procedure will be adopted for that purpose. She also explained the process for public comments.

### 3.A. [20-299](#) REVIEW AND ADOPTION OF DELRAY BEACH CITY COMMISSION MEETING PROCEDURES UTILIZING COMMUNICATIONS MEDIA TECHNOLOGY (CMT).

**Body:** **Recommended Action:**

**Recommendation:** Motion to approve and adopt the meeting procedures utilizing Communications Media Technology.

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

[City Commission Local Rules - CMT meetings pursuant to EO 20-69 \(002\) final 4-27-2020 \(003\)](#)

**A motion was made by Vice-Mayor Ervin Johnson, seconded by Commissioner Frankel, that the Delray Beach City Commission Procedures for Communication Media Technology be approved. The motion carried by the following vote:**

**Yes:** 5 - Mayor Petrolia, Deputy Vice Mayor Ervin Johnson, Commissioner Frankel, Vice-Mayor Boylston, and Commissioner Casale

## 4. AGENDA APPROVAL

Attorney Gelin pulled Item 7.K.1.(B) from the consent agenda to the regular agenda for a vote since Vice Mayor Boylston has a conflict on that matter.

Mayor Petrolia pulled Item 7.E. for discussion as Item 8.A.A. She also requested that Item 7.K.1.(E) from the appealable land use report be pulled and voted on as Item 8.B.B.

**A motion was made by Commissioner Boylston, seconded by Commissioner Frankel, that the agenda be approved as amended. The motion carried by the following vote:**

**Yes:** 5 - Mayor Petrolia, Deputy Vice Mayor Ervin Johnson, Commissioner Frankel, Vice-Mayor Boylston, and Commissioner Casale

## **5. PRESENTATIONS:**

5.A. None

## **6. 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

City Manager Gretsas gave a presentation on the Reclaimed Water Issue/Project showing the history of the project, in addition to the current status of where it is at now. He also shared that Mr. Hassan Hadijimiry retired Deputy Director of Palm Beach County Water Utilities Department will be coming on board as the City's new Director of Public Utilities.

Vice Mayor Boylston stated that residents will be very pleased when they hear about the changes to their water.

Deputy Vice Mayor Johnson thanked City Manager Gretsas for his presentation. She expressed concern in the program's viability. City Manager Gretsas stated that Mr. Hadijimiry will evaluate the program and further discussions will take place, as necessary.

Mayor Petrolia expressed concern regarding the replacement program of the back-flow preventers when they come due in five years. Mr. Gretsas stated that Mr. Hadijimiry would address that as well.

B. From the Public

*Pursuant to Executive Order 20-69, during the COVID-19 State of Emergency, City Commission meetings may be held virtually. Due to the closure of City Hall, members of the public wishing to participate in the meeting submitted their comments by leaving a voicemail message that*

*was played during the City Commission meeting and made a part of the public record.*

City Clerk Johnson played the following recorded comments from the public:

Sandy Smith, 1125 Beach Drive, Delray Beach expressed concern for speed control from the George Bush Bridge and the Atlantic Avenue Bridge. He also inquired about when the reclaimed water will be back for him to water his lawn.

Jane Ellen Cates-Smith, 1125 Beach Drive, Delray Beach, thanked Mayor Petrolia for keeping the residents safe during the time of the virus. She also stated the need for the reclaimed water to be back on as soon as possible for irrigation on the island. Thirdly, she also strongly advocates for a NO Wake Zone by the George Bush Blvd Bridge and the Atlantic Bridge.

Tenille DeCoste, 4930 NW 5th Street, Delray Beach, thanked the Mayor and Commissioners for handing out food during the pandemic. She also expressed concern for two employees who retired that were denied their sick and vacation time, specifically Donna Quinlan and Jennifer Costello.

Clinton Combs, Washington Road, Delray Beach expressed his concern for the friction between the ropes and the sea oats in the dunes.

Morris Carstarphen, 619 SW 7th Avenue, Delray Beach, expressed his thoughts on how the City should go about reopening.

City Clerk Johnson stated there were no further comments from the public.

