



**City of West Palm Beach
City Commission**

PASS/FAIL AGENDA

**April 21, 2008
4:00 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

COMMISSIONER WILLIAM MOSS
 VACANT
 PRESIDENT GERALDINE MUOIO
 COMMISSIONER ISAAC ROBINSON, JR.
 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:

CONSENT CALENDAR (1 – 13): ALL CONSENT CALENDAR ITEMS PASSED.

1. **Minutes for the Regular City Commission Meeting held March 24, 2008 and Minutes for the Special City Commission Meeting held March 27, 2008.**

NOTE: During preparation of the Minutes for the Regular City Commission Meeting of March 24, 2008, it was discovered that Resolution No. 187-08 was identified and read as Resolution No. 87-08. By approving these Minutes you are approving the correction in that the Resolution in question and approved at the March 24, 2008 Regular City Commission Meeting is Resolution No. 187-08.

Agenda Cover Memorandum No.: 16779

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting held March 24, 2008 and the Minutes of the Special City Commission Meeting held March 27, 2008.

2. **Approval of reappointment for Roger P. Janssen to the Downtown Action Committee for a term of three years, which will expire on March 3, 2011. Mr. Janssen has served over the maximum allowed number of terms (3) and it is required that the Commission confirms his reappointment.**

Agenda Cover Memorandum No.: 16780

Staff Recommended Motion:

Approve reappointment.

3. **Resolution No. 193-08 authorizing the Mayor to execute a Contract with Dr. Randall L. Wolff, M.D. to provide Emergency Medical Direction for Fire Rescue.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A MEDICAL DIRECTOR SERVICES AGREEMENT WITH RANDALL L. WOLFF, M.D. TO PROVIDE MEDICAL DIRECTOR SERVICES TO THE CITY'S FIRE DEPARTMENT FOR RESCUE SERVICES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16794

Staff Recommended Motion:

Approve Resolution No. 193-08.

Background:

As per Florida Administrative Code Chapter 64E-2.004, all Advanced Life Support agencies are required by law to have a Medical Director to oversee all patient treatment and medical procedures. In doing so, he shall review, develop and implement pertinent medical standing orders or protocols; develop and participate in a patient care quality assurance system; create, ensure and

certify security procedures for medications, fluids and controlled substances; authorize and ensure adherence to detailed written procedures regarding all aspects of the handling of said medications and fluids; authorize, implement and approve training; and, provide 24 hour-a-day, 7 day-a-week medical direction.

4. **Resolution No. 159-08(F) amending the General Fund to provide appropriations for funding of eight additional police laptop computers and S.W.A.T. bulletproof vests.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE GENERAL FUND BUDGET TO PROVIDE BUDGET DETAIL IN THE POLICE DEPARTMENT FOR THE PROCUREMENT OF GOODS AND/OR SERVICES IN COMPLIANCE WITH PROCUREMENT CODE ORDINANCE NO. 3146-98; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16781

Staff Recommended Motion:

Approve Resolution No. 159-08(F).

Background:

In FY08 police overtime expenditures are estimated to be \$2,984,000, significantly under the budgeted \$3,433,174 as a result of reorganization of response units and planning directives from the Chief of Police. The transfer of One Hundred Five Thousand dollars (\$105,000) from overtime will be utilized to purchase eight additional laptops for our officers being released from the field training program and thirty-one tactical vests for the Police Department's S.W.A.T. unit.

Fiscal Note:

Resolution No. 159-08(F) provides budget detail of \$105,000 for the above described items. Funds are available within the department's budget.

5. **Resolution No. 170-08 and Resolution No. 160-08(F) authorizing and directing the Mayor or her designee to accept and appropriate Sixty-Five Thousand Seven Hundred Thirty-Nine and 00/100 Dollars (\$65,739.00) from the Florida Department of Transportation, Highway Safety Program.**

RESOLUTION NO. 170-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR OR HER DESIGNEE TO EXECUTE A GRANT AGREEMENT TO ACCEPT SIXTY-FIVE THOUSAND SEVEN HUNDRED THIRTY-NINE AND 00/100 DOLLARS (\$65,739.00) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION, HIGHWAY SAFETY PROGRAM AND TO APPROPRIATE SAID FUNDS FOR THE PURCHASE OF LAW ENFORCEMENT EQUIPMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 160-08(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 GENERAL FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE RECEIPT OF A FLORIDA DEPARTMENT OF TRANSPORTATION GRANT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16784

Staff Recommended Motion:

Approve Resolution No. 170-08 and Resolution No. 160-08(F).

