

City of Delray Beach

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



Minutes - Draft

Tuesday, November 10, 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

The Regular Commission Meeting was called to order at 4:00 p.m.

The roll call was taken by City Clerk Katerri Johnson. The following were present:

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

2. PLEDGE OF ALLEGIANCE TO THE FLAG

2.AGENDA APPROVAL

Others present:

Interim City Manager, Jennifer Alvarez
City Attorney, Lynn Gelin
City Clerk, Katerri Johnson

Interim City Manager Alvarez requested to defer item 4.A. and move the presentation to November 17.

Deputy Vice Mayor Johnson made a motion to approve the agenda as amended. It was seconded by Vice Mayor Boylston. 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. PRESENTATIONS:

4.A. STAFF TO PRESENT AN UPDATE ON THE CLIMATE CHANGE VULNERABILITY STUDY.

Body: **Recommended Action:**

Recommendation: Presentation only.

Sponsors: City Manager Department

Attachments: [Agenda Cover Report](#)

[Climate Threats - Coastal Resilience Partnership Southeast Palm Beach County ADA \(Spread\) Final Version](#)
[Climate Assets - Coastal Resilience Partnership Southeast PBC ADA](#)
[City Comm Update pdf 111020](#)

4.B.

PRESENTATION ON BOYS & GIRLS CLUB IN DELRAY BEACH**Body: Recommended Action:****Recommendation:** Presentation only.**Sponsors:** City Clerk Department**Attachments:** [Agenda Cover Report](#)

Steven M. Cornette, Vice President, and John Baker Board Member of the Boys and Girls Club of Palm Beach County gave a presentation about the organization's programs and what the club has done to help families in the City of Delray Beach throughout the pandemic.

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

Margie Waldon, residing at 6103 Caladium Road, updated the Commission on the Delray Beach Sports Destination Committee's accomplishments. She asked the Commissioners to create a tourism master plan with sports at the table, conduct an architectural structure study for the tennis center, update sports facilities, and create a pickleball court.

Ayorinde George, residing at 333 NW 5th Avenue, asked the Commissioners to support the Boys and Girls Club and sports organizations in the community.

Mayor Petrolia concluded public comments.

The Commissioners and Lynn Gelin, City Attorney, discussed the lawsuit Mr. Gretsas filed against the City. Mr. Gretsas asked for \$30,000 dollars in damages and for the court to reinstate his pay. Should the City permit a settlement granting Mr. Gretsas his severance pay he would receive about \$290,000. There was consensus to continue the conversation once they received more information.

6. CONSENT AGENDA: City Manager Recommends Approval

Deputy Vice Mayor Johnson made a motion to approve the Consent Agenda. It was seconded by Commissioner Casale. The motion carried by the following vote:

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

6.A. *CITY COMMISSION MEETING MINUTES***Body:** **Recommended Action:**

Recommendation: Motion to approve meeting minutes as listed below:
August 11, 2020 Regular Meeting Minutes
October 21, 2020 Special Meeting Minutes

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[October 21, 2020 Special Meeting Minutes Draft](#)
[August 11 Regular Meeting Minutes Draft](#)

6.B. *PROPOSED OFFER OF SETTLEMENT IN THE CASE OF ASHTON PAVLIK v. CITY OF DELRAY BEACH***Body:** **Recommended Action:**

Recommendation: Motion to deny settlement proposed by Ashton Pavlik for the reasons discussed in the confidential memorandum previously distributed to the City Commission.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

6.C. *APPROVAL OF RESOLUTION NO. 187-20, APPROVING COVID-19 (FEMA - DR 4486 FL) FEDERALLY-FUNDED SUBAWARD AND GRANT AGREEMENTS BETWEEN THE CITY OF DELRAY BEACH AND THE FLORIDA DEPARTMENT OF EMERGENCY MANAGEMENT***Body:** **Recommended Action:**

Recommendation: It is recommended that City Commission adopt Resolution No. 187-20 approving the Form of the Federally-Funded Subaward and Grant Agreements with Florida Department of Emergency Management and authorize the Mayor to execute these agreements related to COVID-19 on behalf of the City.

Sponsors: Finance Department

Attachments: [Agenda Cover Report](#)
[Resolution 187-20](#)
[Legal Review FEMA funds through FL Dept of Emergency Management COVID 19 Subgrant Agreement - COVID Delray](#)

6.D. *APPROVAL OF GRANT APPLICATION AND
AWARD/FDOT/SPEED/AGGRESSIVE DRIVING ENFORCEMENT
PROGRAM*

Body: Recommended Action:

Recommendation: Motion to Approve application and award for the Florida Department of Transportation (FDOT) FY 20/21 Speed/Aggressive Driving Enforcement program.

