

City of Delray Beach

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Minutes - Final

Tuesday, November 6, 2018

6:00 PM

Regular Meeting at 6:00 PM

Delray Beach City Hall

City Commission

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

1. ROLL CALL

Mayor Petrolia called the Regular City Commission Meeting to order at 6:00 p.m.

The roll call was taken by the City Clerk.

The following were in attendance:

Mayor Shelly Petrolia
Vice Mayor Adam Frankel
Deputy Vice Mayor Shirley Ervin Johnson
Commissioner Bill Bathurst
Commissioner Ryan Boylston (absent)

Others present were:

Mark R. Lauzier, City Manager
R. Max Lohman, City Attorney
Katerri Johnson, City Clerk

2. PLEDGE OF ALLEGIANCE TO THE FLAG - PRESENTATION OF COLORS BY THE ATLANTIC HIGH SCHOOL CRIMINAL JUSTICE ACADEMY

3. AGENDA APPROVAL

Deputy Vice Mayor Johnson requested that Item 6.H. be removed from the consent agenda and moved to the regular agenda as Item 7.A.A. and Item 6.F. be removed from the consent agenda and moved to the regular agenda as Item 7.B.B.

Mayor Petrolia requested that Item 6.G. be removed from the consent agenda and moved to the regular agenda as Item 7.C.C.

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

4. PRESENTATIONS:

- 4.A. [18-609](#) PRESENTING OSCAR DOMINGUEZ, TECHNICAL SERVICES MANAGER, WITH EMPLOYEE OF THE MONTH FOR NOVEMBER 2018.

Recommendation: Motion to present Oscar Dominguez, Technical Services Manager, with Employee of the Month for November 2018.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)
[Nomination Form Oscar Dominguez.pdf](#)

Sharon Liebowitz, Human Resources Director, introduced Mickey Baker, IT Director.

Mickey Baker, IT Director, gave a few brief comments and introduced Oscar Dominguez, Technical Services Manager, for employee of the month for November 2018. Mr. Dominguez came forward to accept the recognition.

On behalf of the City, Ms. Liebowitz presented Mr. Dominguez with a plaque and eight (8) hours of paid vacation time.

4.B. [18-502](#) RECOGNITION OF DELRAY BEACH POLICE EXPLORERS POST #319

Recommendation: Recognition of Delray Beach Police Explorers Post #319 for their excellent performance during the 2018 Law Enforcement Explorer Academy as well as their hard work and efforts throughout the year.

Sponsors: Police Department

Attachments: [Agenda Cover Report](#)

Lieutenant Weatherspoon gave a brief presentation recognizing the Delray Beach Police Explorers Post #319.

4.C. [18-749](#) 2018 WORLD RESCUE CHALLENGE - FIRE RESCUE DEPARTMENT PRESENTATION

Sponsors: Fire Rescue Department

Attachments: [Agenda Cover Report](#)

Neal de Jesus, Fire Chief, gave a brief presentation regarding the 2018 World Rescue Challenge.

4.D. [18-711](#) FLORIDA CITY GOVERNMENT WEEK ESSAY CONTEST WINNERS

Recommendation: This is a presentation; no action required.

Sponsors: Community Improvement

Attachments: [Agenda Cover Report](#)

Janet Meeks, Education Coordinator, presented certificates and gift cards to the winners of the Florida City Government Week Essay Contest Winners.

- 4.E. [18-721](#) PROCLAMATION DECLARING NOVEMBER 10 - 18, 2018 AS NATIONAL HUNGER AND HOMELESSNESS AWARENESS WEEK.

Recommendation:

Motion to proclaim the week of November 10-18, 2018, as Hunger and Homelessness Awareness Week.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)

[Hunger and Homelessness Awareness Week 2018](#)

Ezra Krieg, Gulfstream Goodwill and Ariana Ciano, Delray Beach Police Department, came forward to accept the Proclamation declaring November 10-18, 2018 as National Hunger and Homelessness Awareness Week.

On behalf of the City Commission, Mayor Petrolia expressed her gratitude and thanked Mr. Krieg for his efforts.

- 4.F. [18-723](#) PROCLAMATION TO PROMOTE RECYCLING IN PALM BEACH COUNTY AND TO DECLARE NOVEMBER 15, 2018 AS AMERICA RECYCLES DAY.

Recommendation: It is recommended that the City of Delray Beach proclaim and recognize November 15, 2018, 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 Clerk Department

Attachments: [Agenda Cover Report](#)

[America Recycles Day in Delray Beach](#)

Willie Puz, Director of Public Affairs and Recycling for the Solid Waste Authority of Palm Beach County, gave a brief presentation with respect to promoting recycling in Palm Beach County and to declare November 15, 2018 as America Recycles Day.

