

October 2011

After a month's absence, we return. Did you miss us? Did I hear a "no"?

## Budget

One of the core responsibilities of our City Commission is to set and approve a city budget.

The City Manager presents a budget and it is up to the commission to approve, add, delete, amend etc.

Hopefully, the spending plan is aligned with the commission's goals and objectives. Hopefully, the commission has clear goals and objectives.

In addition to the City Manager, the city employs a variety of department heads and assistant department heads including a Finance Director to help oversee the city's spending and budgets. In other words, there is a building full of trained administrators whose primary job is to deploy public dollars wisely in pursuit of community goals and objectives.

A few years back, the city commission appointed a Financial Review Board to provide another set of eyes to help guide spending decisions and improve operations and efficiencies.

In addition, the commission approved the hiring—two years ago or so-- of a consulting group to delve into how the city runs. Their findings—if any—were not widely publicized.

All in all, it seems like there is a lot of help around to make sure the city is stretching every dollar. And yet...

The Commission is reportedly considering a \$30,000 contract to bring in yet another consultant to help them with fiscal issues.

According to the Sun-Sentinel...

*"Several years of declining revenues has prompted Delray Beach officials to look at ways of delivering many city services for less as the city struggles with a potential \$3.1 million deficit for 2011-2012.*

*The city is considering a \$30,000 contract with consultants from the Center for Priority Budgeting, which will deliver in October a ranked list of services and programs that city officials can use as a blueprint for future budgeting.*

*"It's not a method for cutting and slashing programs," said Finance Director David Boyd. "Basically the program helps a city allocate its resources according to the goals set by the governing board."*

Which begs a couple of questions...

1. Why do we have to spend more money to learn how to save money?
2. Why can't our public administrators and elected officials—who are charged with this task—do it without hiring outside consultants?
3. What happened to the Financial Review Board?

Our conversations over the years with members of the Financial Review Board reveal a few troubling characteristics; first some members feel that the city doesn't listen to their recommendations (senior tennis anyone?); second the board does not seem to enjoy the engagement of elected officials and third their mandate when originally chartered was to stay away from personnel considerations even though that's roughly 70 cents of every dollar spent in the city.

Regardless, of where you stand on city spending, it does seem reasonable to believe that we have enough expertise on staff or in a voluntary capacity to provide adequate guidance on the city's finances without having to spend on yet another consultant.

What do you think? Email us at [admin@fod.org](mailto:admin@fod.org) and share your thoughts.

### **Message from Involved Resident**

For several years Ken MacNamee, a retired CPA living in Delray, has devoted a great many hours to helping the City increase revenue from existing contracts. For the last couple of years he worked very hard to examine the City's billing with Waste Management, its largest single contract. Despite lukewarm cooperation from the City, MacNamee discovered that during a 4 year period Waste Management overbilled the City by \$287,000 plus another \$70,000 that could not be collected because of statute of limitations. He believes the City should have collected even more, but City staff with the agreement of the Commission closed down further investigation.

Now MacNamee is examining Delray's agreement with the City of Gulfstream to provide fire and rescue services. He has found that once again Delray is owed more money than it has been receiving. Moreover, with a new contract in the works it is crucial that the new contract reflect the additional monies due. And once again, MacNamee is getting lukewarm support from City staff. Despite the headwinds he has faced, he continues to fight to raise revenue for the City. As one Commissioner commented, "I didn't realize that Gulf Stream needed our financial support". Because of Mr. MacNamee's efforts the taxpayers of Delray have benefitted to the tune of several hundreds of thousands of dollars.

He has received no thanks, but has received large invoices from the City for copies of public documents that were needed to analyze the contracts. This raises the question: should City Hall be invoicing MacNamee for helping the City raise revenue?

We have asked Mr. MacNamee to give us an update on his current efforts:

### "Delray Beach City Manager's Ongoing Attempts to 'Short' Delray for the Benefit of Gulf Stream

For many years, Delray has provided Fire and Rescue service to Gulf Stream. When the Contract was up for renewal in 2009, Delray's City Manager (David Harden) initially recommended to the Commission "No Increase". Delray Firefighter Officials (namely, Lt. TabEEK) recommended a \$318K annual increase based on their 59-page analysis of the marketplace for the service. However, Mr. Harden convinced the Commission to accept his "cost based approach" and the Commission "settled" for only a \$126K annual increase. Over the ten-year life of the Contract with minimum 5% annual rate increases, Mr. Harden initially attempted to 'short' Delray--**\$1.6 million.**

Lt. TabEEK never received nor could I locate in Commission minutes an explanation why the Commission chose a "cost based" instead of a "market based" approach. By accepting Mr. Harden's recommendation and ignoring Lt. TabEEK's, the Commission left an additional \$2.3 million on the table!