Sponsors: Police Department

Attachments: [Agenda Cover Report](#)
[FDOT Subgrant Agreement - 2021 Final](#)
[Legal Review Form FDOT Speed 20](#)

6.E. *APPROVAL OF CHANGE ORDER NO. 2 REVISED SCOPE WITH
SHIFF CONSTRUCTION AND DEVELOPMENT, INC. REGARDING
THE EXPANSION OF THE DELRAY BEACH MEMORIAL GARDENS
PROJECT IN THE AMOUNT NOT-TO-EXCEED \$127,221*

Body: Recommended Action:

Recommendation: Motion to approve Change Order No. 2 revised scope with Shiff Construction and Development, Inc. regarding the expansion of the Delray Beach Memorial Gardens Project (No.18-020), in the amount not-to-exceed \$127,221.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)
[Res No. 124-19](#)
[Delray Beach Memorial Gardens Expansion Supplemental Proposal
Irrigation and Sod](#)

6.F. *ITEM(S) A1, A2, A3 & B1 - ACCEPTANCE OF RIGHT-OF-WAY
DEDICATION(S) FOR 240 SE 4th Ave., 308 SW 10th Ave. And 718 SE
7th St. AND DEDICATION OF AN EASEMENT TO FLORIDA POWER
AND LIGHT FOR PALM TERRACE*

Body: Recommended Action:

Recommendation: Consideration of the following items:

RIGHT-OF-WAY DEED(S)
Items A

Item A1 - Motion to approve and accept a Right-of-Way dedication by the owner(s) of 240 SE 4th Ave. to the City of Delray Beach.

Item A2 - Motion to approve and accept a Right-of-Way dedication by the

owner(s) of 308 SW 10th Ave. to the City of Delray Beach.

Item A3 - Motion to approve and accept a Right-of Way dedication by the owner(s) of 718 SE 7th St. to the City of Delray Beach.

FLORIDA POWER AND LIGHT EASEMENT DEDICATION(S)

Item B1 - Motion to approve the dedication of a Utility Easement to Florida Power and Light for Palm Terrace from the City of Delray Beach.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)

[Item \(1\) Legal Reviews \(4\)](#)

[Item \(A1a\) ROW - 240 SE 4th Ave.](#)

[Item \(A1b\) Exhibit A -Sketch & Desc - 240 SE 4th Ave.](#)

[Item \(A2a\) ROW - 308 SW 10th Ave.](#)

[Item \(A2b\) Exhibit A & Sketch - 308 SW 10th Ave.](#)

[Item \(A3a\) ROW Deed - 718 SE 7th St](#)

[Item \(A3b\) Exhibit A - 718 SE 7th St](#)

[Item \(B1a\) Underground Easement - Palm Terrace](#)

[Item \(B1b\) Exhibit A - Sketch and Desc - Palm Terrace](#)

6.G. *APPROVE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY FOR FUNDING CONSTRUCTION / PROFESSIONAL SERVICES FOR FISCAL YEAR 2020/21*

Body: **Recommended Action:**

Recommendation: Approve the Interlocal Agreement (ILA) between the City of Delray Beach (City) and the Delray Beach Community Redevelopment Agency (CRA) to fund Fiscal Year 2020/21 Capital Projects as described in Exhibit A of the attached agreement for Fiscal Year 2020/21.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)

[Exhibit A - ILA funding professional construction](#)

[Legal Review Checklist form v. 6 ILA with CRA for Construction-Professional services](#)

6.H. *FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT (ILA) AND RESOLUTION NO. 20-039 BETWEEN THE CITY OF DELRAY BEACH AND THE CITY OF BOYNTON BEACH FOR ENGINEERING DESIGN OF SOUTHEAST 36TH AVENUE (GULFSTREAM BOULEVARD).*

Body: **Recommended Action:**

Recommendation: Approve the First Amendment to the Interlocal Agreement (ILA) and Resolution No. 20-039 between the City of Delray Beach and the City of Boynton Beach for Engineering Design of Southeast 36th Avenue (P/N 17-010).

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)
[First Amendment to ILA with Delray Beach 102320](#)
[ILA Agreement with City of Boynton Beach and CODB for Engineering Design of SE 36th Avenue Recorded Resolution R20-039](#)
[CA Checklist 110320](#)

6.I. PROCLAMATIONS:

6.I.1. OBSERVANCE OF VETERAN'S DAY PROCLAMATION

Body: **Recommended Action:**

Recommendation: Motion to observe Wednesday, November 11, 2020 as National Veteran's Day.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Veteran's Day Proclamation](#)

6.I.2. NATIONAL HUNGER & HOMELESSNESS AWARENESS WEEK PROCLAMATION

Body: **Recommended Action:**

Recommendation: Motion to proclaim November 14 - 22, 2020 as National Hunger & Homelessness Awareness Week.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Hunger and Homelessness Awareness Week](#)

6.I.3. PROCLAMATION TO PROMOTE RECYCLING IN PALM BEACH COUNTY AND TO DECLARE NOVEMBER 15, 2020 AS AMERICA RECYCLES DAY.