4.G. Internal Auditor's Report

4.G.1. None

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

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

None.

5.B. From the Public

Marjorie Waldo, Arts Garage, thanked the City Commission for their ongoing support and partnership and she also thanked the City Manager's office for their help as well. Ms. Waldo commented about the amendment to the leasing agreement for the Arts Garage to allow them to pursue a performance based liquor license which will help add a solid revenue stream to the organization.

Michael Wind, 1540 N.W. 18th Avenue, #102, Delray Beach, gave a brief history of his life and credentials.

Bruce Leish, 335 S.E. 6th Avenue, President of the Meridian Condominium Association, Urban Planner and Landscape Architect, commented on the Coastal Link Master Plan resolution. Mr. Leish expressed concern over the bonus section on the area which is a quarter of a mile in each direction from the station. He urged the City Commission to approve this resolution with the amendment that they are not interested in anything over five stories in the downtown area of city. Mr. Leish stated he supports incentives for properties that are difficult to develop, but there are other ways other than height bonuses to incentivize these things.

Mayor Petrolia stated it is conceptual and the height limit for the city is four stories and Atlantic Avenue is three stories. The City Attorney stated it provides direction for the Capital Improvement Plan.

Ellen Santulli, 475 S.W. 27th Avenue, Boynton Beach (former resident of Delray Beach) stated there is not enough mental health professionals in the schools implementing how to live on life's terms. She stated her son who passed away on November 1st suffered from addiction and homelessness. Ms. Santulli stated that at 18 years of age a parent can only do a Marchman Act and she has contacted Congressman Deutch.

Mayor Petrolia suggested that Ms. Santulli contact the Palm Beach County School Board regarding this issue as the City of Delray Beach cannot mandate anything into the school system.

Gregory Curry, 1720 Depot Avenue, Delray Beach, stated he attends Palm Beach State College studying to be an electrician and thanked the Community Improvement along with Career Source for allowing him to do this.

Juan Estrada, 717 US Highway South, thanked Michael Coleman and the Neighborhood and Community Services Department because he is a scholarship recipient.

Christina Morrison, 2809 Florida Boulevard, Delray Beach, stated as a

member of the Planning and Zoning Board she voted against Item 6.D., Transit-Oriented Development (TOD) Master Plan/Resolution No. 100-18 because the key recommendations (pg. 8 #5A) states "increased building height in the TOD area." She urged the City Commission to delete #5A from the plan.

6. CONSENT AGENDA: City Manager Recommends Approval

It was the consensus of the City Commission to remove Item 6.D. from the consent agenda to the regular agenda as Item 7.D.D. for discussion.

Vice Mayor Frankel made a motion to approve the agenda as amended. It was seconded by Deputy Vice Mayor Johnson. The roll call vote was taken and all were in favor. The motion carried 4-0.
approved as amended

6.A. [18-665](#) MEETING MINUTES

Recommendation: Motion to approve meeting minutes as listed below:

September 25, 2018 Minutes City Commission Regular Meeting
October 2, 2018 Minutes City Commission Regular Meeting
October 9, 2018 Minutes City Commission Workshop Meeting
October 9, 2018 Minutes City Commission Special Meeting (Closed Attorney/Client Session)

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Minutes September 25, 2018 Regular City Commission Meeting](#)
[Minutes October 2, 2018 Regular City Commission Meeting](#)
[Minutes October 9, 2018 City Commission Workshop Meeting](#)
[Minutes October 9, 2018 City Commission Special Meeting - Closed Attorney Client Session](#)
approved

6.B. [18-737](#) CITY INTERNAL AUDITOR OUTSIDE EMPLOYMENT REQUEST

Recommendation: Motion to approve request for outside employment.

Attachments: [Agenda Cover Report](#)
[Outside Employment form](#)

6.C. [18-718](#) APPROVE AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE ARTS GARAGE AND THE CITY OF DELRAY BEACH TO ALLOW ONSITE SELLING OF LIQUOR ON PERFORMANCE NIGHTS.

Recommendation: Motion to Approve an Amendment to the Lease Agreement between the Arts Garage and the City of Delray Beach to allow the selling of liquor on performance nights on site at 94 NE 2nd Ave, Delray Beach, FL 33444.

