



**City of West Palm Beach  
City Commission**

**PASS/FAIL AGENDA**

**November 19, 2007  
3:00 P.M.**

**IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY CLERK'S OFFICE, 200 SECOND STREET, WEST PALM BEACH, FLORIDA 33401, {(561) 822-1210}**

**MAYOR**

LOIS J. FRANKEL

**CITY COMMISSION**

PRESIDENT WILLIAM MOSS  
 COMMISSIONER KIMBERLY MITCHELL                       COMMISSIONER ISAAC ROBINSON, JR.  
 COMMISSIONER GERALDINE MUOIO                       COMMISSIONER MOLLY DOUGLAS

**ADMINISTRATION**

CITY ADMINISTRATOR EDWARD MITCHELL  
 CITY ATTORNEY CLAUDIA M. MC KENNA  
 CITY CLERK BLANE KAUTHEN

**CALL TO ORDER:**

**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:**

**RECEIVED / FILED:**

**CONSENT CALENDAR (1 – 19): ALL CONSENT CALENDAR ITEMS PASSED.**

1. **Minutes of the Regular City Commission Meeting held October 9, 2007.**  
**Agenda Cover Memorandum No.: 16515**

**Staff Recommended Motion:**

To approve the Minutes of the Regular City Commission Meeting held October 9, 2007.

2. **Minutes of the Regular City Commission Meeting held October 22, 2007.**  
**Agenda Cover Memorandum No.: 16513**

**Staff Recommended Motion:**

To approve the Minutes of the Regular City Commission Meeting held October 22, 2007.

3. **Minutes of the Special City Commission Meeting held on October 30, 2007.**  
**Agenda Cover Memorandum No.: 16514**

**Staff Recommended Motion:**

To approve the Minutes of the Special City Commission Meeting held on October 30, 2007.

4. **Cancellation of the Regular City Commission Meeting of December 31, 2007.**  
**Agenda Cover Memorandum No.: 16516**

**Staff Recommended Motion:**

Approve the Cancellation of the Regular City Commission Meeting of December 31, 2007.

**Background:**

Past practice has been for the City Commission to cancel its' meeting when it falls on or near the New Year's Holiday in order to permit elected officials, City staff and residents an opportunity to enjoy the holiday. Cancellation of a City Commission meeting is authorized pursuant to Chapter 2, Article II, Section 2.31(1) of the City Code, as follows: "By majority vote of a quorum of the City Commission taken at a regular meeting, a subsequent regular meeting may be cancelled or the date or time thereof changed."

5. **Resolution No. 429-07 authorizing a Special Event License Agreement between the City of West Palm Beach and the Chamber of Commerce of the Palm Beaches to produce the "5K Run" on December 1, 2007 from 8:00 a.m. to 12:00 p.m. and the "Marathon of the Palm Beaches" on December 2, 2007 from 6:00 a.m. to 12:30 p.m.; and Resolution No. 441-07 authorizing a sponsorship agreement between the City of West Palm Beach and the Chamber of Commerce of the Palm Beaches.**

**RESOLUTION NO. 429-07: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE CHAMBER OF COMMERCE OF THE PALM BEACHES, INC. TO CONDUCT "5K RUN" ON SATURDAY, DECEMBER 1, 2007 ON FLAGLER DRIVE BETWEEN LAKEVIEW AVENUE AND 23RD STREET AND THE "MARATHON OF THE PALM BEACHES" ON SUNDAY, DECEMBER 2, 2007 ON FLAGLER DRIVE AND OTHER CITY OF WEST PALM BEACH STREETS; AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO AUTHORIZE AND APPLY FOR STATE PERMITS FOR TEMPORARY CLOSING OF STATE ROADS FOR THE SPECIAL EVENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 441-07: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SPONSORSHIP AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE CHAMBER OF COMMERCE OF THE PALM BEACHES, INC.; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16518**

**Staff Recommended Motion:**

Approve Resolution No. 429-07 and Resolution No. 441-07.

**Background:**

The Chamber of Commerce will host the 2007 "Marathon of the Palm Beaches" over the three-day weekend from Friday, November 30, 2007 through December 2, 2007. The focal points of the weekend are a 5k run on Saturday, December 1, 2007 from 8:00 a.m. to 12:00 p.m. on Flagler Drive and a 13.1 mile half-marathon and a 26.2 mile full marathon on Sunday, December 2, 2007 from 6:00 a.m. to 12:30 p.m. on Flagler Drive and other West Palm Beach streets (see attached diagram for course route). The Marathon of the Palm Beaches is expected attract more than 7,000 participants in the 3rd year of the event.

Resolution No. 441-07 authorizes execution of a Sponsorship Agreement between the City and the Chamber of Commerce of the Palm Beaches. The City will be named a Sponsor of the Marathon of the Palm Beaches and receive certain sponsorship benefits in exchange for waiving fees and providing the services detailed in the Agreement.

**Fiscal Note:**

Approximately \$23,010 worth of in-kind City services will be provided per the attached Marathon 2007 Sponsorship Agreement.

6. **Resolution No. 449-07(F) authorizing the transfer of \$5,000 of General Fund Contingency funds to be donated to the PBC Sheriff Foundation for the Vickers House Homeward Bound Fund.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2007/2008 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND BUDGET TO PROVIDE APPROPRIATIONS FROM CONTINGENCY FOR A DONATION TO THE PALM BEACH COUNTY SHERIFF FOUNDATION FOR THE VICKERS HOUSE HOMEWARD BOUND FUND; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16519**

**Staff Recommended Motion:**

Approve Resolution No. 449-07(F).

**Background:**

The Vickers House created the Homeward Bound Program in 2002. Since this program began 469 people have been sent home to family (65 have been children), at an average Bus Ticket Cost of \$115.63 a ticket. This program operates strictly on donations from the community and the entire donation goes to the purchase of a non-refundable/non-transferable bus ticket home

The Vickers House is requesting a donation of \$5,000 to help this program continue to operate. Vickers House requests that the \$5,000 check be made payable to our Fiscal Agent the "Palm Beach County Sheriff Foundation Inc" which is also a non-profit 501c3. They have been the fiscal agent since inception of the program and they pay the greyhound account as the bills for bus tickets are received. All bills and accounts are reconciled by Vickers House Staff against the records of the people sent home and documentation and reports to support all bus tickets purchased are retained.

**Fiscal Note:**

Resolution No. 449-07(F) transfers \$5,000 from General Fund Contingency to continue the program to reunite Homeless individuals with family members across the country. Upon approval of this item, the balance in contingency will be \$1,989,500.