Background:

The City of West Palm Beach has been awarded a grant in the amount of Sixty-Five Thousand Seven Hundred Thirty-Nine Dollars (\$65,739.00) from the Florida Department of Transportation Highway Safety Funds for the purchase of law enforcement equipment for use by a full time Aggressive Driving Unit/ I-95 Project.

The West Palm Beach Police Department investigates over 5,000 traffic crashes, resulting in an average of 14 fatalities per year. The significant increase in population combined with on-going road construction and a large influx in commuter traffic have contributed to this high number of traffic crash incidents. This trend is expected to continue as the city's population grows with significant downtown development and the volume of traffic on the City's roadways continues to increase. Statewide, Palm Beach County ranks fifth for total traffic crashes and third in the state for the number of pedestrians injured or killed as a result of a traffic crash.

The West Palm Beach Police Department has assumed a leadership role in traffic enforcement with the implementation of a full-time Aggressive Driving Unit / I-95 Project. The goal of this unit has been to work with the Palm Beach County Sheriff's Office and Florida Highway Patrol to aggressively enforce traffic laws and lesson the incidents of traffic crashes and fatalities occurring on the City's roadways and more than 20 miles of Interstate-95.

Florida Department of Transportation Highway Safety funds will provide for the purchase of and additional unmarked vehicle to supplement the low profile platform for identifying aggressive driving behaviors. The proposed vehicle for this unit is a Dodge Charger. The vehicle will be equipped with a full compliment of concealed emergency lighting, mobile police radio, lap-top computer, and a digital video system installed. The Aggressive Driving Vehicle will be staffed by an Officer assigned to the Police Department's Traffic Section.

Fiscal Note:

Resolution No. 160-08(F) recognizes appropriations of \$65,739 for this grant for the purposes described above.

6. Resolution No. 103-08(F) providing appropriations for various capital projects.

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 AND VARIOUS OTHER FUNDS BUDGETS TO PROVIDE APPROPRIATIONS FOR VARIOUS CAPITAL PROJECTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 16783**

Staff Recommended Motion:

Approve Resolution No. 103-08(F).

Background:

As of September 30, 2007, the undesignated/unreserved fund balance within the General Fund is approximately \$6.8 million. In accordance with City Ordinance Section 2-197, these funds may be used for one-time purchases. This item appropriates approximately \$6.0 million for the below described projects. In addition to the undesignated/unreserved fund balance, the reserve for emergencies fund balance is approximately \$29.0 million.

Staff is recommending that the following capital projects be funded:

\$150,000 - Police Cameras

Wireless Video Surveillance is the most advanced technology available for public safety needs. The City's Police wireless broadband surveillance cameras are currently monitoring potentially vulnerable areas or criminal activity so that police can be notified as events are happening. These cameras primarily serve as crime deterrence and as an investigation tool for evidence collection. The goal of the cameras is to deter, detect, and document criminal activity in areas of concern and thereby increase public safety for our citizens. Police officers have access to that camera or any other camera residing on the network through their laptop computers. These wireless cameras will dramatically improve our Police Department's ability to monitor areas of the City and provide officers with critical, real-time information they can use to protect the public and themselves whenever an incident is detected. The cameras are automatically linked to Dispatch Operations and the Computer Aided Dispatch System the City uses. The City of West Palm Beach desires to partner with those interested entities (Neighborhood Groups and local Businesses) who have a vested commitment to public safety in our community.

\$150,000 - Tree Replacement

The FY 2008 budget did not include funds for landscaping and tree replacement. Funds are needed for tree replacement throughout the City.

\$1,134,000 - Sanitation Trucks and Garbage Cans

The City is moving towards automating trash collection throughout the City. It is currently being used in our western communities. Funds are needed for 3 additional trucks (\$675,000) and garbage cans (\$459,000).