Sponsors: City Manager Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 5 Amend No 1 to Arts Garage Lease](#)
[Creative City Collaborative Letter](#)
[Lease with the Creative City Collaborative](#)
[Amendment No. 1 to Arts Garage Lease](#)

approved

6.D. [18-681](#) RESOLUTION NO: 100-18: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING THE DELRAY BEACH TRI-RAIL COASTAL LINK TRANSIT-ORIENTED DEVELOPMENT MASTER PLAN

Recommendation: Motion to Approve Resolution No. 100-18.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Res 100-18 10.18.18](#)
[DB Tri-Rail Coastal Link TOD Master Plan](#)
[Tri-Rail Coastal Link Memo 10.18.18](#)

Commissioner Bathurst suggested a clarification to some language so that if someone reads the Master Plan then it will not appear that the LDRs are being changed.

Tim Stillings, Development Services Director, stated the Delray Beach Tri-Rail Coastal Link Transit-Oriented Development Master Plan identifies height and density as two of the options and is just a key recommendation from the group of professionals who prepared the Master Plan; however, this is not something that has to be done. Mr. Stillings suggested to change the word "would" to "could" to make it less definitive or take out Item A-D and leave the recommendation to establish a transit oriented district that supports the transit service.

A brief discussion between Mr. Stillings and Commissioner Bathurst followed.

It was the consensus of the City Commission to change the language from the word "would" to "could".

Commissioner Bathurst made a motion to approve Item 7.D.D. (formerly Item 6.D.) as amended. It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 4-0.

approved as amended

- 6.E. [18-680](#) INTERLOCAL AGREEMENT WITH THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE CO-TITLE SPONSORSHIP FOR THE 2019 DELRAY BEACH OPEN

Recommendation: Motion to approve the Interlocal Agreement with the Delray Beach Community Redevelopment Agency (CRA) for a term which will commence upon execution of the contract and terminate on September 30, 2019 for the Co-Title Sponsorship for the 2019 Delray Beach Open Tennis Tournament in the amount of \$905,000.

Sponsors: Parks & Recreation Department

Attachments: [Agenda Cover Report](#)
[ATTACHMENT 1 - Legal Review Checklist](#)
[ATTACHMENT 2 - ILA CRA 2019DBO signed](#)

approved

- 6.F. [18-637](#) APPROVAL OF CHANGE ORDER NO. 1 TO THE AGREEMENT WITH MAN CON, INC. IN A NOT-TO-EXCEED AMOUNT OF \$145,691 WITH FIVE ADDITIONAL CALENDAR DAYS FOR THE NE 2ND AVENUE / SEACREST BEAUTIFICATION PHASE 2 PROJECT.

Recommendation: Motion to approve Change Order No. 1 to the Agreement with Man Con, Inc. (MCI) in an amount not-to-exceed \$145,691 with five additional calendar days due to the additional 2020 square yards of ARMI Layer (extending north and south limits of the project) and removal of an additional 1,301 square yards of pavement for the NE 2nd Avenue / Seacrest Beautification Phase 2 (Project No. 16-032).

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 5 Change Order No 1 to ManCon Agreement](#)
[Man Con - CO1 Seacrest Phase 2](#)

Deputy Vice Mayor Johnson stated she would like the date that the project for Venetian Drive is actually closing.

Deputy Vice Mayor Johnson made a motion to approve Item 7.B.B. (formerly Item 6.F.). It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 4-0.

approved

- 6.G. [18-698](#) APPROVE RESOLUTION NO. 128-18 APPROVING A HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE STATE

OF FLORIDA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT
IMPROVEMENTS TO SWINTON AVENUE FROM S. 10TH STREET TO
N. 4TH STREET

Recommendation: Motion to approve Resolution No. 128-18 approving a Highway Maintenance Memorandum of Agreement (HMMOA) with the State of Florida Department of Transportation (FDOT) for construction of improvements on Swinton Avenue from S 10th Street to N 4th Street, FDOT Financial Project ID No. 438389-1

Sponsors: Public Works Department - Programs & Project Management

Indexes: Capital Improvement Projects - City Wide

Attachments: [Agenda Cover Report](#)
[Resolution HMOA 10.10.18 Legal](#)
[HMOA Swinton 7 24 18](#)
[Legal Review Checklist District Four HWY Maintenance Memo of Agreement](#)
[Grants - Swinton Avenue](#)

Mayor Petrolia suggested that Ms. Goebel-Canning place information on the City's website with respect to a meeting being held on November 27, 2018 at the Delray Beach Library from 6:00-8:00 p.m. regarding Swinton Avenue.

Vice Mayor Frankel made a motion to approve Item 7.C.C. (formerly Item 6.G.). It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 4-0.
approved

6.H. [18-697](#) RESOLUTION NO. 131-18 TO APPROVE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT NO. 5 (TIME EXTENSION REQUEST) FOR THE NE 2ND AVE. / SEACREST BEAUTIFICATION PROJECT PHASE 0.