In March 2011, Gulf Stream annexed 16 acres (102 dwelling units) from Unincorporated County on A1A, resulting in a 10-15% increase in the size of town. Again, Mr. Harden recommended "No Increase" to the existing Fire/Rescue Contract. Pressed by Commissioners Fetzer and Carney, 4 months later Delray agreed to a \$37,741 annual increase resulting from the annexation. Over the remaining 8 years of the Contract with the 5% annual rate increase, Mr. Harden attempted to 'short' Delray--**\$350K.**

(N.B.- the 16 annexed acres, for which Delray will charge \$37,741, were previously charged \$230,000 for Fire/Rescues service by Palm Beach County. Delray's millage rate is 7.79, which is 167% higher than Gulf Stream's 2.92. Fire/Rescue Service total cost uses less than 20% of Gulf Stream's property tax revenue but the Service consumes over 40% of Delray's property tax revenue. This statistical information seems to add a lot of credence to Lt. TabEEK's "market based" approach noted above!)

Mr. Harden also recommended that Delray wait until 10/01/11 to begin charging Gulf Stream for service to the newly annexed area even though Gulf Stream requested and Delray commenced Fire/Rescue service on 3/15/11-- 6 1/2 months earlier. With my prodding, Commissioner Carney got the start date corrected to 3/15/11. Here, Mr. Harden attempted to 'short' Delray--**\$20K.**

So, the Commission has thwarted Mr. Harden *on* three attempts to 'short' Delray **a total of-- \$1,970,000!**

There is one remaining material open item concerning Gulf Stream's annexation. There is a new 38-unit condo at 4001 N. Ocean where construction has begun. The Fire/Rescue Contract is defective in that it has no provision for adding revenue for new units. So, on 7/17 City Attorney Shutt emailed Mr. Harden asking to include for a "large development" in the Amendment to the Contract which Mr. Shutt was drafting. Mr. Harden emailed back on 7/25, "The large development in Gulf Stream is only 6 units....I think in the overall picture it is insignificant."!

Now Delray also performs the construction approval and permitting services for Gulf Stream so it is intimately familiar with 4001 N.Ocean. In fact, Mr. Harden touted in a 5/30 email that Delray would receive "over \$300K in permit fees on the new building" so he obviously he had to know it was far more than 6 units! In fact, it is 38 units *38 additional units is a 37% increase to the annexed area. Rather than "insignificant", it seems very significant to me.*

According to Mayor McDuffie, this "6 vs. 38" gaffe was cleared up in early August. But, for some inexplicable reason, in the City's latest Amendment emailed to me on 9/22/11, there is no provision for Delray to be compensated when 4001 N. Ocean is constructed. My estimate is that Delray will forego \$100K. Based on the Mayor's projections in his 8/24/11 email, it would be \$200K. So, Mr. Harden is for the 4th time attempting to 'short' Delray **an additional--\$100K-\$200K!**

Given what has transpired, is Delray's problem Mr. Harden or the Commission which tolerates his actions?"

Kenneth MacNamee  
Delray Beach

#### **The Great Concession Debate of 2011**

We live in a time of fiscal austerity (although as discussed above there is little attention given to raising revenue from existing contracts) This is a time when spending decisions should be considered carefully. While we do not advocate draconian cuts that would hamper Delray's future growth potential, we do think these times warrant careful consideration before spending increasingly scarce public monies.

In other words, to quote Thomas Friedman "we must cut where we must so we can invest where we must".

In this kind of environment, "nice to have" projects must give way to "need to have" projects. Exhibit A is a \$456,710 contract to build a two-story press box/concession stand/meeting room at Pompey Park.

Over the years, taxpayers have invested significant dollars at Pompey Park, one of the city's flagship facilities. From a pool and tennis courts to renovations at a main building, Pompey Park

has—deservedly-- received a decent share of the Parks budget. The park is heavily used especially when compared to other city parks.