\$3,567,849 - Street Projects

Funds are needed for the above ground portion of various storm water projects. The projects include: Market Street - \$449,512; Spencer Drive - \$2,283,541; Monceaux Road - \$634,796; and

33rd Street - \$200,000. Additional funds will be needed to fully complete the above ground portion of the Spencer Drive project - \$253,724 This funding is anticipated to be included in the FY 2009 capital budget; the funding included in the current item will allow for expenditures through September 2009.

\$500,000 - Library Radio Frequency Identification (RFID)

This project will implement the use of RFID tags and readers to the library system. It will improve productivity in terms of check out, check in, and inventory of library materials.

\$300,000 - Meyer Amphitheater Roof

The fabric roof at the Meyer Amphitheater needs to be replaced.

\$250,000 - Mast Arm Streetlight at Okeechobee & Tamarind

The streetlights at Okeechobee and Tamarind need to be replaced with a mast arm system. During a hurricane, the mast arm is more likely to be functioning. Installation of the mast arms is a County project. The \$250,000 represents the City's contribution to the project.

\$500,000 - Time and Attendance

The City is in need of a fully-integrated time and attendance software. It will provide accurate time and attendance input in a timely manner, obtains positive affirmation of time and attendance by employee, and collects all time worked data. Efficiencies will be realized through elimination of manual record keeping for time and attendance and accuracy of reporting.

\$600,000 - CityScan

The City is currently implementing a City-wide electronic document imaging system, which will allow for a paperless system. This funding is the second half of a \$1,200,000 project.

The projects total \$7,151,849 and will be funded from undesignated/unreserved fund balance within the General Fund - \$6,001,849; reserves within the 1998 Public Service Tax Bond Fund - \$500,000; interest earning within the 1998 Public Service Tax Bond Fund - \$50,000; and fund balance within the Management Information System (MIS) Fund - \$600,000.

Fiscal Note:

Resolution No. 103-08(F) provides budget for the projects described above.

- 7. Resolution No. 195-08 accepting the donation of bicycle racks from the DDA and approving the installation of bicycle racks in the Downtown area.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING THE DONATION OF BICYCLE RACKS FROM THE DOWNTOWN DEVELOPMENT AUTHORITY AND APPROVING THE INSTALLATION OF BIKE RACKS ON CITY SIDEWALKS IN THE DOWNTOWN AREA; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16789

Staff Recommended Motion:

Approve Resolution No. 195-08.

Background:

Recognizing the need for additional bicycle parking in Downtown, the Downtown Development Authority (DDA) programmed approximately \$10,000 for bicycle racks in FY 07/08. The DDA partnered with the City to identify appropriate locations for the installation of the racks along Clematis Street and other Downtown streets and selected rack types that would best suit the needs and characteristics of the area (see attached bike hitch images). Initially, 25 bike racks (50 bicycle spaces) will be installed at the selected points identified in the attached map. Up to 100 bicycle racks may be installed in the downtown area.

Installation will be performed by the City Parking Administration Staff where possible. Where not possible, installation will be performed by a qualified contractor and paid for by the DDA out of the money allocated to this program.

The initial installation of the DDA's bicycle rack program will focus on the Clematis District and serve not only the large number of workers who commute by bicycle, but also those wishing to visit the Downtown area by bicycle. Thereafter, the program will include the downtown area. The program supports the City's Green Initiative by encouraging the use of bicycles instead of personal motor vehicles, provides secure and convenient parking to those who rely on a bicycle for transportation, and reduces the prevailing condition of individuals parking their bicycles around trees, parking meters, or lighting fixtures.

Fiscal Note:

Approval will provide direction to City Staff (Parking Administration Dept.) to assist with the installation of the bicycle racks where possible. No fiscal impact.

8. Resolution No. 135-08 authorizing approval of a Debt Management Policy for the City of West Palm Beach.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ADOPTING THE DEBT MANAGEMENT POLICY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16792

Staff Recommended Motion:

Approve Resolution No. 135-08.