Recommendation: Motion to approve Resolution No. 131-18 to approve FDOT LAP Supplemental Agreement No. 5 for a time extension to the completion date of the original LAP agreement for NE 2nd Ave / Seacrest Beautification project Phase 0 (PN 11-067).

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)
[Resolution 131-18](#)
[FDOT Supplemental Agreement 5 101018](#)
[Legal Review Checklist form v. 5 LAP Supplemental Agreement](#)
[Seacrest Beautification](#)

Deputy Vice Mayor Johnson expressed concern over the beautification

projects (i.e. sidewalks) being done in the city and residents not being made fully aware of it.

Commissioner Bathurst concurred with comments expressed by Deputy Vice Mayor Johnson that on the City's website there be an update of the projects throughout the city when they are starting and when they are ending.

Susan Goebel-Canning, Public Works Director, addressed some of the concerns expressed by the City Commission regarding informing the public about the status of projects via the City's website, etc.

The City Manager gave a few brief comments.

Deputy Vice Mayor Johnson made a motion to approve Item 7.A.A. (formerly Item 6.H.). It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 4-0.
approved

6.I. [18-701](#)

ITEM (A) - ACCEPTANCE OF A HOLD HARMLESS AGREEMENT FOR 1235 N. FEDERAL HWY.

ITEM (B) - ACCEPTANCE OF WATER EASEMENT FOR CHILI'S RESTAURANT LOCATED AT 14530 S. MILITARY TRAIL.

ITEM (C-D) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT AND RIGHT OF WAY DEED FOR 602 NE 8th AVE.

ITEM (E-F) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT AND ALLEYWAY DEDICATION FOR 101 SW 13TH AVE.

ITEM (G-H) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT AND ALLEYWAY DEDICATION FOR 501 NE 7TH AVE.

ITEM (I) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT FOR 4932 JEFFERSON RD.

ITEM (J) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT FOR 4936 JEFFERSON RD.

ITEM (K) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT FOR 905 WITHERSPOON LANE.

ITEM (L) - ACCEPTANCE OF A PERPETUAL SIDEWALK EASEMENT FOR 971 DOGWOOD DR.

Recommendation: Item A

Motion to approve and accept Hold Harmless Agreement located at 1235 N. Federal Hwy.

Item B

Motion to approve and accept Water Easement Agreement for Chili's restaurant located at 14530 S. Military Trail.

Items C-D

(C) Motion to approve and accept 5' of sidewalk easement on NE 8th Ave. located at 602 NE 8th Ave.

(D) Motion to approve and accept 5' of right of way dedication on NE 8th Ave. located at 602 NE 8th Ave.

Item E-F

(E) Motion to approve and accept 5' of sidewalk easement on SW 13th Ave. and SW 1st St. located at 101 SW 13th Ave.

(F) Motion to approve and accept 2' of alleyway dedication located at 101 SW 13th Ave.

Item G-H

(G) Motion to approve and accept 5' of sidewalk easement on NE 5th St. located at 501 NE 7th Ave.

(H) Motion to approve and accept 2' of alleyway dedication located at 501 NE 7th Ave.

Item I

Motion to approve and accept 5' of sidewalk easement on Jefferson Rd. located at 4932 Jefferson Rd.

Item J

Motion to approve and accept 5' of sidewalk easement on Jefferson Rd. located at 4936 Jefferson Rd.

Item K

Motion to approve and accept 5' of sidewalk easement on Witherspoon Lane located at 905 Witherspoon Lane.

Item L

Motion to approve and accept 5' of sidewalk easement on Dogwood Dr. located at 971 Dogwood Dr.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)