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

**A motion was made by Commissioner Frankel, seconded by Commissioner Boylston, that the consent agenda be approved as amended. The motion carried by the following vote:**

**Yes:** 5 - Mayor Petrolia, Deputy Vice Mayor Ervin Johnson, Commissioner Frankel, Vice-Mayor Boylston, and Commissioner Casale

### **7.A. [20-264](#) CITY COMMISSION MEETING MINUTES**

**Body: Recommended Action:**

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

March 3, 2020 Regular City Commission Meeting Minutes

March 13, 2020 Emergency City Commission Special Meeting-COVID 19 Minutes

March 31, 2020 Election Results Special Meeting Minutes

March 31, 2020 Annual Organizational/Regular City Commission Meeting Minutes

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

[March 3, 2020 Regular City Commission Minutes\\_DRAFT](#)

[March 13, 2020 Emergency COVID-19 Special City Commission Meeting Minutes\\_DRAFT](#)

[March 31, 2020 Election Results Special Meeting Minutes\\_DRAFT](#)

[March 31, 2020 Annual Organizational-Regular City Commission Meeting Minutes](#)

Approved.

**7.B.**     [20-243](#)     REQUEST FOR SUBORDINATION OF SECOND MORTGAGE FOR 49 NW 13th AVENUE

**Body:**     **Recommended Action:**

**Recommendation:** Motion to Approve a request for the City to subordinate its second mortgage position in the amount of \$23,100 for the property located at 49 NW 13th Avenue.

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

[Legal Review Subordination Agreement Jackson Edmond](#)

[Subordination Agreement for Refinance -Edmond G. DRAFT](#)

[G. Edmond Interest Loan Term Analysis](#)

Approved.

**7.C.**     [20-220](#)     ACCEPTANCE OF A TOTAL OF 623 SQUARE FOOT EASEMENT DEED FOR PEDESTRIAN CLEAR ZONE LOCATED AT A PORTION OF LOTS 15, 16, 17, BLOCK 117 MAP OF THE TOWN OF LINTON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 3, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, FROM PR-RE I, LLC, "THE GRANTOR", FOR THE SUBJECT PROPERTY LOCATED AT 640 E. ATLANTIC AVENUE (PROJECT APPROVED AS "HAWKERS ASIAN STREET FARE")

**Body:**

**Recommended Action:**

**Recommendation:** Acceptance of a Easement Deed for Pedestrian Clear Zone for Hawkers Asian Street Fare located at 640 E. Atlantic Avenue.

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

[Easement Deed for Pedestrian Clear Zone - 640 E. Atlantic Avenue](#)

[Simple Legal Review PSE PR RE I LLC](#)

Approved.

- 7.D. [20-245](#) ACCEPTANCE OF A TOTAL OF A 74 SQUARE FOOT EASEMENT DEED FOR A PEDESTRIAN CLEAR ZONE, 116 SQUARE FOOT RIGHT OF WAY DEDICATION TO THE ALLEY AND A LANDSCAPE MAINTENANCE AGREEMENT FOR THE TREES LOCATED ON SE 2ND AVENUE OF THE PROPERTY LOCATED AT LOT 14, BLOCK 78, MAP OF THE TOWN OF LINTON (KNOWN AS DELRAY BEACH), ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 3, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FROM BROSEN 1 DELRAY LLC "THE GRANTOR" FOR THE SUBJECT PROPERTY LOCATED AT 166 SE 2ND AVE.

**Body:** **Recommended Action:**

**Recommendation:** Acceptance of an Easement Deed for a Pedestrian Clear Zone, Right-of-Way Dedication, and Landscape Maintenance Agreement for 166 SE 2nd Avenue.

**Attachments:** [Agenda Cover Report](#)  
[Landscape Maintenance Agreement](#)  
[Legal Review Landscape Maintenance Agreement Brosen 1 Delray](#)  
[Pedestrian Clear Zone Easement Deed](#)  
[Legal Review Pedestrian Clear Zone Easement Brosen 1 Delray](#)  
[Right of Way Deed](#)  
[Legal Review Right of Way Deed Brosen 1 Delray ROW](#)

Approved.

- 7.E. [20-263](#) APPROVAL TO ACCEPT THE FY 2018 STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) # EMW-2018-FH-00601 IN THE AMOUNT OF \$1,639,040.80 IN FEDERAL FUNDING FROM THE DEPARTMENT OF HOMELAND SECURITY.