Background:

FINANCIAL MANAGEMENT REVIEW

The Finance Director has completed an initial review of the City's financial management policies and practices. Many of the established "Best Practices" as set forth by the Government Finance Officer's Association as well as Credit Rating Agencies have been adopted by the City and are currently in place including: Fund Balance policy; Procurement policy; Capital Improvement Plan policy; Budgetary polices; etc.

However, given the size (both in population and economic activity) of our City and our activity in the capital markets, it is apparent that the City would greatly benefit from adoption of a comprehensive Debt Management Policy.

The rationale for a Debt Management Policy includes: enhanced quality of decision making; justification for the structure of debt issuance; identification and inclusion of stated policy goals; demonstrated commitment to long-term financial planning; and is viewed favorably by Credit Rating Agencies and stakeholders.

As such, the Finance Director has created a Debt Management Policy based on established best practices within the municipal finance industry. The Debt Management Policy has been reviewed by Credit Rating Agencies, the City's Financial Advisor, and components of the City's Underwriting team. Feedback was constructive and has been assimilated into the Policy presented herein.

DEBT MANAGEMENT POLICY SYNOPSIS

The Debt Management Policy establishes parameters and provides guidance governing the issuance, management, continuing evaluation of and reporting on all debt issuances by the City.

Specific categories include:

- (A) Conditions of Debt Issuance;
- (B) Limitations of City Indebtedness;
- (C) Debt Issuance Process;
- (D) Derivatives; and
- (E) Post Issuance.

Key components of the Debt Management Policy include: (1) the development of a five-year budgetary forecast and component capital improvement plan that forecasts revenue and expenditures including pay-as-you-go funding for capital projects; (2) limitations on City indebtedness to ensure that future elected officials have the flexibility to meet the capital needs of the City; and (3) debt affordability targets that set parameters on the debt burden placed on our citizens and stakeholders.

Resolution No. 135-08 authorizes approval of the Debt Management Policy. Also attached is an executive summary of the Policy to aid in review and analysis of the information contained therein.

9. Resolution No. 145-08 amending and restating the City's Investment Policy.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING SECTIONS XIII AND XV OF THE CITY'S INVESTMENT POLICY FOR SURPLUS FUNDS TO REVISE THE PORTFOLIO COMPOSITION ALLOCATION LIMITS AND ADD DUE DILIGENCE REQUIREMENTS, TO REPLACE THE BENCHMARK FOR THE SHORT-TERM PORTFOLIO, AND TO ADD MORTGAGE BACKED SECURITIES TO THE LIST OF PERMITTED INVESTMENTS; AMENDING AND RESTATING THE INVESTMENT

**POLICY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 16793**

Staff Recommended Motion:

Approve Resolution No. 145-08.

Background:

The Director of Finance requested a review and evaluation of the City's Investment Policy by the Investment Committee and the Investment Manager. Factors to be considered were the Florida Local Government Investment Pool's ("SBA") investment of asset-backed commercial paper that defaulted, the recent turn in the economy and the prudent practice of reviewing the policy periodically.

The Investment Committee and the Investment Manager made the following recommendations to reduce risk to the City portfolio:

- reduce the maximum amount of investment in the SBA to 50%
- add due diligence requirements prior to investing in the SBA
- replace the benchmark for the short-term portfolio with a nationally recognized Money Market Fund Index to allow the City to measure its returns against other investors in the same market.
- add Mortgage-Backed Securities which are guaranteed by a government agency for payment of principal and a guarantee of timely payment

Resolution No. 145-08 is amending the Investment Policy in accordance with the recommendations made by the Investment Committee and the Investment Manager.

Fiscal Note:

No fiscal impact.