[Item \(A\) Hold Harmless Agreement 1235 N. Federal Hwy.pdf](#)
[Item \(A\) Hold Harmless Agreement 1235 N. Federal Hwy](#)
[Item \(A\) 1235 N. Federal Hwy Civil Drawing .pdf](#)
[Item \(A\) PAPA Page 1235 N. Federal Hwy.pdf](#)
[Item \(A\) PAPA Map 1235 N. Federal Hwy.pdf](#)
[Item \(A\) Sun Biz Page 1235 N. Federal Hwy.pdf](#)
[Item \(B\) Easement Agreement 14530 S. Military Trail](#)
[Item \(B\) Easement Agreement 14530 S. Military Trail.pdf](#)
[Item \(B\) Exhibit \(A\) Sketch and Description.pdf](#)
[Item \(B\) PAPA Page 14530 S. Military Trail.pdf](#)
[Item \(B\) Map Location 14530 S. Military Trail.pdf](#)
[Item \(C\) PSE 602 NE 8th Ave.pdf](#)
[Item \(C\) Exhibit \(A\) Sketch and Description R.O.W Ded. 602 NE 8th Ave..pdf](#)
[Item \(D\) R.O.W Deed 602 NE 8th Ave..pdf](#)
[Item \(D1\) Exhibit \(A\) Sketch and Description Right of Way.pdf](#)
[Item \(D2\) Exhibit \(A\) Sketch and Description Alleyway 602 NE 8th Ave..pdf](#)
[Item \(C-D\) Survey 602 NE 8th Ave..pdf](#)
[Item \(C-D\) PAPA Page 602 NE 8th Ave., Florida, USA.pdf](#)
[Item \(C-D\) PAPA Map Location 602 NE 8th Ave..pdf](#)
[Item \(C-D\) Sun Biz Page 602 NE 8th Ave..pdf](#)
[Item \(E\) PSE 101 SW 13th Ave.pdf](#)
[Item \(E\) Exhibit-A-Sketch and Description 101 SW 13th Ave.pdf](#)
[Item \(F\) R.O.W Deed 101 SW 13th Ave.pdf](#)
[Item \(F\) Exhibit \(A\) Sketch and Description 101 SW 13th Ave.pdf](#)
[Item \(E-F\) Survey 101 SW 13th Ave.PDF](#)
[Item \(E-F\) PAPA Page 101 SW 13th Ave.pdf](#)
[Item \(E-F\) PAPA Maps 101 SW 13th Ave.pdf](#)
[Item \(E-F\) Sun Biz Page. 101 SW 13th Ave.pdf](#)
[Item \(G\) PSE 501 NE 7th Ave.pdf](#)
[Item \(H\) Right of Way Deed 501 NE 7th Ave..pdf](#)
[Item \(G-H\) Exhibit \(A\) Sketch and Description 501 NE 7th Ave..pdf](#)
[Item \(G-H\) Survey 501 NE 7th Ave.PDF](#)
[Item \(G-H\) PAPA Page 501 NE 7th Ave.pdf](#)
[Item \(G-H\) PAPA Maps 501 NE 7th Ave.pdf](#)
[Item \(G-H\) Sun Biz Page 501 NE 7th Ave.pdf](#)
[Item \(I\) PSE 4932 Jefferson Rd.pdf](#)

[Item \(I\) Exhibit \(A\) Sketch and Description 4932 Jefferson Rd..pdf](#)

[Item \(I\) Survey 4932 Jefferson Rd.pdf](#)

[Item \(I\) PAPA Page 4932 Jefferson Rd.pdf](#)

[Item \(I\) PAPA Maps 4932 Jefferson Rd.pdf](#)

[Item \(I\) Sun Biz Page 4932 Jefferson Rd.pdf](#)

[Item \(J\) PSE 4936 Jefferson Rd..pdf](#)

[Item \(J\) Exhibit \(A\) Sketch and Description 4936 Jefferson Rd..pdf](#)

[Item \(J\) Survey 4936 Jefferson Rd.pdf](#)

[Item \(J\) PAPA Page 4936 Jefferson Rd.pdf](#)

[Item \(J\) PAPA Maps 4936 Jefferson Rd.pdf](#)

[Item \(J\) Sun Biz Page 4936 Jefferson Rd.pdf](#)

[Item \(K\) PSE 905 Witherspoon Lane.pdf](#)

[Item \(K\) Exhibit \(A\) Sketch and Description 905 Witherspoon Lane.pdf](#)

[Item \(K\) Survey 905 Witherspoon Lane.PDF](#)

[Item \(K\) PAPA Page 905 Witherspoon Lane.pdf](#)

[Item \(K\) PAPA Maps 905 Witherspoon Lane.pdf](#)

[Item \(K\) Sun Biz Page 905 Witherspoon Lane.pdf](#)

[Item \(L\) PSE 971 Dogwood Dr..pdf](#)

[Item \(L\) Exhibit \(A\) Sketch and Description 971 Dogwood Dr..pdf](#)

[Item \(L\) PAPA Page 971 Dogwood Dr.pdf](#)

[Item \(L\) PAPA Maps 971 Dogwood Dr.pdf](#)

approved

6.J. [18-738](#)

APPROVE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY FOR FUNDING TRANSPORTATION SERVICES FOR FISCAL YEAR 2018/19 RETROACTIVE TO NOVEMBER 1, 2018

Recommendation: Motion to approve the Interlocal Agreement (ILA) between the City of Delray Beach (CITY) and the Delray Beach Community Redevelopment Agency for Funding of Transportation Services (Agreement) for operations of the Downtown Roundabout for 3 months with the right to extend for an additional 3 months in the amount of \$120,000 beginning retroactively on November 1, 2018.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)

[11-6 Legal Review Checklist form v. 5 ILA with CRA for trolley funding](#)

[ILA Transportation Final revised -10-29-18](#)

approved

6.K. PROCLAMATIONS:

6.K.1. None

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

6.L.1. [18-702](#) REPORT OF APPEALABLE LAND USE ITEMS FROM SEPTEMBER 17, 2018 THROUGH OCTOBER 5, 2018.