7. **Resolution No. 458-07 authorizing settlement agreement reached in the workers compensation claims of Larry Phillips.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SETTLEMENT AGREEMENT REACHED IN THE WORKERS' COMPENSATION CLAIMS OF LARRY PHILLIPS.**

**Agenda Cover Memorandum No.: 16520**

**Staff Recommended Motion:**

Approve Resolution No. 458-07.

**Background:**

Mr. Larry Phillips an equipment maintenance worker who worked for the City of West Palm

Beach, first reported a claim on 03/10/93 when he was opening a garage door when he injured his left shoulder. On 4/08/98 he went to sit on a bench at Wayne Akers Ford when the bench collapsed and broke suffering injuries to his back, left knee and left elbow. On 05/18/01 he was pulling himself up onto a truck and felt pain in his right shoulder. On 08/11/03 he reported a claim for numbness in both hand due to continuous computer usage. The case was mediated on 10/22/07 and an agreement was reached with Mr. Phillips and his attorney to resolve all workers compensation cases for \$91,425.22, inclusive of attorneys fees and costs.

**Fiscal Note:**

This is fully budgeted from the risk fund.

8. **Resolution No. 435-07 authorizing the approval of a grant agreement with the Florida Department of Environmental Protection (FDEP) providing \$1,000,000 in funding for the Imagining Howard Park/Stub Canal Stormwater Improvement Project and Resolution No. 454-07(F) recognizing the grant and appropriating funds for the project.**

**RESOLUTION NO. 435-07: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A PROJECT AGREEMENT BETWEEN FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) AND THE CITY OF WEST PALM BEACH PROVIDING \$1,000,000 IN FUNDING FOR THE IMAGINING HOWARD PARK/STUB CANAL STORMWATER IMPROVEMENT PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 454-07(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2007/2008 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE STORM WATER CAPITAL FUND AND THE STORM WATER SERIES 2004 REVENUE BOND FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR RECEIPT OF A FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION GRANT FOR THE STUB CANAL STORM WATER IMPROVEMENTS PROJECT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16521**

**Staff Recommended Motion:**

Approve Resolution No. 435-07 and Resolution No. 454-07(F).

**Background:**

In 2000, the City completed a Stormwater Master Plan to address the improvement of its stormwater discharges and replacement of its aging stormwater infrastructure system. The Stub Canal Stormwater Improvement Project for Pineapple Park Neighborhood will provide for an increase in the level of flood protection for the Pineapple Park neighborhood and an improvement in the water quality of stormwater in the Lake Worth Lagoon. The Pineapple Park residential area is within the stormwater drainage area that also includes Howard Park and the Stub Canal. The

Pineapple Park area is situated on low ground; with correspondingly low finished floor elevations for the homes and buildings located there. Historically, the area has experienced frequent roadway flooding and occasionally severe home flooding. In order to improve the level of stormwater protection to Pineapple Park, additional storage for rainfall run-off is proposed within the drainage area, specifically within Howard Park.

On August 13, 2007, the City entered into a Reimbursement Agreement with Palm Beach County for the Imagining Howard Park/Stub Canal Improvement Project in the amount of \$500,000. This contribution and appropriation was done by Resolution No. 331-07(F) on August 13, 2007.

The FDEP is interested in providing additional funding for the Imagining Howard Park/Stub Canal Stormwater Improvement Project for Pineapple Park Neighborhood in the amount of \$1,000,000. The purpose of Resolution No. 435-07 is to gain approval from the City Commission to accept the \$1,000,000 in funding for the construction of the Imagining Howard Park/Stub Canal Stormwater Improvement Project. The grant requires a 50/50 match, of which the City can use the \$500,000 appropriated by Resolution No. 331-07(F). The additional \$500,000 in required matching funds will come from the Series 2004 Stormwater Revenue Bond Fund.

**Fiscal Note:**

Resolution No. 454-07(F) recognizes the grant funds of \$1,000,000 and provides for the appropriation of the required matching funds of \$500,000. The matching funds are available within reserves of the Storm Water Series 2004 Bond Fund. Upon approval of this item, the balance in reserves will be \$1,300,000.

9. **Resolution No. 456-07, approving and authorizing a \$50,000 grant, and execution of a grant agreement, to the Urban League of Palm Beach County, Inc. from Community Development Block Grant program income, for Housing Counseling services and Resolution No. 465-07(F) appropriating the funds.**

**RESOLUTION NO. 456-07: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM INCOME GRANT AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT WITH THE URBAN LEAGUE OF PALM BEACH COUNTY, INC., TO RECEIVE THE FUNDS FROM PROGRAM INCOME FOR FY 2006-2007; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 465-07(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2007/2008 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUND BUDGET TO PROVIDE APPROPRIATIONS FOR A GRANT TO THE URBAN LEAGUE OF PALM BEACH COUNTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16522**

**Staff Recommended Motion:**

Approve Resolution No. 456-07 and Resolution No. 465-07(F).

**Background:**

At its meeting on July 16, 2007, the Commission approved the One Year Action Plan for 2007-2008 and agreed to allocate a total of \$156,596 to three public service agencies, which submitted a proposal in response to the City's Request for Proposals. The Urban League of Palm Beach County, Inc. submitted a proposal but was not awarded funds. The Housing and Community Development Department (HCD) has identified \$50,000 in FY 2007-2007 CDBG program income that can be allocated to a public service agency, as permitted under the 15% cap allowed by HUD. Therefore, HCD desires to award \$50,000 in CDBG program income funds to the Urban League of Palm Beach County to be used to provide much needed Housing Counseling services in conjunction with HCD's First Time Home Buyer Program. These counseling services will assist individuals and families to understand the process of purchasing a home, the type of mortgage to obtain, how to maintain the home after purchase and how to avoid a mortgage default.

**Fiscal Note:**

Resolution No. 465-07(F) provides appropriations of \$50,000 from the carryforward of prior year's program income for the Urban League of the Palm Beaches.

10. **Resolution No. 424-07(F) amending the Water and Sewer Operating Fund and the Water and Sewer Renewal and Replacement Fund budgets for FY 2007/2008 to provide additional appropriations for various operating expenditures.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2007/2008 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE WATER & SEWER OPERATING FUND AND THE WATER & SEWER RENEWAL & REPLACEMENT FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR VARIOUS OPERATING AND CAPITAL EXPENDITURES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16523**

**Staff Recommended Motion:**

Approve Resolution No. 424-07(F).

**Background:**

During the recent water system distribution problem, it became necessary to use the City's reverse 911 (Code Red) telephone notification system on several occasions. Since the Public Utilities Department only budgeted \$20,000 for the use of this system for normal boiled water notices, it is now necessary to appropriate an additional \$50,000 for the use of this system during the recent event. Additionally, since the original budget for the Water Treatment Plant was prepared, staff has determined that an additional \$100,000 may be needed for lime sludge handling and hauling.