10. **Resolution No. 13-08, amending Resolution No. 361-07 to amend the City's Salary Plan; to rename the job titles of Assistant Director of Housing and Community Development, Housing and Community Development Special Programs Manager, Housing Finance Manager, and Housing Development Program Coordinator, and to create the job classification of Housing Construction Manager. Resolution No. 186-08(F) amends the General Fund Budget to amend the Full Time Equivalent Personnel Detail of the Department.**

RESOLUTION NO. 13-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING RESOLUTION NO. 361-07 TO AMEND THE CITY'S SALARY PLAN; TO CREATE THE JOB TITLES OF ASSISTANT DIRECTOR OF HOUSING AND COMMUNITY DEVELOPMENT, HOUSING AND COMMUNITY DEVELOPMENT SPECIAL PROGRAMS MANAGER, HOUSING FINANCE MANAGER, AND HOUSING DEVELOPMENT PROGRAM COORDINATOR; TO CREATE THE JOB CLASSIFICATION OF HOUSING CONSTRUCTION MANAGER; PROVIDING A SALARY RANGE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 186-08(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE GENERAL FUND BUDGET TO AMEND THE FULL TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16795

Staff Recommended Motion:

Approve Resolution No. 13-08 and Resolution No. 186-08(F).

Background:

In June 18, 2007 the City Commission approved Ordinance No. 4047-07 amending the Code of Ordinance to rename the Department of Economic and Community Development to the Department of Housing and Community Development. In September 2007, a Director was hired and the operations of the department were reviewed. This assessment identified the need to improve the overall efficiency and effectiveness of the department by streamlining certain functions by eliminating two (2) positions and adding an Assistant Director of Housing and Community Development.

The job titles to be renamed are: Economic & Development Program Manager to Housing & Community Development Special Programs Manager, Housing Development Manager to Housing Finance Manager, Program and Compliance Manager to Housing Construction Manager and Housing Finance Supervisor to Housing Development Program Coordinator.

The positions to be eliminated are Housing Rehabilitation Supervisor and one (1) Housing & Community Development Program Coordinator; these positions are currently vacant. The elimination of these two positions will provide the funds needed to fill the Assistant Director position, save \$20,000 and reduce staff by one.

Fiscal Note:

Resolution No. 186-08(F) amends the General Fund Budget to amend the Full Time Equivalent Personnel Detail of the Department of Housing and Community Development for the elimination the Housing Rehab Supervisor and a Housing & Community Development Coordinator positions and the addition of an Assistant Director of Housing and Community Development Director. The annual savings for the elimination of the two positions and the addition of the Asst. Director is approximately \$20,000. The other positions described above are reallocation of existing positions and have no impact to the budget.

11. **Resolution No. 101-08(F) amending the General Fund and various other funds to provide appropriations for funding of the Volunteer Employee Benefit Association (VEBA).**

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 AND VARIOUS OTHER FUNDS

BUDGETS TO PROVIDE APPROPRIATIONS FOR FUNDING OF THE VOLUNTEER EMPLOYEE BENEFIT ASSOCIATION (VEBA); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16782

Staff Recommended Motion:

Approve Resolution No. 101-08(F).

Background:

The FY 2008 budget includes \$1,630,000 (General Fund - \$1,400,000; Water & Sewer - \$200,000; and Storm Water - \$30,000) for OPEB costs. The actuarial study has been completed and the City's OPEB cost for FY 2008 is \$1,304,910; leaving a surplus of \$325,090 (General Fund - \$434,701 and all other funds - \$(109,611)).

Ordinance No. 4017-07 was approved by City Commission on January 29, 2007 establishing a retiree health benefit trust funds for general employees. This ordinance requires the City to fund 2.15% of payroll for the Professional Managers and Supervisors Association (PMSA), Service Employees International Union (SEIU), and Confidential Employees (non-bargaining excluding managers) and 1.65% of payroll for managers. The estimated VEBA expense for FY 2008 is \$1,237,000 (General Fund - \$771,400 and all other funds - \$465,600).

The shortfall to fully fund the VEBA (less the surplus from the OPEB contribution) is \$911,910 (General Fund - \$336,699 and all other funds - \$575,211). Each fund can absorb the shortfall due to vacancies and the expected savings from the health insurance contract.

Fiscal Note:

Resolution No. 101-08(F) provides budget for the funding of the VEBA for general employees.

12. **Resolution No. 185-08 authorizing settlement agreement reached in the workers compensation claim of David Nieves.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING A SETTLEMENT REACHED IN THE WORKERS' COMPENSATION CLAIM OF DAVID NIEVES.

Agenda Cover Memorandum No.: 16799

Staff Recommended Motion:

Approve Resolution No. 185-08.