Body: **Recommended Action:**

Recommendation: It is recommended that the City of Delray Beach proclaim and recognize November 15, 2020, as America Recycles Day and encourage all residents to continue to Reduce, Reuse, Recycle and Rethink their waste whether they are at work, home, school or play, and to Recycle Right every day by putting the correct items in their blue and yellow recycle bins!

Sponsors: City Manager Department

Attachments: [Agenda Cover Report](#)
[America Recycles Day 2020](#)

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

6.J.1. REPORT OF APPEALABLE LAND USE ITEMS FROM SEPTEMBER 28, THROUGH OCTOBER 9, 2020.

Body: **Recommended Action:**

Recommendation: By motion, receive and file this report.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Appealable Items Map](#)
[A- 150 Marine Way Appealable Report](#)
[B - 244 SE 7th Ave Appealable Report](#)
[C - 125 Dixie Blvd Appealable Report](#)
[D - 98 NW 5th Avenue Appealable Report](#)
[E - 20 and 22 N Swinton Avenue Appealable Report](#)

6.K. AWARD OF BIDS AND CONTRACTS:

6.K.1. APPROVAL OF RESOLUTION NO. 42-20 TO APPROVE AN AGREEMENT WITH CDM SMITH INC. FOR OWNERS' REPRESENTATIVE FOR FIRE STATION 113 PURSUANT TO RFQ NO. 2019-007 (PROJECT NO. 16-012); IN AN AMOUNT NOT TO EXCEED \$861,125

Body: **Recommended Action:**

Recommendation: Motion to Approve Resolution No. 42-20 to award an Agreement with CDM Smith Inc. for Owner's Representative for Fire Station 113 pursuant to RFQ No. 2019-007 (Project No. 16-012), in an amount not to exceed \$861,125.

Sponsors: Public Works Department and Purchasing Department

Attachments: [Agenda Cover Report](#)
[City of Delray Beach - FS113 Partially Executed Contract 10-27-20](#)
[Exhibit A - Project Description Rev](#)
[Exhibit B - Project Team \(1\)](#)
[Exhibit C - Scope of Services](#)
[Exhibit D - Owner's Representative Fee](#)
[Res. 42-20 - Owner's Rep for Fire Station 113 and EOC Resolution Award Agreement - CDM Smith](#)
[Legal Review Checklist FS113](#)

[CDM Smith Delray Beach Owners Rep for Fire Station 113 RFQ 2019-007](#)
[2019-007 Final Eval Scoring Summary](#)

6.K.2.

APPROVAL OF RESOLUTION NO. 166-20 TO AWARD AGREEMENTS TO FORTILINE WATERWORKS, FERGUSON ENTERPRISES, INC., CORE & MAIN LP, LEHMAN PIPE & PLUMBING SUPPLY CO., EMPIRE PIPE AND SUPPLY COMPANY, INC. UTILIZING THE SOUTHEAST FLORIDA GOVERNMENTAL PURCHASING COOPERATIVE GROUP BID #2018-19/12 - \$387,500

Body: **Recommended Action:**

Recommendation: Motion to approve Resolution No. 166-20 to award agreements with Fortiline Waterworks, Ferguson Enterprises, Inc., Core & Main LP, Lehman Pipe & Plumbing Supply Co., and Empire Pipe and Supply Company for fittings, parts, and accessories related to the repair and maintenance of water distribution and wastewater collection pipelines and services, in the estimated amount of \$387,500 from November 10, 2020 through March 5, 2022, utilizing the Southeast Florida Governmental Purchasing Cooperative Group Bid #2018-19/12, and authorize the City Manager to approve renewal options, in the amounts below, contingent upon appropriations of funds.

Sponsors: Utilities Department and Purchasing Department

Attachments: [Agenda Cover Report](#)

[Legal Review Checklist Core and Main LP](#)

[Empire Pipe and Supply Company Inc. Agreement CAO rev](#)

[Legal Review Checklist Empire Pipe and Supply Company Inc](#)

[Ferguson Enterprises Inc. Agreement.CAO.rev](#)

[Legal Review Checklist Ferguson Enterprises](#)

[Fortiline Inc. Agreement rev. CAO](#)

[Legal Review Checklist Fortiline Inc](#)

[Lehman Pipe Plumbing Supply Company Inc Agreement](#)

[Legal Review Checklist Lehman Pipe and Supply Company Inc](#)

[SEFL Resolution 166-20](#)

6.K.3.