As a result of the recent severe drought conditions, the Public Utilities staff has been trying to maximize the water production of the Advanced Wastewater Treatment (AWT) facility. With this maximization effort, staff has revisited the original estimates for electrical usage and maintenance at the AWT facility and concluded that an additional \$50,000 will be required during FY 2007/2008.

In the original water and sewer operating budget for FY 2007/2008, the required repayment of the FCT Land Grant of \$146,000 was budgeted in the 450 Water and Sewer Operating Fund. This repayment is required by the FCT due to the transfer of the land to Palm Beach County for the possible construction of Jog and Roebuck Road. This appropriation properly belongs in the Water and Sewer Renewal and Replacement Fund.

**Fiscal Note:**

Resolution No. 424-07(F) will transfer the \$146,000 in FCT Land Grant repayment and related revenue from Palm Beach County to the Water & Sewer Renewal & Replacement Fund from the operating fund. Also, the \$200,000 needed in operating expenses as described above will be appropriated from contingency within the Water & Sewer Operating Fund. Upon approval of this item, the balance in Contingency will be \$400,000.

11. **Resolution No. 462-07 authorizing the assessment of City liens in the total amount of \$27,251.63 for unpaid water, sewer and stormwater service for the month of August 2007.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING AN ASSESSMENT OF CITY LIENS FOR UNPAID WATER SERVICE, SEWER SERVICE, AND STORMWATER SERVICE; PROVIDING THAT SAID LIENS SHALL BE PRIOR IN DIGNITY TO ALL OTHER LIENS AGAINST THE ASSESSED PROPERTIES, SAVE AND EXCEPT A LIEN FOR TAXES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16524**

**Staff Recommended Motion:**

Approve Resolution No. 462-07.

**Background:**

In accordance with of the Code of Ordinances of the City of West Palm Beach, Florida, 2003, Sections 90-4 and 90-5, the City imposes liens on private real property for delinquent payments due for utility services. The liens to be assessed by Resolution No. 462-07 are for unpaid water, sewer and stormwater service charges for the month of August 2007. The list of properties to be assessed and the associated charges totaling \$27,251.63 are attached to Resolution No. 462-07 as Exhibit A - Utility Liens August 2007.

If not paid, these liens may be foreclosed by the City.

**Fiscal Note:**

No fiscal impact.

12. **Resolution No. 444-07 authorizing the assessment of City liens in the total amount of \$5,666.56 for unpaid board and secure charges.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ASSESSING THE COSTS INCURRED BY THE CITY PURSUANT TO SECTION 18-210 OF THE CITY CODE OF ORDINANCES FOR BOARDING AND SECURING DANGEROUS OR DECAYED BUILDINGS OR STRUCTURES WITHIN THE CITY; LEVYING LIENS ON SAID PROPERTIES; PROVIDING FOR THE RECORDING OF THIS RESOLUTION IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16525**

**Staff Recommended Motion:**

Approve Resolution No. 444-07.

**Background:**

In accordance with Sections 18-207, 18-209, and 18-210 of the Code of Ordinance of the City of West Palm Beach, Florida, the City imposes liens on private real property for unpaid charges associated with the boarding and securing of vacant or unsafe structures determined to constitute a public nuisance, upon the failure of the property owner to cure the nuisance violation.

The list of properties to be assessed and the associated charges totaling \$5,666.56, are attached to Resolution No. 444-07 as Exhibit A - Board & Secure Lien 2007- E.

These liens are equal in dignity to that of taxes and if not paid, may be foreclosed.

**Fiscal Note:**

No fiscal impact.

13. **Resolution No. 445-07 authorizing the assessment of City liens in the total amount of \$39,686.76 for unpaid demolition charges.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ASSESSING THE COST INCURRED BY THE CITY IN THE DEMOLITION AND REMOVAL OF AN UNFIT OR UNSAFE DWELLING OR STRUCTURE WITHIN THE CITY; LEVYING A LIEN ON SAID PROPERTY; PROVIDING FOR THE RECORDING OF THIS RESOLUTION IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; PROVIDING A SEVERABILITY CLAUSE, AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16526**

**Staff Recommended Motion:**

Approve Resolution No. 445-07.

**Background:**

In accordance with the Standard Unsafe Building Abatement Code, as amended and adopted by the City, the City imposes liens on private real property for unpaid charges associated with the demolition and removal of unsafe or unfit buildings or structures from private property, upon the failure of the property owner to repair or demolish the structure.

In accordance with the Code, the cost incurred by the City to demolish an unsafe or unfit structure is assessed against the properties as a lien. The list of properties to be assessed, along with the associated charges totaling \$39,686.75, are attached to Resolution No. 445-07 as Exhibit A - Demolition Lien 2007-E.

These liens are equal in dignity to that of taxes and if not paid, may be foreclosed.

**Fiscal Note:**

No fiscal impact.

14. **Resolution No. 446-07 authorizing the assessment of City liens in the total amount of \$6,635.59 for unpaid lot clearing charges.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ASSESSING THE COST INCURRED BY THE CITY PURSUANT TO SECTION 18-210 OF THE CITY CODE OF ORDINANCES FOR THE ABATEMENT OF CERTAIN NUISANCES (LOT CLEARING) WITHIN THE CITY; LEVYING LIENS ON SAID PROPERTIES IDENTIFIED HEREIN; PROVIDING FOR THE RECORDING OF THIS RESOLUTION IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; PROVIDING A SEVERABILITY CLAUSE, AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16527**

**Staff Recommended Motion:**

Approve Resolution No. 446-07.

**Background:**

Pursuant to the provisions of Sections 18-207, 18-209, and 18-210 of the Code of Ordinances of the City of West Palm Beach, Florida, the owners of certain parcels of real property were notified of the existence of debris, vegetation, trees or other matters on such properties, which were determined to create hazards in violation of the City Code, and deemed to be public nuisances. Certain owners failed to abate such nuisances and in accordance with the procedures set forth in Section 18-210 of the Code, the City, or its contractors, have abated said nuisances by clearing the offending lots.

In accordance with Section 18-210 of the Code of Ordinances, the costs incurred by the City to abate said nuisances may be assessed against each property as a lien. The list of properties to be assessed for unpaid lot clearing charges, along with the associated charges totaling \$6,635.59, are attached to Resolution No. 446-07 as Exhibit A - Lot Clearing Lien 2007-E.

If not paid, these liens may be foreclosed by the City.

**Fiscal Note:**

No fiscal impact.

15. **Resolution No. 414-07 authorizing the Mayor to execute a Signal Easement from the City of West Palm Beach to Palm Beach County at Congress Avenue and Hank Aaron Drive.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SIGNAL EASEMENT TO PALM BEACH COUNTY FOR UPGRADES TO THE SIGNAL AT CONGRESS AVENUE AND HANK AARON DRIVE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16528**

**Staff Recommended Motion:**

Approve Resolution No. 414-07.