Background:

Mr. David Nieves, a parks maintenance worker, began his employment with the City of West Palm Beach October 2000. On January 2, 2007, Mr. Nieves was mowing grass in Gaines Park when he was beaten by a group of teenage boys. Mr. Nieves suffered injuries which required surgery. As a result of the attack, Mr. Nieves is permanently and totally disabled. The case was mediated on April 2, 2008. An agreement was reached with Mr. Nieves and his attorney to resolve this workers compensation case for \$332,750.00, including all attorney fees and costs.

Fiscal Note:

This is fully budgeted in the risk fund.

13. **Resolution No. 198-08 requiring members of the Board of Commissioners of the West Palm Beach Housing Authority to file Statements of Financial Interests and Resolution No. 199-08 increasing the number of persons on the Board of Commissioners from five persons to seven persons.**

RESOLUTION NO. 198-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REQUIRING MEMBERS OF THE BOARD OF COMMISSIONERS OF THE WEST PALM BEACH HOUSING AUTHORITY TO FILE STATEMENTS OF FINANCIAL INTERESTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 199-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, INCREASING THE NUMBER OF PERSONS ON THE BOARD OF COMMISSIONERS OF THE WEST PALM BEACH HOUSING AUTHORITY FROM FIVE PERSONS TO SEVEN PERSONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16800

Staff Recommended Motion:

Approve Resolution No. 198-08 and Resolution No. 199-08.

Background:

Section 112.3145(2)(b), Florida Statutes, requires persons defined as "Local Officers" to file statements of financial interests by July 1st of each year. The Florida Commission on Ethics has recently determined that members of the Board of Commissioners of the West Palm Beach Housing Authority are not Local Officers for purposes of financial disclosure and are not required to file such statements. Section 112.3145(a)(2)(g), Florida Statutes, contains a Local Option which allows the City to require members of local government boards, of which the Housing Authority is one, to file statements of financial interests. Resolution No.198-08, in effect, exercises the City's "Local Option" and requires the members of the Housing Authority's Board to file statements of financial interests.

Presently, the Board of Commissioners of the Housing Authority consists of five persons. Section 421.05(1), Florida Statutes, authorizes the City to appoint a Board of no fewer than five persons and no more than seven persons. Resolution No. 199-08 increases the number of persons on the Board of Commissioners from its current five persons to seven persons. It also establishes the Term of Office of the two additional members at four (4) years as provided in the Statutes. Appointment of the additional members follows the City's traditional appointive procedure where the members are appointed by the Mayor with the approval of the City Commission.

Fiscal Note:

No fiscal impact.

PUBLIC HEARING (14 – 17):

14. **Public Hearing and Second Reading of Ordinance No. 4124-08 **ADOPTED**: Regarding a City-initiated request to amend Section 94-219 of the Zoning and Land Development Regulations regarding the relocation of historically designated structures within the Broadway Mixed Use District (BMUD).**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE VII (SPECIAL DISTRICTS) OF THE CODE OF ORDINANCES BY AMENDING SECTION 94-219 (BROADWAY MIXED USE DISTRICT); PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. Agenda Cover Memorandum No.: 16785 REVISED

Staff Recommended Motion:

Approve Ordinance No. 4124-08.

Background:

Historically designated structures may be moved to any zoning district which not only preserves the City's historic resources, but also furthers adaptive reuse of older structures. For example: a historically designated single family structure may be moved to a lot that is zoned Single Family Low Density (SF14) Residential, provided that the house is located such that all of the SF14 regulations are met. These regulations include setback, height, provision for parking, etc. The Broadway Mixed Use District (BMUD) (ATTACHMENT II) was examined as a potential location that can accommodate relocated historically designated structures as the BMUD currently has a number of vacant lots that allow residential, office, commercial and cultural uses. Further, historic structures in BMUD serve as extension of the four adjacent designated historic districts, reflecting the rich historic heritage in the area.