APPROVAL OF RESOLUTION NO. 180-20 TO APPROVE AN AGREEMENT WITH INTERCOUNTY ENGINEERING, INC. FOR FILTER MEDIA IMPROVEMENTS AT THE WATER TREATMENT PLANT PURSUANT TO ITBC NO. 2020-034 - \$842,442

Body: **Recommended Action:**

Recommendation: Motion to approve Resolution No. 180-20 to approve an agreement with Intercounty Engineering, Inc. for Filter Media Improvements project pursuant to ITBC No. 2020-034 in the amount of \$842,442.

Sponsor: Utilities Department and Purchasing Department

Attachments: [Agenda Cover Report](#)

[Resolution 180-20](#)

[Filter Media Improvements Agreement](#)

[Excel Tabulation Report \(002\)](#)

[Legal Approval ITBC 2020-034 Filter Media Improvements](#)

6.K.4. APPROVAL OF RESOLUTION NO. 181-20 TO AWARD AN AGREEMENT WITH LHOIST NORTH AMERICA OF ALABAMA, LLC FOR THE PURCHASE OF BULK QUICKLIME FOR WATER TREATMENT; UTILIZING THE CITY OF TAMARAC COOPERATIVE AGREEMENT BID NO. 20-21B - \$3,600,000

Body: **Recommended Action:**

Recommendation: Motion to approve Resolution No. 181-20, to award an agreement with Lhoist North America of Alabama, LLC for the purchase of bulk quicklime for water treatment, in the estimated amount of \$3,600,000 through October 31, 2023, utilizing the City of Tamarac Cooperative Bid No. 20-21B, and authorize the City Manager to approve renewal options, in the amounts below, contingent upon appropriations of funds.

Sponsors: Utilities Department and Purchasing Department

Attachments: [Agenda Cover Report](#)

[Legal Review Checklist Lhoist](#)

[Resolution 181-20](#)

[Lhoist MSA](#)

[lhoist-executed-agreement-20-21b](#)

7. REGULAR AGENDA:

7.A. RESOLUTION 164-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.6.9(D)(3)(c)2 OF THE CITY OF DELRAY BEACH LAND DEVELOPMENT REGULATIONS APPROVING A STACKING DISTANCE OF SIX (6) FEET FOR THE SECURITY GATE CONNECTED TO EASTVIEW AVENUE FOR THE PROPERTY LOCATED AT 775 ESTUARY WAY, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI-JUDICIAL).

Body: **Recommended Action:**

Recommendation: Review and consider Resolution No. 164-20, granting a waiver to LDR Section 4.6.9(D)(3)(c)(2), allowing six feet of stacking distance instead of 100 feet for Old Palm Grove.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Res. No. 164-20 Old Palm Grove Waiver](#)
[Old Palm Grove - Queuing Analysis](#)
[Old Palm Grove - Justification Statement](#)
[Old Palm Grove - Legal Review](#)

Mayor Petrolia read the Quasi Judicial rules into the record and asked her colleagues for ex-parte communications. The following was disclosed:

Commissioner Frankel: None
Commissioner Casale: None
Vice Mayor Boylston: None
Deputy Vice Mayor Johnson: None
Mayor Petrolia: None

City Clerk Katerri Johnson swore in applicant Philip Bidwell who provided testimony on this item.

Anthea Gianniotis, Development Services Director, entered File No. 20-182 into the record.

Philip Bidwell, President of Old Palm Grove Homeowners Association, gave a presentation highlighting the proposed waiver request which would install a gate in his community.

Ms. Gianniotis presented a staff report to the Commission.

Mayor Petrolia opened the floor to allow public comments.

Tom Carney, owner of the adjacent property of the proposed project, expressed his support for the waiver request and believed the gate would be a great addition to the community.

There was no cross-examination or rebuttal pertaining to the presentation.

A discussion ensued between the Commissioners, Ms. Gianniotis, and Mr. Bidwell about the project's potential impact on the public and community.