**Body:** **Recommended Action:**

**Recommendation:** Staff recommends the approval to accept grant funding from the FY 2018 Staffing for Adequate Fire and Emergency Response.

**Attachments:** [Agenda Cover Report](#)  
[EMW-2018-FH-00601 - Award Package \(3\) - Revised 11-8-19](#)  
[Simple Legal Review Approval -SAFER approval](#)

Mayor Petrolia expressed concern about the \$1.6M funding from the Department of Homeland Security for (8) eight fire and emergency response employees that were hired without the Commission's approval.

City Manager Gretsas stated that this happened before he was hired and that it was unfortunate, and he felt the Mayor's concerns were real. He also

shared that the funding was in place and the hiring process has already started; however, it was never brought to the Commission and to undo it now would be very damaging.

Chief Tommy explained that this grant was applied for on March 22, 2019 and they became aware of the award on September 18, 2019 and it was accepted on October 9, 2019. It is a three-year grant with 75/25% matching funds and the fire fighters that were hired on March 2, 2020 are still on probation.

Deputy Vice Mayor Johnson stated that she hopes the City would be able to retain the fire fighters, especially during this time of a pandemic.

Vice Mayor Boylston made a motion to approve; however, Mayor Petrolia recognized Commissioner Casale had her hand up to speak.

Attorney Gelin explained that a second to the motion needed to be made and then there could be a discussion.

Commissioner Frankel seconded the motion for discussion.

Commissioner Casale expressed her concern that these employees were hired without going through the proper procedures and felt they must not have been personnel that was needed or the salaries would have been put in the budget. She also stated that some of the City's programs are currently under-staffed and this expense could be utilized for those programs instead. Commissioner Casale also reported her concerns about the City of Delray Beach's Fire Department budget being much higher than neighboring municipalities, such as Boynton Beach, which has a larger population than Delray Beach.

Vice Mayor Boylston declared that the City of Delray Beach's Fire Department has the top accreditation that Fire Rescue can achieve and is better staffed when called out in comparison to other neighboring municipalities. Delray Beach is spending more because of the quality of service that is being provided to its residents in comparison to other municipalities. Vice Mayor Boylston agreed with Mr. Gretsas that this was not a time to lay anyone off, especially safety personnel.

Chief Tommy gave an explanation on the breakdown of the staff and the funding that was established three years ago.

Deputy Vice Mayor Johnson stated paying the fire fighters well would

increase the likelihood of keeping them employed with the City of Delray Beach. She also expressed her personal experience with riding in the “wagon” and how important she felt it was to have three paramedics there to ensure her wellbeing.

**A motion was made by Commissioner Boylston, seconded by Commissioner Frankel, that Item 7.E. be approved. The motion carried by the following vote:**

**Yes:** 3 - Deputy Vice Mayor Ervin Johnson, Commissioner Frankel, and Vice-Mayor Boylston

**No:** 2 - Mayor Petrolia, and Commissioner Casale

**7.F. [20-297](#)** APPROVAL TO SUBMIT APPLICATION FOR FLORIDA DEPARTMENT OF LAW ENFORCEMENT FY 2019 FIBRS IMPLEMENTATION ASSISTANCE PROGRAM

**Body: Recommended Action:**

**Recommendation:** Motion to approve application for Florida Department of Law Enforcement FY 2019 FIBRS Implementation Assistance Program

**Attachments:** [Agenda Cover Report](#)  
[FDLE CJIS FIBRS Grant Solicitation](#)  
[FDLE Risk Assessment](#)  
[Central Square cost estimates for FL UCR to FIBRS transition](#)  
[Central Square 4-14-2020 Delray Beach PD FIBRS PM - FIBRS LINX PROJECT PROPOSAL](#)  
[Legal Review Form FDLE FIBRS Grant](#)

Approved.