**Background:**

As part of the Cityside Townhomes project and the modifications to Congress Avenue, the signal at the intersection of Hank Aaron Drive needs to be upgraded by Palm Beach County. This requires additional cabinetry and poles to be installed on the Southeast corner where Fire Station No. 5 is located. The Fire Chief has no objection to the City granting a Signal easement for these improvements. Resolution No. 414-07 will allow the County to construct, operate and maintain the signalization.

**Fiscal Note:**

No fiscal impact

16. **Resolution No. 415-07 authorizing the Mayor to execute a Utility Easement from the City of West Palm Beach to Palm Beach County.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A UTILITY EASEMENT IN FAVOR OF PALM BEACH COUNTY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16535**

**Staff Recommended Motion:**

Approve Resolution No. 415-07.

**Background:**

On July 20, 2006, the Palm Beach County Water Utilities Department (PBCWUD) started construction of the Central Region Reclaimed Water Facility (CRRWF). CRRWF is designed for an average daily flow of 3.0-MGD with a peak design of 6.0 MGD.

On July 10, 2007, the P.B.C. Board of County Commissioners approved a Standard Development Agreement between Palm Beach County and the Cypress Lakes Master Homeowners Association, Inc., (R2007-1134) for the Cypress Lakes community located in suburban West Palm Beach. Cypress Lakes will purchase up to 700,000 gallons of reclaimed water per day to recharge private lakes utilized within Cypress Lakes for irrigation of 130 acres of common landscaped area.

The Palm Beach County Water Utilities Department is devoted to promoting economically and technically feasible technologies for water conservation. One component of this effort is landscape irrigation utilizing reclaimed water from the Department's water reclamation facilities. Reclaimed water systems offer significant advantages to consumers and to the environment by reducing the demand on potable water resources and facilities, and offering consumers an alternative to reducing irrigation frequency during time of drought.

The City of West Palm Beach and PBCWUD are working together to develop a wastewater reclamation and water recovery program as a means of conserving the resources of the surficial aquifer system. This project is particularly significant considering the current lack of reclaimed water service within the northern portion of the PBCWUD service area.

Resolution No. 415-07 will allow for a Utility Easement for Palm Beach County to operate and maintain their facilities associated with the project.

**Fiscal Note:**

No fiscal impact.

17. **Resolution No. 477-07(F), amending the Water and Sewer Renewal and Replacement Fund budget for FY 2007/2008 to provide funding for the Water Treatment Plant Improvement Project.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2007/2008 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE WATER & SEWER RENEWAL & REPLACEMENT FUND AND THE WATER & SEWER SERIES 2004 BOND FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR IMPROVEMENTS TO THE WATER TREATMENT PLANT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16538 REVISED**

**Staff Recommended Motion:**

Approve Resolution No. 477-07(F).

**Background:**

During the course of the recent events at the City's Water Treatment Plant (WTP), city staff and consultants have determined that several pumps, motors, valves and plant instrumentation needs to be replaced, repaired and/or upgraded. The estimated cost of these improvements is

approximately \$3,000,000. This F Resolution appropriates \$3,000,000 from the reserves in the Water & Sewer Renewal and Replacement Fund and the Water & Sewer Series 2004 Bond Fund for the purposes of making the required improvements.

**Fiscal Note:**

Resolution No. 477-07(F) transfers \$1,500,000 from the reserves within the Water & Sewer Renewal & Replacement Fund and \$1,500,000 from reserves within the Water & Sewer Series 2004 Bond Fund. Upon approval of this item, the balance in reserves will be approximately \$950,000 in the Water & Sewer Renewal & Replacement Fund and \$400,000 in the Water & Sewer Series 2004 Bond Fund.

18. **Resolution No. 434-07 authorizing the Mayor to execute a Special Event License Agreement between the City of West Palm Beach and Palm Beach County Motorcyclists Toys for Tots, Inc. for the purpose of conducting "Bill's Bikes Memorial Toys for Tots Toy Run" at Dreher Park (South) on Sunday, December 2, 2007 from 12:00 p.m. to 6:00 p.m.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY AND PALM BEACH COUNTY MOTORCYCLISTS TOYS FOR TOTS, INC., FOR THE PURPOSE OF CONDUCTING BILL'S BIKES MEMORIAL TOYS FOR TOTS TOY RUN AT DREHER PARK-SOUTH ON DECEMBER 2, 2007 FROM 12:00 P.M. TO 6:00 P.M.; AUTHORIZING THE ISSUANCE OF A PERMIT TO THE PALM BEACH COUNTY MOTORCYCLISTS TOYS FOR TOTS, INC., FOR THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES AT BILL'S BIKES MEMORIAL TOYS FOR TOTS TOY RUN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16540**

**Staff Recommended Motion:**

Approve Resolution No. 434-07.

**Background:**

Palm Beach County Motorcyclists Toys for Tots, Inc. will produce "Bill's Bikes Memorial Toys for Tots Toy Run" on Sunday, December 2, 2007 from 12:00 p.m. to 6:00 p.m. at Dreher Park (south). Palm Beach County Motorcyclists Toys for Tots, Inc. has held this event in West Palm Beach for 20 years. The purpose of this event is to collect toys for the children in our community that are less fortunate. During this community event they serve food and alcoholic/nonalcoholic beverages. Palm Beach County Motorcyclists Toys for Tots, Inc. will pay the City of West Palm Beach a \$550.00 Special Event permit fee and \$500.00 Special Event security deposit. The event producer will also provide the City of West Palm Beach with general liability insurance and liquor liability insurance both additionally insuring the City of West Palm Beach. In addition, the event producers have already made arrangements for police support for this event.

**Fiscal Note:**

No fiscal impact.

**19. Resolution No. 481-07 authorizing settlement of the attorney's fees claim in the matter of Pine and Cirola v. City of West Palm Beach, et al.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA AUTHORIZING SETTLEMENT OF THE ATTORNEY'S FEES CLAIM IN PINE AND CIROLA V. CITY OF WEST PALM BEACH, ET AL; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Staff Recommended Motion:**

Approve Resolution No. 481-07.

**Background:**

The federal court recently entered a judgment against the City for nominal damages in the amount of \$100 for the two plaintiffs in Pine and Cirola v. City of West Palm Beach, et al. The court reserved jurisdiction to award attorneys' fees to the plaintiffs as prevailing parties. The plaintiffs are seeking attorneys' fees and expenses in the approximate amount of \$182,000. The amount sought includes fees and expenses of approximately \$114,000, fees and expenses to bring the fee application estimated at \$15,000 and a 50% multiplier (a discretionary increase in fees based on difficulty and uniqueness of legal issues). The plaintiffs are willing to settle their claim for \$99,800. Resolution No. 481-07 authorizes the settlement and execution of all documents needed to finalize the settlement.