Recommendation: By motion, receive and file this report.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Appealable Items Map](#)

[A. Taco Bell \(Delray Commons\) - 5070 W Atlantic Avenue](#)

[B. Aloft Hotel Master Sign Program - 202 SE 5th Avenue](#)

[C. IPIC Master Sign Program - 53 SE 4th Avenue](#)

[D. 52 Modern - 172, 182, and 190 NE 5th Avenue](#)

approved

6.M. AWARD OF BIDS AND CONTRACTS:

6.M.1. [18-667](#) APPROVAL OF RESOLUTION NO. 123-18 TO AWARD A THREE-YEAR AGREEMENT, WITH OPTION FOR TWO YEAR RENEWAL, WITH LINE-TEC, INC. FOR WATER SERVICE CONNECTIONS, RESTORATION, AND MISCELLANEOUS SERVICES IN A NOT-TO-EXCEED AGREEMENT VALUE OF \$3,600,000

Recommendation: Motion to approve Resolution No. 123-18 to award a three-year agreement (Agreement), with option for two-year renewal, with Line-Tec, Inc. for miscellaneous services including water service connections, restoration, emergency repairs, and fire protection system enhancements in a not-to-exceed agreement value of \$3,600,000.

Sponsors: Utilities Department

Attachments: [Agenda Cover Report](#)

[2018-050 Agreement Water Service Connections and Restorations](#)

[ITB, vendor executed](#)

[Legal Review Checklist form v. 5 Agreement for Water Service Connections and Restoration](#)

[2018-050 Water Service Connections and Restoration \(rev 6\)](#)

[2018-050 Submittals](#)

[Resolution No. 123-18 \(2018-050 Agreement\) CA rev](#)

approved

- 6.M.2.** [18-679](#) APPROVE RESOLUTION NO. 132-18 TO AWARD AN AGREEMENT WITH TARGETSOLUTIONS, LLC FOR LEARNING MANAGEMENT SYSTEM IN A TOTAL NOT TO EXCEED AMOUNT OF \$198,000 FOR A FIVE YEAR PERIOD

Recommendation: Motion to approve Resolution No. 132-18 to award an agreement to TargetSolutions, LLC in a total not to exceed amount of \$198,000 for a five year period.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)
 [Renewal Contract.pdf](#)
 [Schedule A Invoice.pdf](#)
 [Target Solutions Resolution.docx](#)
 [Legal Review Check List](#)

approved

7. REGULAR AGENDA:

- 7.A.** [18-699](#) RATIFICATIONS OF APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD

Recommendation: Motion to recommend City Commission approves and ratifies the appointed members to the Parking Management Advisory Board for a two (2) year term ending July 31, 2020.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
 [Parking Management Advisory Board Member List](#)

Vice Mayor Frankel commented about some of the appointees are from boards that may not be subject to Inspector General (IG) requirements as the City Commission and suggested that this be reviewed.

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

approved

- 7.B.** [18-720](#) NOMINATION FOR APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD

Recommendation: Motion to approve nomination for appointment to one (1) regular member (Citizen-at-Large) to serve on the Parking Management Advisory Board for an unexpired term ending July 31, 2019.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Exhibit A](#)
[Parking Management Advisory Board Member List](#)
[Parking Management Advisory Board Attendance List](#)
[Parking Management Advisory Board Applications](#)

Mayor Petrolia stated she would like to nominate Harvey Brown to the Parking Management Advisory Board. It was seconded by Vice Mayor Frankel. A roll call vote was taken and all were in favor. The motion carried 4-0.

approved

8. PUBLIC HEARINGS:

8.A. [18-708](#) ADOPTION OF RESOLUTION 136-18 CONVEYING THE CITY'S INTEREST IN REAL PROPERTY TO BRIGHT HORIZONS INVESTMENT CORP AND GOCO INC.

Recommendation: Motion to approve Resolution 136-18.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)
[Resolution 136-18](#)
[Vacant Land Contract between City of Delray Beach and Bright Horizons Investment Corp.](#)
[Addendum No 1 to Vacant Land Contract](#)

The City Attorney stated Mr. Rubin drafted a restrictive covenant that limits the use of that parcel to a cooler and a dumpster. The City Attorney stated all the costs will be the responsibility of the purchaser. Staff recommends approval.