**7.G. [20-213](#)** APPROVAL TO SUBMIT APPLICATION UNDER THE FY 2020 LAW ENFORCEMENT MENTAL HEALTH AND WELLNESS ACT (LEMHWA) PROGRAM

**Body: Recommended Action:**

**Recommendation:** Motion to approve application under the FY 2020 Law Enforcement Mental Health and Wellness Act (LEMHWA) Program

**Attachments:** [Agenda Cover Report](#)  
[WS00429498-COPS\\_Sh\\_ApplicationAttachment\\_2\\_5-V2.5](#)  
[WS00429498-SF424\\_2\\_1-V2.1 LEMHWA](#)  
[Legal Review Form LEMHWA Program Grant Application](#)

Approved.

**7.H. [20-256](#)** ITEMS A1, B1,C1, D1,- ACCEPTANCE OF RIGHT OF WAY DEDICATIONS FOR 1021 NW 5TH AVE AND 166 SE 2ND AVE, AGREEMENT FOR SIDEWALK IMPROVEMENT AND REFUND

RELEASE FOR 1031 WHITE DRIVE, STREETLIGHT MAINTENANCE AGREEMENT FOR 202 SE 5TH AVE, AND A HOLD HARMLESS AGREEMENT FOR 901 SE 4TH AVE.

**Body: Recommended Action:**

**Recommendation: Consideration of the following items:**

**RIGHT OF WAY DEED(S)**

**Items A**

(A1) Motion to approve and accept a 25' Radial Right of Way dedication by the owner(s) of 1021 NW 5th Ave. to the City of Delray Beach.

**AGREEMENT FOR SIDEWALK IMPROVEMENT, IN LIEU FEE RELEASE, AND REFUND TO BARRY AND ANN CHODASH**

**Items B**

(B1) Motion to approve and accept an Agreement for sidewalk improvements and the refund of a Sidewalk in lieu fee of \$3,024.00, to the owner(s) of 1031 White Drive to the City of Delray Beach.

**STREETLIGHT MAINTENANCE AGREEMENT**

**Items C**

(C1) Motion to approve and accept a Streetlight Maintenance Agreement with owner(s), Samar 202 LLC, to install, operate and maintain streetlights bordering the property located at 202 SE 5TH Ave. within the rights-of-way of SE 5th Avenue, SE 2nd St. and SE 3rd St.

**HOLD HARMLESS AGREEMENT**

**Items D**

(D1) Motion to approve and accept a Hold Harmless Agreement between the owner, Albert D. Thorp, Jr. and the City of Delray Beach, for the encroachment of an existing structure located at 901 SE 4th Ave into the City's right-of-way.

**Attachments:** [Agenda Cover Report](#)[Item \(1\)1 Legal Review Forms Attached](#)[Item \(A1a\) ROW Deed - 1021 NW 5th Ave.](#)[Item \(A1b\) Exhibit A Sketch - 1021 NW 5th Ave.](#)[Item \(B1a\) 2020 Notarized Sidewalk Agreement](#)[Item \(B1b\) Sufficient to Proceed - City Att- 1031 White Dr.](#)[Item \(B1c\) Refund Account Number - 1031 White Dr.](#)[Item \(B1d\) Sidewalk Refund Doc Backup. - 1031 White Dr.](#)[Item \(C1a\) SE 5th Ave, 2nd St, SE 3rd St. SMAgreement](#)[Item \(C1b\) Legal Review Form for StreetMaint.Agreement](#)[Item \(C1c\) Exhibit A Sketch StreetLight Maint. Agreement](#)[Item \(D1a\) Hold Harmless Agreement - 901 SE 4th Ave.](#)[Item \(D1b\) Simple Legal Review Approval- 901 SE 4th Ave.](#)[Item \(D1c\) Exhibit A Sketch - 901 SE 4th Ave.](#)

Approved.

- 7.I. [20-250](#) APPROVAL OF AMENDMENT NO. 1 WITH ALEXIS KNIGHT ARCHITECT, INC. RENEWING THE CITY'S AGREEMENT FOR ARCHITECTURAL COMPLIANCE REVIEW SERVICES (RFQ 2017-054) - \$48,000

**Body:** **Recommended Action:**

**Recommendation:** Motion to Approve Amendment No. 1 with Alexis Knight Architect, Inc. to renew the Agreement under the same terms and conditions in the amount of \$48,000.