**Fiscal Note:**

Funds are fully budgeted from current year Risk Fund.

**RESOLUTIONS:**

**20. Resolution No. 419-07 **ADOPTED** amending the Planning and Zoning Department's Fee Schedule.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE PLANNING AND ZONING DEPARTMENT FEE SCHEDULE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16534**

**Staff Recommended Motion:**

Approve Resolution No. 419-07.

**Background:**

The Planning and Zoning Department periodically reviews the fees it charges for services. Based on this review, the Planning and Zoning Department revised the costs charged for some applications, as well as added new fees for services that are currently provided at no cost.

The new fees that were added include: a hearing postponement request by an applicant; Certificate of Use sign-off; records retention retrieval fees; a charge for variances and waivers in excess of one for a subject site; a charge for resubmittal of plans, after the initial resubmittal, that do not address comments; liquor license sign-offs; and group home sign-offs. The costs of variances,

both before the Zoning Board of Appeals and the Downtown Action Committee, and the Historic Preservation Division Fees have been increased to recover the staff time costs expended to review the cases and prepare the required reports.

The proposed fee schedule was sent to the Chamber of Commerce, builders associations and local planning firms for input. The responses were positive or additional information was requested. Staff received no negative responses as of the writing of the ACM.

The fees will apply to all applications City-wide and are expected to recover \$66,040 of Planning and Zoning Department staff review costs.

**Fiscal Note:**

The revised Planning and Zoning Department fees are expected to generate \$66,040.

21. **Resolution No. 470-07 ADOPTED establishing the fee requirements for the bonds or deposits required by Ordinance No. 4060-07 for land disturbing construction or land development activities.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING THE FEE REQUIREMENTS FOR THE BONDS OR DEPOSITS REQUIRED BY ORDINANCE NO. 4060-07 FOR LAND DISTURBING CONSTRUCTION OR LAND DEVELOPMENT ACTIVITIES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16536**

**Staff Recommended Motion:**

Approve Resolution No. 470-07.

**Background:**

On October 22, 2007, the City Commission passed Ordinance No. 4060-07, which requires the posting of erosion control and land stabilization bonds or deposits. The amount of the erosion control and land stabilization bonds or deposits shall be determined by the Engineer of Record using the current City Construction Cost Schedule (CCS) and verified by the City's Engineering Services Department. The CCS is available by contacting the Engineering Services Department.

The bonds or deposits will apply City-wide to any land disturbing construction or land development activities. No bonds or deposits are required for the construction of single family dwellings, duplexes, accessory apartments, or additions or renovations to an existing single family dwelling, existing duplex, or existing accessory apartment.

**Fiscal Note:**

No fiscal impact.

**PUBLIC HEARING:**

22. **Public Hearing and Second Reading of Ordinance No. 4095-07 CONTINUED amending**

**Chapter 82 (Taxation), Article V (Business Tax) to amend the business tax rate schedule.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 82 (TAXATION), ARTICLE V (BUSINESS TAX), SECTION 82-163 (BUSINESS TAX CLASSIFICATIONS AND RATE SCHEDULE) OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, TO AMEND THE CITY BUSINESS TAX RATE SCHEDULE; PROVIDING A SAVINGS CLAUSE, A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16539**

**Staff Recommended Motion:**

**ITEM HAS BEEN CONTINUED TO THE APRIL 7, 2008 COMMISSION MEETING.**

**Background:**

Florida Statutes allow for a tax on businesses that operate within the jurisdiction of the City. The Business Tax (formerly called Occupational License) rates were last changed in 2002 for FY2003-04 even though Florida Statutes allow for increases every other year. The Finance Department is requesting that the business tax rates be increased by five percent (5%), and the caps on inventory be removed. Using FY2007-08 information as base data, this change is estimated to increase revenue to the General Fund by \$368,000 in FY2009-10.

City staff conducted a survey of the county and several municipalities to find when they last raised their business taxes. Below is a matrix of our findings.

Atlantis	2006
Boca Raton	2000 - looking to raise this year
Boynton Bch	2007
Delray Bch	2006
Greenacres	2005 - currently awaiting approval for increase
Haverhill	2004 - looking to raise next year
Lantana	2000 - currently awaiting approval for increase (in for second reading)
Manalapan	2005
PB Gardens	2000
PB County	2004
Palm Beach	2005
Riviera Bch	2005

**Fiscal Note:**

Using the FY 2007-08 information as base data, the change is estimated to increase revenue to the General Fund by \$368,000 in FY 2009-2010.

23. **Public Hearing and First Reading of Ordinance No. 4079-07 APPROVED: Amending the Code of Ordinances of the City of West Palm Beach to convert 25th Court between 25th Street and Windsor Avenue to a one-way westbound traffic.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 86 (TRAFFIC), SEC. 86-166 (ONE-WAY STREETS AND ALLEYS) TO CONVERT 25TH COURT BETWEEN 25TH STREET AND WINDSOR AVENUE TO ONE-WAY TRAFFIC WESTBOUND; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16530**

**Staff Recommended Motion:**

Approve Ordinance No. 4079-07 on First Reading, and schedule a Public Hearing and Second Reading for December 3, 2007.

**Background:**

The purpose of this action is to codify the existing condition on 25th Court between 25th Street and Windsor Avenue. The existing street signs on this designated area of the street have been one-way westbound for many years and a review of the situation finds that this is the safest method of operation for this street. In fact to return the street to a two way travel would present a safety concern with its close proximity to the intersection of 25th Street and Tamarind Ave.

**Fiscal Note:**

No fiscal impact.

24. **Public Hearing and First Reading of Ordinance No. 4093-07 **APPROVED AS AMENDED**, approving and adopting a Zoning In Progress for the Downtown Master Plan area; and Resolution No. 447-07 **ADOPTED** adopting preliminary zoning and land development regulations for the Downtown Master Plan area during the ZIP.**

**ORDINANCE NO. 4093-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DECLARING A ZONING IN PROGRESS FOR A PERIOD OF SIX (6) MONTHS FOR THE DOWNTOWN MASTER PLAN AREA TO COMPLETE DEVELOPMENT OF ZONING AND LAND DEVELOPMENT REGULATIONS IN CONFORMANCE WITH THE COMPREHENSIVE PLAN; MAKING LEGISLATIVE FINDINGS OF FACT; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING A SUNSET CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 447-07: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ADOPTING PRELIMINARY ZONING AND LAND DEVELOPMENT REGULATIONS FOR THE DOWNTOWN MASTER PLAN AREA IN CONFORMANCE WITH THE COMPREHENSIVE PLAN AND IN CONJUNCTION WITH A ZONING IN PROGRESS FOR THE SAME AREA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16531**

**Staff Recommended Motion:**

Approval of Ordinance No. 4093-07 on First Reading and schedule a Public Hearing and Second Reading for Ordinance and Resolution for December 3, 2007.