Commissioner Casale made a motion to approve Resolution No. 164-20. It was seconded by Vice Mayor Boylston. 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.B. RESOLUTION NO. 170-20: A RESOLUTION OF THE CITY
COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA,
GRANTING A WAIVER REQUEST TO SECTIONS 4.1.4(B) AND (D) OF

THE LAND DEVELOPMENT REGULATIONS TO ALLOW FOR THE CONSTRUCTION OF A SINGLE-FAMILY NON-WORKFORCE HOUSING STRUCTURE FOR THE PROPERTY LOCATED AT 822 N. LAKE AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Body: Recommended Action:

Recommendation: Review and consider Resolution No. 170-20 for a waiver to the Land Development Regulations (LDR) Section 4.1.4(B) to allow for the construction of a non-workforce residential structure on a lot with a frontage of less than 50 feet.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Resolution No. 170-20](#)

[Resolution No. 170-20 Exhibit "A"](#)

[Resolution No. 170-20 - Jusitification Statement](#)

[Resolution No. 170-20 Legal Review](#)

Anthea Gianniotis, Development Services Director, entered File No. 20-222 into the record.

Mayor Petrolia asked her colleagues for ex-parte communications. The following was disclosed:

Commissioner Casale: Possibly received emails regarding the project on the City Server.

Commissioner Frankel: Received an email from Ms. Rosenthal.

Deputy Vice Mayor Johnson: Received an email on the matter.

Vice Mayor Boylston: None

Mayor Petrolia: Possibly received emails regarding the project on the City Server.

City Clerk Katerri Johnson swore in applicant Gary Eliopoulos who gave testimony on this item.

Mr. Eliopoulos, of GE Architecture, located at 1045 E Atlantic Avenue, highlighted the proposed waiver request.

Ms. Gianniotis presented a staff report on the land development regulations related to the item. There was no cross-examination or rebuttal pertaining to the presentation.

The Commissioners engaged in a discussion regarding land development regulations and workforce housing.

Commissioner Casale made a motion to approve Resolution No. 170-20. It was seconded by Vice Mayor Boylston. 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.C.

RESOLUTION NO. 171-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF A PORTION OF A SIDEWALK EASEMENT, A PUBLIC INGRESS-EGRESS EASEMENT, AND A GENERAL UTILITY EASEMENT FOR A DEVELOPMENT KNOWN AS ATLANTIC CROSSING LOCATED AT THE NORTHEAST CORNER OF ATLANTIC AVENUE AND NE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION 185-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER TO SECTION 4.4.13(F)(4)(A)(2) OF THE CITY OF DELRAY BEACH LAND DEVELOPMENT REGULATIONS; APPROVING A SETBACK

REDUCTION FROM 5 FEET TO 4.5 FEET FOR THE PROPERTY LOCATED GENERALLY AT THE NORTHEAST CORNER OF ATLANTIC AVENUE AND NE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Body: Recommended Action:

Recommendation: Review and consider Resolution No. 171-20, for the abandonment of portions of sidewalk easement, public ingress-egress easement and general utility easement and a waiver to the building setback requirements per LDR Section 2.4.6(N)(5).

Review and consider Resolution No. 185-20, for a waiver to the building setback requirements of Land Development Regulation 4.4.13(F)(4)(a)(2) for a 6 inch encroachment into the required 5-foot building setback per LDR Section 2.4.7(B)(5).

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Resolution 171-20- Atlantic Crossing Easement Abandonment lq rev](#)

[Easement abandonment application and sketch survey](#)

[Resolution 185-20- Atlantic Cross Setback Waiver lq rev](#)

[Atlantic Crossing Waiver justification](#)

[Atlantic Crossing Settlement Agreement Addendum \(Highlighted\)](#)

[Atlantic Crossing Revised Survey](#)

Mayor Petrolia asked her colleagues for ex-parte communications. The following was disclosed:

Commissioner Frankel: Communicated with Mr. Costello
Commissioner Casale: Communicated with Mr. Costello
Deputy Vice Mayor Johnson: Communicated with Mr. Costello
Vice Mayor Boylston: Communicated with Mr. Costello
Mayor Petrolia: Communicated with Mr. Costello

Anthea Gianniotis entered the file numbers for Resolution No. 171-20 and Resolution No. 185-20 into the record.

Katerri Johnson, City Clerk, swore in Jeffrey Costello who provided testimony on this item.

Mr. Costello of JC Planning Solutions gave a presentation on behalf of the applicant Edwards Atlantic Avenue LLC.

Ms. Gianniotis presented a brief report on the proposed project.

There was no cross-examination or rebuttal pertaining to the presentation.

Vice Mayor Boylston made a motion to approve Resolution No. 171-20. It was seconded by Deputy Vice Mayor Johnson. The vote was taken, and the motion carried 5-0.

Vice Mayor Boylston made a motion to approve Resolution No. 185-20. It was seconded by Deputy Vice Mayor Johnson. The vote was taken, and the motion carried 5-0.