But one can reasonably question whether now is the time to spend nearly half a million dollars on a press box/concession stand.

Why not build a nice, but more modest facility? Why construct a two-story building which requires an elevator? And why is a meeting space necessary when Pompey Park already has ample meeting space?

Has there been any analysis on the need for such space, or is this a pet project?

Regardless, the issue has been before the City Commission three times.

During its first airing, the commission was told that the city could not afford the larger scope of the project. It was suggested that the project be phased in over time.

In typical fashion, the project was referred to the CRA, which turned it down because CRA commissioners felt the project did not have an economic development component and really didn't serve children.

When it came back to the commission in September, there was a 2-2 vote on whether to move forward—meaning no action was taken.

When it came back a third time, commissioners referred it back to the CRA even though that board turned it down. Commissioner Angie Gray, who has pushed the project, suggested that the CRA might use unused funds to help pay for the project.

But CRA Director Diane Colonna said that the CRA's reluctance to fund wasn't "an issue of available dollars" but rather that her board felt the project wasn't consistent with the CRA's mission of economic development.

Nevertheless, City Manager David Harden countered that the city would "reframe" the request and try to address the CRA's concerns.

The alternatives here are obvious—if the commission would show some leadership.

The project is simply beyond the city's means at this time. Which means you can either turn it down or scale it back to what you can afford.

Regardless, continuing to go back to the CRA or failing to prioritize spending is not a good move. The CRA should stand firm. Pompey Park deserves our support and has gotten it, but there is no compelling need to spend nearly \$500,000 on press box/concession stand at this time.

### **Mixing it up downtown**

Last month we reported on the robust debate-taking place over the retail/restaurant mix downtown.

On one side of the ledger are those who are "free market" downtowners who contend that the market should best determine rents and use of property.

On the other side are those who worry about too much of a good thing—and fear that parts of the downtown may become more "food court" than healthy mix.

The Downtown Master Plan, adopted a decade ago, calls for a mix of retail, office, housing, art galleries and restaurants contending that the best way to sustain a healthy downtown is to mix it up.

Well...commissioners voted to make it harder for restaurants to open in Cluster 4, which spans from Swinton Avenue to NE/SE 5<sup>th</sup> Avenue by doubling the amount of parking restaurants need from six spots per 1,000 square feet to 12 spots per 1,000 square feet of space.

Planning Director Paul Dorling said the 12 per 1,000 requirements is in line with what the Urban Land Institute and other planning groups recommend (ranging from 13-14 per 1,000). In reality, planning staff notes, when you consider the sidewalk café space and employee parking needs, restaurants do not provide the amount of parking they really need.

Should be interesting to see the fall-out. Hopefully, this move will strengthen and encourage retail.

The city's decision does not prohibit conversion of retail space to restaurant in the target area, but it does make it somewhat less attractive.

Commissioner Adam Frankel, while agreeing with the goal of retaining retail, felt the new ordinance would have a negative impact on new restaurants.

"Passing this ordinance is going to cause vacancies on Atlantic Avenue...major vacancies," says Frankel.

Commissioner Gray believes the ordinance will encourage more restaurants on West Atlantic Avenue and Pineapple Grove. She expressed concern as to why more incentives are not in place. As a commissioner she has the ability to present her ideas for incentives, but to date she has been quiet on the matter.

Commissioners Carney and Alperin supported the change. Mayor McDuffie did not favor the change and said he wanted to see retail incentives. As mayor, he can certainly suggest some ideas or instruct staff to design them. The Mayor noted that it was "incumbent" on the commission to make the downtown even better. He is right. But he has also been largely absent from the debate—until now. We look forward to hearing his specific proposals for incentives. The debate over the mix was probably the healthiest this commission has ever had. With a range of opinions expressed and drum roll please...a 3-2 vote. But the proof is in the leadership—will they step up and bring ideas for retail incentives to the public square, or at the very least direct staff to do so?

Stay tuned.

### **Speaking of incentives...**

Many, many months ago then economic development director Francisco Perez and CRA Commissioner Peter Arts approached the commission with some ideas to juice the local economy.

Perez and Arts suggested that the city commission adopt incentives that the CRA put in place in their district. The incentives targeted jobs and class A office space development.