**Attachments:** [Agenda Cover Report](#)[Legal Review Checklist Alexis Knight](#)[2017-054- AS Amendment Renewal - Executed](#)

Approved.

**7.J. PROCLAMATIONS:**

7.J.1. None

**7.K. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**

- 7.K.1. [20-253](#) REPORT OF APPEALABLE LAND USE ITEMS FROM FEBRUARY 17, THROUGH MAY 1, 2020.

**Body:** **Recommended Action:**

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

**Attachments:** [Agenda Cover Report](#)  
[Appealable Items Map](#)  
[A - Appealable Report: PHG Delray; 200 NE 5th Avenue](#)  
[B - Appealable Report: 150 Marine Way](#)  
[C - Appealable Report: 1300 NW 17th Avenue](#)  
[D - Appealable Report: 453 Canal PT S 1420](#)  
[E - Appealable Report: Taquiza:166 SE 2nd Avenue](#)

**Commissioner Frankel made a motion to approve Item 7.K.1.(B) separately. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken, and the motion carried 4-0. Vice Mayor Boylston recused himself.**

Mayor Petrolia asked for Item 7.K.1.(E) 166 SE 2nd Avenue to be taken off and be put on the next meeting.

Vice Mayor Boylston clarified that this is a motion to approve the request for appeal until the next meeting.

**Vice Mayor Boylston made a motion to approve the request for an appeal until the next meeting for Item 7.K.1.(E). It was seconded by Commissioner Frankel. A roll call vote was taken, and all were in favor. The motion carried 5-0.**

*Meeting went into a short recess at 5:33 p.m. to allow City Attorney Gelin to log back into the WebEx meeting.*

*Meeting reconvened at 5:34 p.m.*

Approved.

## **7.L. AWARD OF BIDS AND CONTRACTS:**

- 7.L.1. [20-278](#)** APPROVAL OF RESOLUTION NO. 12-20 A BID WAIVER TO AWARD AN AGREEMENT AND RETROACTIVE APPROVAL OF INVOICE # 11154 IN THE AMOUNT OF \$26,458 WITH GOVERNMENTJOBS.COM, INC. DBA NEOGOV FOR THE ONLINE RECRUITMENT AND PERFORMANCE MANAGEMENT SERVICES FOR THE HUMAN RESOURCES DEPARTMENT.

**Body: Recommended Action:**

**Recommendation:** Motion to approve Resolution No. 12-20 a Bid Waiver to award an Agreement and retroactive approval of invoice #11154 in the amount of \$26,458 with Government jobs.com dba NeoGov for Online Recruitment and Performance Management Services for the Human Resources Department for the agreement term and authorize the City Manager to exercise renewal options, in the amounts below, contingent upon appropriation of funds.

**Attachments:** [Agenda Cover Report](#)  
[Legal Review Checklist NeoGov 2020](#)  
[Resolution 12-20 NEOGOV Agreement](#)  
[NeoGov Vendor Executed Agreement](#)  
[NeoGOV- Memo Bid Waiver Acquisition LF](#)

Approved.

- 7.L.2. [20-290](#) APPROVAL OF RESOLUTION NO. 62-20 TO AWARD AN AGREEMENT WITH CANON SOLUTIONS AMERICA, INC. FOR REPLACEMENT, MAINTENANCE, AND REPAIRS OF MULTIFUNCTION DEVICES; UTILIZING COUNTY OF DUPAGE, IL / OMNIA PARTNERS COOPERATIVE CONTRACT NO. 18-020-LG - \$130,000

**Body:** **Recommended Action:**

**Recommendation:** Motion to Approve Resolution No. 62-20 to award an Agreement with Canon Solutions America, Inc., in the estimated amount of \$130,000 through September 30, 2020, utilizing the County of DuPage, IL / Omnia Partners Cooperative Contract No. 18-020-LG, and authorize the City Manager to exercise a one-year renewal option, in the amount below, contingent upon appropriation of funds.

**Attachments:** [Agenda Cover Report](#)  
[Legal Review Checklist Canon updated](#)  
[Res. 62-20 Canon Omnia Piggyback rev.](#)  
[Delray Beach City of Master Contractor Services Agreement CSA signed \(04.06.20\)](#)  
[Executive Summary\\_Canon](#)

Approved.