**Background:**

As a result of the challenges faced by the downtown area today, the City hired Zyscovich, Inc. to evaluate the DMP and make recommendations for potential modifications. In a two-part process, Zyscovich, Inc. made recommendations to be implemented by revisions to both the comprehensive plan and the zoning regulations. The proposed comprehensive plan amendment was approved by City Commission on August 27, 2007, which was subsequently found in compliance with State Law by the Florida Department of Community Affairs on October 25, 2007. Presently, the consultant is continuing its analysis and drafting of the new zoning regulations. Staff anticipates final adoption of these "Urban Regulations" in the spring of 2008.

With the new DMP comprehensive plan element in effect, according to Florida Statutes, all newly-proposed development must comply with the comprehensive plan as well as future Urban Regulations. However, given the complexity and effort necessary to draft the new zoning and land development regulations, it is necessary to establish an interim period to allow new projects to be submitted in the absence of the finalized Urban Regulations. Ordinance No. 4093-07 establishes a six-month zoning in progress for the DMP area through April 25, 2008. The proposed zoning in progress WILL NOT be a moratorium on development in the downtown, but will allow new projects which comply with the comprehensive plan and preliminary zoning regulations to move forward. Further, the ordinance establishes the procedure by which new development will be reviewed and approved during this interim period.

This procedure very closely follows the development review process presently in place: 1) Project proposals will be reviewed for compliance by staff, with any variances or appeals proceeding to the Downtown Action Committee for review and/or a determination of compliance. 2) Site plans which received approvals prior to October 29, 2007, will remain in effect until their expiration. No extensions will be permitted, thereby requiring new development to come into compliance with the Urban Regulations and Comprehensive Plan. This reflects the Commission's desire to transition to the new regulations as soon as possible. 3) Development approvals obtained during the zoning in progress will have a one-year time limit, and no extensions will be permitted. These requirements will prevent the development of non-conforming structures within the DMP area.

As a companion to this ordinance, Resolution No. 447-07 approves the preliminary Urban Regulations for the DMP (draft forthcoming). This draft document establishes the regulatory framework, along with the comprehensive plan, by which new projects will be reviewed for approval during the zoning in progress. The preliminary Urban Regulations were presented to the City Commission and DMP Advisory Board on October 25, 2007. Based upon comments made at that time, modifications were made and are included in the version presently proposed for adoption. These preliminary regulations will eventually be replaced by a finalized version at the end of the zoning in process period, with the City Commission's approval.

**Fiscal Note:**

No fiscal impact.

25. **Public Hearing and First Reading of Ordinance No. 4094-07 **APPROVED**: Regarding a City-initiated request to amend Section 94-39 "Public Hearing" of the Zoning and Land Development Regulations.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE II (ORGANIZATION, ADMINISTRATION AND ENFORCEMENT), OF THE CODE OF ORDINANCES, BY AMENDING SECTION 94-39 (PUBLIC HEARING); PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16532**

**Staff Recommended Motion:**

Approve the Ordinance on First Reading and schedule a Public Hearing and Second Reading for December 3, 2007.

**Background:**

The Planning and Zoning Department staff periodically reviews sections of the Zoning and Land Development Regulations (ZLDRs) to ensure consistency with State Statutes and other regulations, as well as to maintain internal consistency. Section 94-39 sets forth the public hearing procedures for the boards to which the Planning and Zoning Department staff makes recommendations. This amendment brings the public notice requirements in-line with State Statutes and updates the titles to the planning director and corrects the title of the department.

The proposed text amendment meets the Amendment Standards found in Section 94-32 of the Zoning and Land Development Regulations (ATTACHMENT).

The text amendment applies City-wide. The Planning Board recommended approval (6-0) of the request on October 16, 2007.

**Fiscal Note:**

No fiscal impact.

26. **Public Hearing and First Reading of Ordinance No. 4098-07 **APPROVED**, amending the Code of Ordinances of the City of West Palm Beach, for the purpose of establishing an engineering services user fee schedule and application requirements.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 78 (STREETS, SIDEWALKS AND PUBLIC PLACES), ARTICLE IV (PARKWAYS AND SWALES), SECTION 78-92 (STREET RIGHTS-OF-WAY CONSTRUCTION) FOR THE PURPOSE OF ESTABLISHING AN ENGINEERING SERVICES USER FEE SCHEDULE AND**

**APPLICATION REQUIREMENTS; PROVIDING FOR A CODIFICATION CLAUSE, A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16537**

**Staff Recommended Motion:**

Approve Ordinance No. 4098-07 on First Reading and schedule a Public Hearing and Second Reading for December 3, 2007.

**Background:**

In November 2005, the City Commission took the Public Utilities Department and divided it into the departments of Public Utilities, Public Works and Engineering Services. In doing so the City was able to provide more task oriented departments. Engineering Services as a service department to all others within the City, was able to become more directly responsive to the individual departments and users, to meet their needs more efficiently. The Engineering Services Department in conjunction with the traffic division utilizes approximately 25% of available personnel to service the developer communities needs. These services include review and approval of utilities and connections to the City utilities for water, wastewater and stormwater, including on site inspection and oversight during connections and installation of said services. They also include liaison and coordination of projects with all other project infrastructure that the citizens, and visitors to the City may come into contact with. This includes sidewalks, curbs, roadways and street lighting inside and outside the property and protection of existing facilities. It also includes review and approval of proposed traffic detours, temporary access proposals, inspections before, during and after the work to ensure damage to the City's infrastructure, if it occurs, is documented and repaired or replaced as necessary. Additionally, the engineering services construction coordinator reviews and enforces the requirements of the National Pollution Discharge Elimination System, NPDES.

The proposed engineering services user fee schedule is the culmination of 18 months of work, which began with the creation of the department and subsequent creation of the construction supervisors position to oversee both the City's construction activities and the developer interface the City provides. That position was hired in February 2007. Currently the department expends an estimated \$900,000.00 to \$1,000,000.00 of the department's budget on providing services to the development community, as described above. The proposed user fee schedule is expected to generate approximately \$700,000.00 toward the cost of these services. Once the directory has been in place for a year or so the department expects to be able to update the Mayor and Commission on the realized revenue versus actual expenses.

At this time, the Engineering Services Department has no authority under the City code to collect fees for the engineering services it provides, except for those fees it collects on behalf of the Public Utilities Department. The adoption of Ordinance No. 4098-07, would establish and implement an engineering services user fees to appropriately charge those persons benefiting and utilizing the services of the Engineering Services Department.