To date, the new Hyatt Hotel being built in Pineapple Grove and a new downtown law firm have applied for incentives from the CRA. The Hyatt was approved and the downtown law firm's application is forthcoming.

The goal was to expand incentives to all parts of the city by adopting the CRA template.

But to date, the Commission has yet to decide on whether to expand the incentives. Why no decision?

Is it a bad idea? If so, why?

If not, why no action?

When we talk in the Intelligence Report about leadership and engagement we cite examples. The Commission needs to lead on these issues.

### **Apathy**

All across the land, taxpayers are angry and demanding change.

We see the manifestation of this anger in groups like the Tea Party or labor unions who fight back in places like Wisconsin and Ohio.

But Delray's political and civic scene remains placid—some would say apathetic.

Take for instance a recent city commission meeting in which the budget, tax rate, capital improvement program, DDA millage rate and the parking changes affecting restaurants were on the agenda.

All were subject to public hearings. So how many of Delray's 60,000 plus citizens showed up to weigh in? Another drum roll please...zero!

The Commission adopted a millage rate of \$7.19 per \$1,000 of assessed property value, the same rate as last year.

The only commentary at the meeting came from Commissioner Frankel who asked the manager why the rate didn't drop to \$7.15, especially in light of a new fire service tax that is supposed to raise \$3.1 million to \$3.2 million.

After explaining that it was too late to lower the rate at the meeting, the City Manager said the lower millage wasn't possible considering the recent settlement with the police labor union and some other factors. The questioning stopped there.

And so it goes...

Odds and ends...

- The city's centennial got off to a slow start...but a citizens group is doing its best to mark the auspicious occasion. Check out [www.delray100.com](http://www.delray100.com) for info.
- Meanwhile the City sent out an invitation to all former elected officials that began "On October 9, 2011 the qualified voters of the Town of Linton voted to incorporate as the Town of Delray" Wonder if anyone noticed...
- Don't miss the Mingle with the Mayors event Oct. 27 from 6 -8:30 p.m. at the Delray Beach Public Library, 100 W. Atlantic Ave. Proceeds benefit the library and tickets are \$50 and include drinks and hors oeuvres. Participants include Doak Campbell, Tom Lynch, David Schmidt, Jeff Perlman, Rita Ellis and Woodie McDuffie. The emcee is former Chamber Prez Bill Wood. The event features anecdotes and storytelling from mayors past and present. For info call 266-0775.

- We are feeling badly for TD Bank. Shortly after they opened their attractive new office on South Federal they were robbed. They are a valued addition to our town. Stop by and give them some support.
- Rumors are swirling around town that an LA Fitness is scoping out the city. Stay tuned.
- Delray commissioners have agreed to spend a few bucks to produce a TV segment hosted by Terry Bradshaw to run on cable TV in various markets. More information to come.

### **A Great Trip**

Your Editor is back from a leisurely trip to Europe's watering holes (the reason for no September Intelligence Report). Among the stops he made was several days in Florence to attend the wedding of Jodi Levinson, daughter of former Commissioner Jon Levinson and wife Lori. And what an affair. The wedding was held in a beautiful villa on the hill overlooking Florence. The bride's two sisters, Jamie and Loren, served as bridesmaids. As the sun set it reflected on the Duomo in town while guests in formal attire sipped champagne on the lawn. A number of Delray "swells" were there. Diane Colona was celebrating her Italian heritage, while Mayor Perlman pressed the flesh with the locals. (You can take the politician out of Delray) Jim and Arlene Sclafani were seated on white "poofs" on the lawn looking elegant. Waiting for a second glass of champagne (or was it a third?) we ran into Sonia Costin with former Commissioner Bob Costin. She had just arrived after a few days in Amsterdam. When walking across a bridge in Amsterdam she lost her balance and fell over a railing into a canal. Clutching her travel bag with money and passports, she swam to the edge of the canal and was fished out by several locals. Bob was unaware of the drama, and missed the action. Sonia was badly bruised on her face, arm and leg, but her sense of humor was intact when we saw her. A couple of glasses of Chianti seemed to help.

The next day the bride's grandfather, Bob Levinson, now living at Harbor's Edge in Delray, hosted a lively brunch for 70 people at the Savoy Hotel. The mimosas flowed.

And speaking of the Levinson girls.... This will be the first winter in memory when all three girls will be away from Delray. Look for Atlantic Avenue to be tamer.