- 7.L.3. [20-262](#) APPROVAL OF RESOLUTION NO. 69-20 TO AWARD AN AGREEMENT WITH AKTIV CONSTRUCTION, INC. FOR DELRAY BEACH MEMORIAL GARDENS FENCE - \$179,739

**Body:** **Recommended Action:**

**Recommendation:** Motion to Approve Resolution No. 69-20 to award an Agreement with Aktiv Construction, Inc. for Delray Beach Memorial Gardens Fence pursuant to ITB no. 2020-014 in the amount of \$179,739.

**Attachments:** [Agenda Cover Report](#)  
[Legal Review Aktiv](#)  
[Resolution No. 69- 20](#)  
[2020-014- Agreement with Aktiv Construction for Fence Installation](#)  
[Exhibit B - Style B 24Ft](#)

Approved.

- 7.L.4. [20-270](#) APPROVAL OF RESOLUTION NO. 59-20 TO AWARD AN AGREEMENT WITH WYNN & SONS ENVIRONMENTAL CONSTRUCTION CO., INC. TO PURCHASE CONSTRUCTION SERVICES RELATED TO ANNUAL PATHWAYS AND MINOR CONSTRUCTION UTILIZING THE PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS SOLICITATION NO. 2017055- \$750,000

**Body:** **Recommended Action:**

**Recommendation:**

Motion to Approve Resolution No. 59-20 to award an Agreement with Wynn & Sons Environmental Construction Co., Inc. utilizing the Palm Beach County Board of County Commissioners Solicitation No. 2017055 to purchase construction services related to annual pathways and minor construction in the estimated amount of \$750,000 through January 22, 2021, and authorize the City Manager to approve renewal options, in the amounts below, contingent upon appropriation of funds.

**Attachments:** [Agenda Cover Report](#)  
[Executed Agrmt - Wynn & Sons](#)  
[Res 59-20 Wynn Sons](#)  
[Legal Review Checklist Wynn & Sons](#)

Approved.

## 8. REGULAR AGENDA:

- 8.A. [20-295](#) DISCUSSION AND DIRECTION REGARDING THE HANDLING OF REQUESTS RECEIVED FOR EXCUSAL OF PAYMENTS BASED ON INVOCATION OF FORCE MAJEURE CONTRACTUAL PROVISIONS

**Body:** **Recommended Action:**

**Recommendation:** Staff seeks direction regarding the handling of requests received for excusal of payments based on invocation of force majeure contractual provisions.

**Attachments:** [Agenda Cover Report](#)  
[Delray IntraCoastal Cruises Executed Agreement 2018-031](#)  
[Delray Intracoastal Cruises Relief Request Letter 3.24.20](#)  
[RFP 2018-031 - Delray IntraCoastal Cruises](#)  
[Creative City Collaborative - Arts Garage Agreement](#)  
[Arts Garage Relief Request 3.31.20](#)  
[Taverna Opa Parking License Agreement 10.29.19](#)  
[Taverna Opa Atlantic LLC Amendment No. 1 to the Parking License Agreement](#)  
[Taverna Opa Relief Request Letter 3.6.20](#)  
[Cut 432 Parking License Agreement 10.29.19](#)  
[Cut 432 LLC Amendment No. 1 to the Parking License Agreement](#)  
[Cut 432 Relief Request Letter 4.15.20](#)

Finance Director Kalka gave a presentation on the requests that have been received from the vendors that pay the City for rent.

City Attorney Gelin explained that the Force Majeure provision is a request for an excusal to pay rent due to not being able to perform due to the pandemic. Her recommendation is that the term be through the duration of the state of emergency until it is lifted.

Vice Mayor Boylston made a motion to approve. It was seconded by Deputy Vice Mayor Johnson.

Attorney Gelin stated to change the verbiage of the motion to include the terms of when the provision will end.