Mayor Petrolia declared the public hearing open. There being no one from the public who wished to address the City Commission regarding Resolution No. 136-18, the public hearing was closed.

Vice Mayor Frankel made a motion to approve Resolution No. 136-18. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 4-0.

approved

9. FIRST READINGS:

- 9.A.** [18-688](#) ORDINANCE NO. 20-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, ARTICLE 1.3 NONCONFORMING USES, LOTS AND STRUCTURES, BY REPEALING THIS ARTICLE AND READOPTING IT TO PROVIDE UPDATED REGULATIONS FOR NONCONFORMING LOTS, USES OF LAND AND STRUCTURES IN ADDITION TO REGULATIONS ON REMODELING NONCONFORMING STRUCTURES OR RECONSTRUCTING SUCH STRUCTURES IF AFFECTED BY AN ACT OF GOD; AND AMENDING ARTICLE 7.8 UNSAFE BUILDINGS AND STRUCTURES, BY REPEALING AND READOPTING SECTION 7.8.4 REQUIREMENTS FOR ALTERATIONS, ADDITIONS, OR REPAIRS TO PROVIDE FOR CONSISTENCY WITH ARTICLE 1.3 NONCONFORMING USES, LOTS AND STRUCTURES; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

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

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Ordinance 20-18](#)

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

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

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

The City Attorney read the title of Ordinance No. 20-18 into the record.

Tim Stillings, Development Services Director, gave a brief overview of this item and stated this ordinance amends the non-conforming use of land, non-conforming structures, and non-conforming uses. Mr. Stillings pointed out the significant changes related to non-conforming uses. The Planning and Zoning Board recommended approval with a vote 6-0 and staff recommends approval.

A brief discussion between Mr. Stillings and Deputy Vice Mayor Johnson ensued.

Vice Mayor Frankel made a motion to approve Ordinance No. 20-18 on First Reading. It was seconded by Commissioner Bathurst. A roll call vote

was taken and all were in favor. The motion carried 4-0.
approved

- 9.B.** [18-657](#) ORDINANCE NO. 22-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING SECTION 4.6.7 "SIGNS", BY AMENDING PARAGRAPH 4.6.7(D) "AESTHETIC QUALIFICATIONS", SUBPARAGRAPH (2) "BASIS" TO PROVIDE AESTHETIC QUALIFICATION CRITERIA FOR SCALE, DESIGN AND LOCATION, AND AMENDING PARAGRAPH 4.6.7(J) "PROHIBITED SIGNS", SUBPARAGRAPH (3) " "ROOF SIGNS" TO AMEND THE "DEFINITIONS" OF "ROOF SIGNS" TO BE CONSISTENT WITH SECTION 4.6.7, PROVIDING A CONFLICTS CLAUSE, AND AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES. (1st READING)

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

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Ordinance 22-18 Roof signs 09.06.18.docx](#)
[PZB 091718 Roof signs_090618.pdf](#)

The City Attorney read the title of Ordinance No. 22-18 into the record.

Tim Stillings, Development Services Director, stated there are several types of roof signs in the LDRs and one of those was not a roof sign and it was defined as prohibited. He stated the intent of the code was to address a sign that was above the roof; however, he noted it conflicted with other roof signs still within the parapet but above the roof line. Mr. Stillings stated this created some confusion and noted a few waivers came before the City Commission that were approved. Therefore, staff felt this change needed to be clarified and displayed photos of roof signs allowed under the proposed amendment and those that are still prohibited under the new code. He also added additional language to clarify the aesthetic qualifications of scale, design, and location. The Planning and Zoning Board recommended approval with a a vote of 6-0. Staff recommends approval.

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

Vice Mayor Frankel made a motion to approve Ordinance No. 22-18 on First Reading. It was seconded by Commissioner Bathurst. A roll call vote was taken and all were in favor. The motion carried 4-0.
approved

9.C. [18-643](#)