**7.D. *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 the 31st, 32nd, and 33rd Extensions of the State of Emergency for COVID -19 and Resolution Number 192-20.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

[31ST Extension Emergency Declaration - COVID -19](#)

[32nd Extension Emergency Declaration - COVID -19](#)

[33rd Extension Emergency Declaration - COVID 19](#)

[Res. No. 192-20 COVID](#)

Commissioner Casale made a motion to approve the ratification of the 31st, 32nd, and 33rd Extensions of the State of Emergency for COVID-19. It was seconded by Vice Mayor Boylston. 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.E. NOMINATION FOR APPOINTMENT TO THE BOARD OF TRUSTEES
FOR THE FIREFIGHTERS RETIREMENT SYSTEM BOARD.**

Body: Recommended Action:

Recommendation: Motion to approve nomination for appointment for two (2) regular members to serve on the Board of Trustees for the Firefighters' Retirement System Board for a four (4) year term ending October 4, 2024.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)

[Exhibit A](#)

[Board of Trustees for the Firefighters' Retirement System](#)

[2020 Quarterly Attendance FIREFIGHTERS RETIREMENT SYSTEM](#)

[Evola](#)

[Glanfield](#)

[Kirschenbaum](#)

[Michel](#)

[Oberhofer](#)

[WARNER](#)

Deputy Vice Mayor Johnson nominated Thomas Glanfield to the Firefighters Retirement System Board of Trustees. It was seconded by Vice Mayor Boylston. The vote was taken, and the motion carried 5-0.

Mayor Petrolia nominated Alan Kirschenbaum to the Firefighters Retirement System Board of Trustees. It was seconded by Commissioner Casale. The vote was taken, and the motion carried 5-0.

**7.F. NOMINATION FOR APPOINTMENT TO THE BOARD OF TRUSTEES
FOR THE POLICE RETIREMENT SYSTEMS BOARD.**

Body: Recommended Action:

Recommendation: Motion to approve the nomination for an appointment for two (2) regular members to serve on the Board of Trustees for the Police Retirement Systems Board for a four (4) year term ending October 4, 2024.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)

[Exhibit A](#)

[Board of Trustees for the Police Officers' Retirement System 4](#)

[2020 Quarterly Attendance POLICE RETIREMENT SYSTEM](#)

[Dickson](#)

[Dwek](#)
[hosesley](#)
[Kozak](#)
[Michel](#)
[Oberhofer](#)
[Privitera](#)

Deputy Vice Mayor Johnson nominated Scott Privitera to the Police Retirement System Board of Trustees. It was seconded by Vice Mayor Boylston. The vote was taken, and the motion carried 5-0.

Mayor Petrolia nominated James Hoesley to the Police Retirement System Board of Trustees. It was seconded by Vice Mayor Boylston. The vote was taken, and the motion carried 5-0.

7.G. *NOMINATION FOR APPOINTMENT TO THE GENERAL EMPLOYEES RETIREMENT FUND COMMITTEE*

Body: Recommended Action:

Recommendation: Motion to approve nomination for appointment one (1) regular member to serve on the General Employees Retirement Fund Committee for an Indefinite term.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Exhibit A](#)
[General Employees Retirement 2020 1](#)
[2020 Quarterly Attendance GENERAL EMPLOYEE RETIREMENT FUND](#)
[Michel](#)
[Oberhofer](#)

Commissioner Casale nominated Joanna Oberhofer to the General Employees Retirement Fund Committee. It was seconded by Deputy Vice Mayor Johnson. 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.H. *RECLAIMED WATER REPORT PRESENTATION BY DR. FREDERICK BLOETSCHER, OF PUBLIC UTILITY MANAGEMENT & PLANNING SERVICES INC.*

Body: Recommended Action:

Recommendation: Receive a presentation from Dr. Frederick Bloetscher, of Public Utility Management & Planning Services Inc.

Sponsors: Public Works Department and Utilities Department

Attachments: [Agenda Cover Report](#)

REPORT - final

Dr. Frederick Bloetscher gave an overview of the reclaimed water report. He presented a timeline of the 2018 investigation including the steps taken to provide information to the Health Department to the Commissioners. Dr. Bloetscher concluded his presentation with recommendations of how the City's Utilities Department can improve in the future.

The Commissioners, Dr. Bloetscher, and Hassan Hadjimiry, Utilities Director, engaged in a conversation about the safety of the City's water. Mr. Hadjimiry clarified the misinformation regarding reclaimed water contracts, testing, and PFOS and PFAS levels. Dr. Bloetscher and Mr. Hadjimiry verified that the City of Delray Beach's water is safe to drink.