**Fiscal Note:**

The implementation of this ordinance will allow establishment of the Engineering Services

Departments User Fees which are expected to generate approximately \$700,000 in the first year of collection.

**PUBLIC HEARING - QUASI-JUDICIAL:**

**-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY\***

**-SWEARING IN OF WITNESSES**

27. **Public Hearing and First Reading of Ordinance No. 4089-07 APPROVED:** A request by Timothy Stillings, of Kimley-Horn and Associates, Inc., on behalf of Dayton Hudson Corporation and Target Corporation, for a Future Land Use Map amendment to change the designation of a 2.27 acre parcel from a Multifamily (MF) designation to a Commercial (C) designation;

**Public Hearing and First Reading of Ordinance No. 4090-07 APPROVED:** A companion request for a rezoning of the 2.27 acre parcel from a Multifamily High Density (MF32) Residential designation to General Commercial (GC); and

**Public Hearing and First Reading of Ordinance No. 4091-07 APPROVED:** A companion request for a rezoning of approximately 8.22 acres from General Commercial (GC) to Commercial Planned Development (CPD) to demolish the existing Target structure at 1760 Palm Beach Lakes Boulevard, and construct an approximately 150,000 square foot Target.

**ORDINANCE NO. 4089-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING APPROXIMATELY 2.27 ACRES, LOCATED ON THE WEST SIDE OF CONGRESS AVENUE, APPROXIMATELY 250 FEET SOUTH OF PALM BEACH LAKES BOULEVARD, FROM A MULTIFAMILY (MF) FUTURE LAND USE DESIGNATION TO A COMMERCIAL (C) FUTURE LAND USE DESIGNATION; DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; AMENDING THE FUTURE LAND USE MAP ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**ORDINANCE NO. 4090-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY, REZONING APPROXIMATELY 2.27 ACRES, LOCATED ON THE WEST SIDE OF CONGRESS AVENUE, APPROXIMATELY 250 FEET SOUTH OF PALM BEACH LAKES BOULEVARD, FROM MULTIFAMILY HIGH DENSITY (MF32) RESIDENTIAL TO GENERAL COMMERCIAL (GC); DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE**

**CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**ORDINANCE NO. 4091-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY, REZONING APPROXIMATELY 8.22 ACRES, LOCATED ON THE SOUTH SIDE OF PALM BEACH LAKES BOULEVARD, APPROXIMATELY 620 FEET WEST OF CONGRESS AVENUE, GENERALLY LOCATED AT 1760 PALM BEACH LAKES BOULEVARD, FROM GENERAL COMMERCIAL (GC) TO COMMERCIAL PLANNED DEVELOPMENT (CPD); DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**Agenda Cover Memorandum No.: 16533**

**Staff Recommended Motion:**

Approve Ordinance Nos. 4089-07, 4090-07, and 4091-07 on First Reading and schedule a Public Hearing and Second Reading for December 3, 2007.

**Background:**

The subject property, located along Palm Beach Lakes Boulevard, southwest of Congress Avenue, consists of two (2) parcels, totaling approximately 8.22 acres (ATTACHMENT IV). The first parcel, hereinafter referred to as Parcel 1, is the site of the existing 85,000 square foot Target store and is approximately 5.95 acres in size. The second parcel ("Parcel 2"), located northeast of the existing store, consists of approximately 2.27 acres. Parcel 2 was part of a larger tract of land that was originally developed as a golf course. Purchased by WCI Communities, Inc. in the 1990's for the development of CitySide, a residential condominium development located south of the existing Target, the property was used for the staging of construction materials, equipment, and contractor's offices.

The existing retail store on Parcel 1 was constructed in 1982, when it opened as a Richway department store, until it was purchased by Target on October 18, 1988. In connection with a major effort to modernize and remodel its existing stores, Target Corporation is proposing to demolish the existing retail store, making way for the construction of a new 150,124 square foot retail center with a pharmacy and food/beverage services.

Small Scale Future Land Use Map Amendment of 2.27 acres – Ordinance No. 4089-07

Parcel 2 currently has a Multifamily (MF) Future Land Use (FLU) designation and a Multifamily High Density (MF32) Residential zoning designation. To correspond with Parcel 1, provide for consistent FLU and zoning designations, and to allow for the property to be developed in connection with the new Target store, the applicant is requesting a small scale Comprehensive Plan amendment to the City's FLU Map. The applicant is proposing to amend the FLU

designation of the 2.27 acre parcel from MF to Commercial (C). The Planning and Zoning Department has determined that the request complies with Policy 1.1.4c of the Future Land Use

Element of the City's Comprehensive Plan (ATTACHMENT V). The Planning Board recommended approval (5-0) of this request to the City Commission after a Public Hearing on August 21, 2007.

Rezoning of 2.27 acres – Ordinance No. 4090-07

As a companion case, the applicant is also requesting that Parcel 2 be rezoned from Multifamily High Density (MF32) Residential to General Commercial (GC). Consistent with much of the surrounding zoning, the GC designation would allow the property to be utilized as part of the redevelopment efforts of the adjacent Target store. The Planning and Zoning Department has determined that the request complies with the Rezoning Standards found in Section 94-32 of the City's Zoning and Land Development Regulations (ZLDRs) (ATTACHMENT VI). The Planning Board recommended approval (5-0) of this request to the City Commission after a Public Hearing on August 21, 2007.

Commercial Planned Development (CPD) of 8.22 acres – Ordinance No. 4091-07

The applicant is requesting to rezone the entire 8.22 acres (Parcels 1 and 2), from GC to Commercial Planned Development (CPD). The proposed development consists of a retail store above ground-level parking, allowing for the most efficient use of the land. Customers enter the store via a main lobby located at the northern corner of the building. Even though the existing building is only one (1) story in height, the proposed 2-story structure is only two (2) feet higher, at 38 feet. Regarding the placement of the building, the proposed structure conforms to all of the requirements of the underlying GC zoning district (i.e. setbacks, building coverage, landscape area, etc.).

Although the site is maximized in regards to the size of the building and the amount of parking, the applicant has provided sufficient landscaping throughout, and in many places, has exceeded the minimum requirements of the ZLDRs. Because of some constraints, there is one (1) area along the southwestern property line in which the applicant is requesting that the required buffer trees be clustered toward Palm Beach Lakes Boulevard.