*Vice Mayor Boylston re-stated his motion to include the terms of the provision.*

**A motion was made by Commissioner Boylston, seconded by Commissioner Frankel, that the requests for excusal through invocation of Force Majeure be approved until the State of Emergency has been lifted. The motion carried by the following vote:**

**Yes:** 5 - Mayor Petrolia, Deputy Vice Mayor Ervin Johnson, Commissioner Frankel, Vice-Mayor Boylston, and Commissioner Casale

**8.B. [20-298](#) RATIFICATION OF EMERGENCY REGULATIONS RELATED TO COVID-19 ACTIVATED UNDER CHAPTER 95 OF THE DELRAY BEACH CODE OF ORDINANCES**

**Body: Recommended Action:**

**Recommendation:** Motion to Ratify 3rd , 4th and 5th Extensions of State of Emergency, 1st

Extension of Emergency Declaration dated March 28, 2020, Emergency Declaration dated April 9, 2020, Resolution 79-20.

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

[3rd Emergency Declaration Extension - COVID-19](#)

[4th Emergency Declaration Extension - COVID-19](#)

[5th Emergency Declaration Extension - COVID-19](#)

[6th Emergency Declaration Extension - COVID-19](#)

[1st Ext. Emergency Declaration COVID-19 \(Stay at Home Order\)](#)

[Emergency Declaration COVID-19 \(Use of Masks\)](#)

[Resolution No. 79-20 - COVID -19](#)

[Resolution No. 81-20 COVID-19](#)

A motion was made by Commissioner Frankel, seconded by Vice-Mayor Ervin Johnson, that the ratification of the emergency regulations related to COVID-19 be approved. The motion carried by the following vote:

**Yes:** 5 - Mayor Petrolia, Deputy Vice Mayor Ervin Johnson, Commissioner Frankel, Vice-Mayor Boylston, and Commissioner Casale

## **9. PUBLIC HEARINGS:**

9.A. None

## **10. FIRST READINGS:**

10.A. None

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

### **A. City Manager**

City Manager Gretsas gave a presentation on the COVID-19 Emergency Management System and how decisions are made by the State and Local Governments, as well as the different phases for re-opening the City. He also discussed the budget for the coming year.

### **B. City Attorney**

None.

### **C. City Commission**

**Commissioner Frankel made the following statements:**

- Thanked Mr. Gretsas and everyone who works for the City for the excellent service they are providing the residents.
- Informed the Commission that Palm Beach County Commissioners

are meeting to discuss Phase One of reopening the cities and beaches.

**Vice Mayor Boylston made the following statements:**

- Provided information about the concerns over wake zones.
- Feels local businesses need to be educated on what must be done to reopen and not take advantage of the reopening.
- Thanked City Manager Gretsas for putting together an education task force headed by Janet Meeks. The new name will be Government Affairs.
- Expressed appreciation about Sam Metott arranging for Waste Management to pick up the cardboard from the food drive that the City sponsored for recycling.

**Commissioner Juli Casale made the following statement:**

- She was happy to be there and thanked City Manager Gretsas for his service to the City.

**Deputy Vice Mayor Johnson made the following statements:**

- Welcomed Commissioner Casale.
- Thanked Vice Mayor Boylston.
- Thanked Ms. Greta Britt (with United Believers) for arranging an inner-city COVID testing site.
- Appreciates the City's dedicated employees for all their hard work and dedication.
- Commended everyone on conducting their first virtual meeting successfully.
- Thanked the Mayor and City Clerk.
- Stated that City Manager Gretsas should partner with Mr. James with UHGI to help the City of Delray Beach.
- Thanked Mr. Gretsas for his service.

**Mayor Petrolia made the following statements:**

- She was not comfortable with the language in Mr. James proposal. Vice Mayor Boylston stated that he was not comfortable with it either.
- Has received letters and emails about reopening the City.
- Has received emails about people not wearing masks in restaurants.
- Inquired about CBG funds to help small businesses and residents.
- Discussed the reopening of Atlantic Avenue businesses.
- Expressed her concerns about speeding on the intercoastal waterway and the Atlantic Avenue Bridge.
- Is thankful for all the City officials and the work they have been doing.

- Thanked the City's residents for all their hard work helping each other.
- Thanked everyone for helping with the food drive for the City and surrounding communities.
- Thanked Mr. Gretsas for his support

There being no further business to discuss, Mayor Petrolia adjourned the meeting at 6:44 p.m.