Discussion ensued between Commissioners and Jennifer Alvarez, Interim City Manager, about taking a proactive approach in retaining staff and maintaining programs. Additionally, they discussed how to reprimand a board member for publishing articles with misinformation.

8. PUBLIC HEARINGS:

8.A. *ORDINANCE NO. 29-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING CHAPTER 4, "ZONING REGULATIONS", ARTICLE 4.4, "BASE ZONING DISTRICT"; SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT", SUBSECTION (G), "CIVIC OPEN SPACES" AND SUBSECTION (I), "CBD PARKING SPACES", TO AMEND REQUIREMENTS FOR BICYCLE PARKING IN CIVIC OPEN SPACES, TO AMEND THE MINIMUM NUMBER OF BICYCLE PARKING SPACES, TO PROVIDE SPACE LOCATION AND STREETScape, AND TO PROVIDE FOR SPACING REQUIREMENTS TO MEET SECTION 4.6.9 FOR LOCATION OF BICYCLE PARKING; AMENDING SECTION 4.6.9, "OFF-STREET PARKING REGULATIONS," SUBSECTION (C), "NUMBER OF PARKING SPACES REQUIRED," SUBSECTION (D), "DESIGN STANDARDS," AND SUBSECTION (E), "LOCATION OF PARKING SPACES", TO AMEND REQUIREMENTS FOR THE NUMBER OF BICYCLE PARKING SPACES REQUIRED, CREATE BICYCLE PARKING TYPOLOGIES FOR SHORT AND LONG TERM PARKING, AND PROVIDE LOCATION AND SPACING REQUIREMENTS FOR BICYCLE PARKING; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (SECOND READING)*

Body: Recommended Action:

Recommendation: Review and consider Ordinance No. 29-20 on second reading, a City-initiated request to amend and update the Land Development Regulations (LDR) regarding the citywide requirements for bicycle

parking and accompanying facilities.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[PZB STAFF REPORT - Bike Racks and Facilities](#)

[Ordinance No. 29-20 Bicycle Racks and Facilities 2nd Reading](#)

[Ordinance No. 29-20: Legal Review Approval](#)

City Attorney Lynn Gelin read Ordinance No. 29-20 into the record.

Anthea Gianniotis, Development Service Director, entered the presentation from the first reading into the record. She reviewed the adjustments to the plan with the Commissioners.

Vice Mayor Boylston made a motion to approve Ordinance No. 29-20. It was seconded by Commissioner Casale. 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.

ORDINANCE NO. 32-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND RE-DESIGNATING LAND APPROXIMATELY 12.20 ACRES IN SIZE PRESENTLY ZONED MIXED INDUSTRIAL AND COMMERCIAL (MIC) TO SPECIAL ACTIVITIES DISTRICT (SAD), FOR THE PROPERTY AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING CHAPTER 4, "ZONING REGULATIONS," SECTION 4.4, "BASE ZONING DISTRICT," SECTION 4.4.25, "SPECIAL ACTIVITIES DISTRICT (SAD)," SUBSECTION 4.4.25(H), "S.A.D.S", TO ADD "AURA DELRAY BEACH"; SAID LAND GENERALLY LOCATED AT THE NORTHWEST CORNER OF NORTH CONGRESS AVENUE AND WEST ATLANTIC AVENUE, AND CONSISTING OF APPROXIMATELY 12.20 ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017"; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING/PUBLIC HEARING)

Body: **Recommended Action:**

Recommendation: Review and consider Ordinance No. 32-20 on Second Reading, a privately-initiated request for the rezoning of 12.20 acres from Mixed Industrial & Commercial (MIC) to Special Activities District (SAD) with an associated Master Development Plan (MDP) to allow a 292-unit multi-family residential development at 24 dwelling units per acre and a 2,000 square foot commercial building identified as the Aura Delray Beach SAD.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Ordinance No. 32-20](#)
[Ordinance No. 32-20: Zoning Map \(Existing & Proposed\)](#)
[Ordinance No. 32-20: Rezoning Statement](#)
[Ordinance No. 32-20: Master Plan Statement](#)
[Ordinance No. 32-20: Master Plan](#)
[Ordinance No. 32-20: Planning and Zoning Board Staff Report](#)
[Ordinance No. 32-20: Traffic Study](#)
[Ordinance No. 32-20: Survey](#)
[Ordinance No. 32-20: Table NDC-1, Always Delray Comp. Plan](#)
[Ordinance No. 32-20: Legal Review](#)

Items 8.B, 8.B.1, and 8.B.2. were interrelated and presented together.

City Attorney Lynn Gelin read Ordinance No. 32-20 into the record.