In order to accommodate the proposed square footage, as well as address the site design and architectural concerns expressed by Staff, the applicant is proposing to provide a total of 490 parking spaces. As the current ZLDRs require the provision of 601 parking spaces, the applicant is requesting a waiver of 118 parking spaces, or 19.6% of the required parking. The parking waiver will allow the property to be developed with a more urban appearance. Additionally, the applicant's justification indicates that the Target Corporation completed a nationwide study to determine the parking demand relative to their retail stores. Target was able to show a relationship between usage of the parking lot and actual sales volume, and based upon their projected sales at the proposed retail store, Target Corporation is confident that sufficient parking will be available. Target also has a shared parking agreement with the adjacent property owner at 1720 Palm Beach Lakes Boulevard (McDonald's). The agreement provides for cross-access and cross-parking

between the parcels, allowing Target retailers to utilize the adjacent parking. As a reference, the existing McDonald's restaurant requires approximately 38 parking spaces, while there are over 120 spaces available. Staff considers such agreements as creative solutions to addressing parking needs. A detailed analysis of compliance with the Parking Waiver Standards is attached hereto as ATTACHMENT VII.

In order to provide a full range of services to its customers, the applicant is requesting that the City permit the sale of beer, ale and wine from the new store. While the City's Code of Ordinances would permit the issuance of a license for the sale of alcohol, the ZLDRs states that the sale of alcoholic beverages within the GC zoning district requires the approval of a Class B Special Use Permit. As the applicant is proposing a CPD, they are requesting that this use be permitted by right within the CPD.

In light of increased complaints regarding shopping carts, the applicant is proposing, and has indicated on the site plan, that a shopping cart containment system will be installed on the property. This system consists of an underground line that triggers a wheel lock on the shopping cart any time the cart crosses over top of it. By locking the wheels, the carts cannot be taken off-site.

In summary, the CPD will provide for the greatest flexibility in the design of the store and will result in a design that is more desirable and attractive. By concealing a majority of the parking beneath the building, placing the building closer to the street, and making the most efficient use of the land, the Planning Department has determined that the request complies with all eight (8) of the required Amendment Standards. A detailed analysis of compliance with these standards is attached hereto as ATTACHMENT VIII. The Planning Board recommended approval (3-2) of this request to the City Commission after a Public Hearing on August 21, 2007. The dissenting votes were made by Mr. Todd Bonlarron and Ms. Angela Usher, with concerns regarding parking, drainage, and internal traffic flow.

The subject property is located within Commission District No. 2 - Commissioner Isaac Robinson, Jr.

**Fiscal Note:**

No fiscal impact.

**OTHER BUSINESS:**

28. **Reappointment of Paul E. Dumars, Sr. PASSED to the West Palm Beach Housing Authority for a term of four years which will expire on October 1, 2011. This appointment is subject to City Commission ratification.**  
**Agenda Cover Memorandum No.: 16517**

**Staff Recommended Motion:**

Approve Reappointment.

**PRESENTATIONS AND AWARDS OF MERIT:**

29. **Presentation of Resolution No. 440-07 ADOPTED authorizing the approval of the "Face of the City" design features for the proposed Edmor Road and Lakewood Road Projects.**  
**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING AND APPROVING THE DESIGN FEATURES PRESENTED TO THE CITY COMMISSION FOR THE PROPOSED EDMOR ROAD AND LAKEWOOD ROAD PROJECTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**  
**Agenda Cover Memorandum No.: 16529 REVISED**

**Staff Recommended Motion:**

Approve Resolution No. 440-07.

**Background:**

The Edmor Road and Lakewood Road Improvement projects include replacement and renovation of stormwater management and utilities infrastructure between South Flagler Drive to South Dixie Highway along both Edmor Road and Lakewood Roads. Improvements to streets further west are also included because they form part of the targeted drainage basins. The attachment provides a complete location plan of the project limits. The project includes work on Garden Ave, Lake Ave and a small section of Georgia Ave. In addition to the infrastructure improvements, the City intends to provide landscaping and street lighting improvements within the project work areas. The exact nature of the landscaping varies by street section. The attached plans show the different sections and the proposed landscaping along each section. There are 2 sections that will receive limited if any landscaping. These are Edmor Road from Flagler to South Dixie Hwy and Lakewood Road from Flagler to South Dixie Hwy. In the case of the Edmor because of the narrow 40' right of way (ROW), and the Zoning Code requirement to provide sidewalks along streets without them, there will only be sufficient room for a 5' sidewalk to be installed with no parkway. Along Lakewood the ROW is wider 50', however because of the large 66" stormwater line being installed, there will be utilities installed within the proposed parkway area making installation of substantial landscaping very difficult in this area.

Landscaping improvements within the project work area will include the planting a mixture of Live Oaks and Dahoon Holly trees, wherever possible preservation of existing street trees will be attempted; and the planting of sod within the parkway between sidewalk and curb. Contractor responsibilities will include the watering of newly planted trees during their period of establishment for a period of six months. There is no City owned irrigation system is proposed. Property owners who have irrigation systems in the City ROW will be allowed to remain and any damage caused by the Contractor will be repaired.

Street lighting improvements will include the installation of decorative street lights and electrical appurtenances, consistent with City design specifications, throughout the project work area.

The project is currently estimated to be \$18 million for all phases of the work. The City does not currently have sufficient funds to proceed with all this work at this time. As such the City plans to bid a smaller portion of the work, these work areas are being called Lakewood Road Project Phase I, II and Edmor Road Project Phase I. The total estimated cost for this work is \$12.8 million

which consists of approximately \$2 million for water infrastructure, \$2.5 million for sanitary sewer infrastructure, \$6.5 million for storm sewer infrastructure and \$1.8 million for aboveground improvements including Streetlights, Sidewalks and Landscaping. Of the estimated cost, the following amounts are currently encumbered within the project budget for the different aspects of the work:

Water	\$1,320,000
Sanitary Sewer	\$ 960,000
Stormwater	\$6,400,000
General Fund	\$ 64,000

Additional funds are available in the appropriate reserve funds or through potential bond issues; however it is recommend that the final funding appropriation not be made until the project bids are received and the City is ready to award the project. This would prevent the possibility of a second F-resolution. Additionally, the City is in the process of preparing to issue a bond that includes full funding of several of the stormwater neighborhood projects including these. Revenues from this bond may be used to cover any shortfalls at award versus a reduction in reserves or cancelling a project that is scheduled for a little later in the program because it doesn't currently have sufficient funds to cover the current cost estimate for the project.

Selected sheets from the project plans are provided, and a power point presentation will be provided at the meeting with greater detail.

**Fiscal Note:**

Additional funds are needed to complete the projects and will be appropriated upon completion of the bid.

**COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:**

**COMMENTS BY THE CITY COMMISSIONERS:**

**COMMENTS BY THE MAYOR:**

**ADJOURNMENT:**

**\*Pursuant to Resolution No. 179-95, adopted according to the provisions of Section 286.0115, Florida Statutes, members of the Commission shall disclose on the record: 1) ex-parte communications - verbal or written and written communications shall be placed in the record; and 2) site visits, investigations, etc.**

**NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.**