ORDINANCE NO. 24-18: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING CHAPTER 2, "ADMINISTRATIVE PROVISIONS", ARTICLE 2.1, "DEVELOPMENT MANAGEMENT SERVICES GROUP," SECTION 2.1.2, "ADMINISTRATIVE ORGANIZATION AND RESPONSIBILITIES," BY ADDING APPROVAL OF ZONING CERTIFICATE OF USE AND OCCUPANCY AS A RESPONSIBILITY OF THE PLANNING AND ZONING DIRECTOR; AMENDING ARTICLE 2.4, "GENERAL PROCEDURES", SECTION 2.4.4, GENERAL PROCEDURES PERTAINING TO APPROVAL OF LAND USE AND DEVELOPMENT APPLICATIONS", BY AMENDING SUBSECTION (E), "EXPIRATION OF APPROVALS", TO PROVIDE AN EXPIRATION DATE FOR A ZONING CERTIFICATE OF USE AND OCCUPANCY; AMENDING SECTION 2.4.5, "PROCEDURES FOR OBTAINING DEVELOPMENT APPROVALS", BY AMENDING SUBSECTION (F), "SITE AND DEVELOPMENT AND MASTER DEVELOPMENT PLANS (MDP)," TO DEFINE AND CLARIFY THE APPROVAL PROCESS FOR A CLASS V SITE PLAN AND MASTER SITE DEVELOPMENT PLAN; AMENDING SUBSECTION (G), MODIFICATIONS TO SITE AND DEVELOPMENT PLANS," TO FURTHER CLARIFY SITE AND MASTER DEVELOPMENT PLANS, AND ADD A PROCESS FOR ZONING CERTIFICATE OF USE AND OCCUPANCY; AMENDING APPENDIX A, "DEFINITIONS," BY ADDING "ZONING CERTIFICATE OF USE AND OCCUPANCY," PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

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

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Ordinance 24-18 Zoning Certificate of Use and Occupancy](#)
[Planning and Zoning Board Memo 091518](#)
[Zoning Certificate of Use and Occupancy Application \(Draft\)](#)

The City Attorney read the title of Ordinance No. 24-18 into the record.

Tim Stillings, Development Services Director, gave a brief explanation of the zoning certification of use and occupancy. Mr. Stillings stated this will

help to save time and money for everyone involved; the fee for the current site plan process for a Class III Site Plan Modification is \$1,500 and staff will propose \$50 or \$150 fee which will come back as a resolution on second reading for the City Commission to adopt. The Planning and Zoning Board recommended approval with a vote of 6-0. Mr. Stillings stated staff recommends approval of Ordinance No. 24-18 to amend the LDRs to provide a new process for Zoning Certificate of Use and Occupancy and noted that staff would like to add language to the ordinance that the fees for that certificate shall be set by resolution of the City Commission.

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

Deputy Vice Mayor Johnson commended Mr. Stillings for this improvement and stated this is a positive move in the right direction.

Commissioner Bathurst made a motion to approve Ordinance No. 24-18 on First Reading. It was seconded by Deputy Vice Mayor Johnson. A roll call vote was taken and all were in favor. The motion carried 4-0.

approved

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

10.A. City Manager

10.A.1. [18-739](#) Projects Update/Hurricane Michael Recovery

Sponsors: City Manager Department

The City Manager gave a brief update to the City Commission regarding projects and provided information regarding the City's contribution to Panhandle Recovery efforts due to Hurricane Michael.

Deputy Vice Mayor Johnson expressed concern over the stormwater canal. The City Manager commented about the City's Stormwater Assessment Program and stated he intends to create a stormwater management and maintenance plan that attacks all the stormwater, basins, pipes, and all the canals. He stated this may involve increasing the current fee to accomplish that.

10.B. City Attorney

The City Attorney updated the City Commission regarding the Bert J. Harris claim and stated the City Commission received an email from Mr. Eubanks today regarding denial of the settlement. The City

Attorney stated Mr. Himmelrich is requesting reconsideration. If the City Commission wishes to reconsider, it would have to be heard at the November 20, 2018 meeting. For the record, the City Attorney stated the Plaintiff approached the City of Delray Beach with an offer of settlement. The City Attorney stated he believes the City has a solid defense to their claims and staff would like to move forward to expedite getting the motion to dismiss scheduled for a hearing.

10.C. City Commission

Mayor Petrolia announced that Delray Reads will begin tomorrow morning.

Secondly, Mayor Petrolia discussed her concerns with the City Attorney's actions that have taken place since he has been in office.

A brief discussion by the City Commission ensued.

Mayor Petrolia requested that an item be placed on the City Commission Workshop Meeting of November 13, 2018 to determine how to proceed forward with the process to recommend the termination of the current City Attorney and look for the return of a full-time City Attorney.

Mayor Petrolia passed the gavel and made a motion to approve to terminate the agreement for legal services with City Attorney R. Max Lohman immediately. The motion was seconded by Deputy Vice Mayor Johnson for discussion.

City Attorney R. Max Lohman gave a few brief comments and submitted his Letter of Resignation effective immediately.

There was no vote or action taken on the motion because it was overturned by the term of events (i.e. Mr. Lohman's resignation).

It was the consensus of the City Commission to appoint an Interim City Attorney in-house and look for the return of a full-time City Attorney.

There being no further business to discuss, Mayor Petrolia adjourned the meeting at 8:22 p.m.