Mayor Petrolia asked her colleagues for ex-parte communications. The following was disclosed:

Vice Mayor Boylston: Spoke to Bonnie Miskel about the project.

Commissioner Frankel: Met with Bonnie Miskel and the applicant.

Deputy Vice Mayor Johnson: None other than what was discussed in first reading.

Commissioner Casale: None other than what was discussed in first reading.

Mayor Petrolia: None other than what was discussed in first reading.

Ms. Miskel presented the project on behalf of the applicant. The request would rezone the proposed plot of land from an Industrial Zone to a Special Activities District permitting the Aura Delray Community to establish 73 workforce housing units.

Anthea Gianniotis, Development Services Director, provided a staff report to the Commissioners. She informed the Commission that the Planning and Zoning Board voted unanimously in support of the project on July 20, 2020.

Mayor Petrolia opened the floor for public comments; no one wished to speak on this item.

There was no cross-examination or rebuttal pertaining to the presentation.

The Commissioners asked Ms. Miskel questions about the proposal. Commissioner Casale and Mayor Petrolia expressed their concerns about the proposal. Vice Mayor Boylston, Deputy Vice Mayor Johnson and Commissioner Frankel voiced their support for the project.

Vice Mayor Boylston made a motion to approve Ordinance No. 32-20. It was seconded by Deputy Vice Mayor Johnson. 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

8.B.1. RESOLUTION NO. 152-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A REQUEST FOR A CONDITIONAL USE PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AND THE COMPREHENSIVE PLAN, TO ALLOW FOR THE INCREASE TO MAXIMUM ALLOWABLE HEIGHT OF 55 FEET FOR BUILDINGS 3, 4, 5 AND 6 FOR THE AURA DELRAY BEACH PROJECT, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES (QUASI JUDICIAL).

Body: Recommended Action:

Recommendation: Review and consider Resolution No. 152-20, granting a conditional use to increase building height to 55 feet 3,4,5 and 6 for the Aura Delray Beach project generally located at the northeast corner of W. Atlantic Avenue and N. Congress Avenue.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Aura Delray Beach - Resolution No. 152-20](#)

[Aura Delray Beach - Location Map](#)

[Aura Delray Beach - Applicant Justification Statement](#)

[Aura Delray Beach - PZB Staff Report](#)

[Aura Delray Beach - Architectural Plans](#)

[Aura Delray Beach - Rendering](#)

[Aura Delray Beach - Rendering](#)

[Aura Delray Beach - Landscape Plans](#)

[Aura Delray Beach - Civil Plans](#)

[Aura Delray Beach - Traffic Study](#)

[Aura Delray Beach - TPS Letter](#)

[Aura Delray Beach - Legal Review](#)

Vice Mayor Boylston made a motion to approve Resolution No. 152-20. It was seconded by Commissioner Frankel. 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

8.B.2. *REPORT OF APPEALABLE LAND USE ITEM FOR AURA DELRAY BEACH*

Body: Recommended Action:

Recommendation: By motion, receive and file this report.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Appealable Report - Aura Delray Beach.pdf](#)

Vice Mayor Boylston made a motion not to appeal the Aura Delray project. It was seconded by Deputy Vice Mayor Johnson. 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. FIRST READINGS:

9.A. None

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A.City Manager

Jennifer Alvarez, Interim City Manager requested permission to allow the City to apply for COVID-19 relief funding from Palm Beach County should grants become available.

There was consensus.

Ms. Alvarez thanked all the poll workers who participated in the Presidential Election and staff members who prepared for the possible storm.

B.City Attorney

Lynn Gelin, City Attorney, informed the Commissioners that COVID-19 cases are going up. She asked if the Commissioners would be interested in staff drafting a resolution to permit the Commission to return to virtual meetings.

Ms. Gelin informed the Commissioners if they did return to virtual meetings and it was deemed inappropriate by the court the City would have to revote on previous ordinances.

The Commissioners discussed the possibility of staff working remotely.

City Attorney Gelin requested to schedule a Shade Meeting in December for the Coleman and Stewart Cases.

C. City Commission

Vice Mayor Boylston spoke to the Commissioners about the pedestrian bridge. There was consensus to have staff research funding opportunities with the Florida Department of Transportation (FDOT) for the pedestrian bridge.

Deputy Vice Mayor Johnson believed the City would get through COVID-19 and encouraged the Commission to continue working together.

Commissioner Casale thanked everyone who stayed the entire meeting. She asked her fellow Commissioners to consider protecting commercial properties in future proposals.

Commissioner Frankel thanked the IT department for allowing him to join the in-person meeting virtually.

With no further business to discuss, the meeting was adjourned at 8:41 p.m.