The BMUD regulations have very specific requirements for building height, building placement and architectural standards that do not contemplate the sitting of relocated historic structures. As a result, historically designated structure may not meet these requirements and would lose its historic significance if it was altered to meet the requirements. Staff recommends amending the BMUD regulations to allow historically designated structures that are relocated along Broadway Avenue to be exempt from the BMUD building height, building placement (except the provision of the eight foot sidewalk) and architectural standards (except the fence and the mechanical and dumpster screening regulations). The amended text does provide that efforts shall be made that the relocated historically designated structure be consistent with the regulations to the maximum degree possible. The BMUD building use, sign standards, parking and loading standards and landscape standards will still apply to relocated historically designated structures. The Planning and Zoning Department shall approve a site plan prior to the relocation of a historically designated structure. Additions to historically designated structures shall follow the BMUD regulations and must be approved by the Historic Preservation Board. In this case, the staff finds that the benefit to the City to preserve historic structures in the BMUD can serve as an additional catalyst for redevelopment in the area. The Community Redevelopment Agency supports this amendment.

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

The Planning Board recommended approval (5-0) of the request on February 19, 2008. The Broadway Mixed Use District (BMUD) is located within Commission District No. 1 – Commissioner Molly Douglas.

Fiscal Note:

No fiscal impact.

15. **Public Hearing and Second Reading of Ordinance No. 4095-07 **APPROVED** 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), AND CHAPTER 22, (BUSINESSES AND BUSINESS REGULATIONS), ARTICLE II, (CERTIFICATE OF USE), OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, TO AMEND THE CITY BUSINESS TAX CLASSIFICATIONS; 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.: 16791

Staff Recommended Motion:

Approve Ordinance No. 4095-07.

Background:

Ordinance No. 4095-07 was approved on first reading on November 5, 2007, and approved for second reading on November 19, 2007. At the November 19, 2007, City Commissioners continued this item until April 7, 2008. At the April 7, 2008 City Commission Meeting, the item was further continued to April 21, 2008.

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 FY 2003-04 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 FY 2007-08 information as base data, this change is estimated to increase revenue to the General Fund by \$368,000 in FY 2008-09.

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	2007
Boynton Bch	2007
Delray Bch	2006

Greenacres	2007
Haverhill	2007
Lantana	2007
Manalapan	2005
PB Gardens	2000
PB County	2004
Palm Beach	2005
Riviera Bch	2005

Fiscal Note:

Using FY 2007-08 information as base data, this change is estimated to increase revenue to the General Fund by \$368,000 in FY2008-09.

16. **Public Hearing and Second Reading of Ordinance No. 4133-08 **ADOPTED**, approving an extension of the Zoning in Progress for the Downtown Master Plan area.**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, EXTENDING THE DECLARATION OF 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.

Agenda Cover Memorandum No.: 16786

Staff Recommended Motion:

Approve Ordinance No. 4133-08.

Background:

As a result of the challenges faced by the downtown area today, the City hired Zyscovich, Inc. to evaluate the Downtown Master Plan (DMP) and make recommendations for potential modifications to both the Comprehensive Plan and zoning regulations. The comprehensive plan amendment was approved by the City Commission on August 27, 2007. On December 3, 2007, the City Commission approved Ordinance No. 4093-07, declaring a Zoning In Progress (ZIP) for the DMP area for a period of six (6) months. At that time, Resolution No. 447-07 was also adopted, enacting Interim Zoning Regulations to allow new development to move forward which was consistent with the newly-adopted comprehensive plan element and the zoning recommendations made by the consultant.

The original ZIP is set to expire on April 25, 2008. Staff, along with the City's consultant, continue to finalize the zoning regulations and incentive program language for the downtown area. The City has received significant feedback during the ZIP period regarding many aspects of the proposed regulations which will be considered prior to final adoption. As such, Ordinance No. 4133-08 requests a six (6) month extension of the ZIP to allow for completion of the zoning regulations and incentive language. The extension of the zoning in progress WILL NOT be a moratorium on

development in the downtown area, but will allow new projects which comply with the Interim Zoning Regulations to be reviewed and approved during this period. Recent project submittals, including a proposed Grand Bank branch and new Marriott Residence Inn, provide clear evidence that the ZIP is not an impediment to new development in the downtown. The Grand Bank is expected to receive site plan approval in the very near future, while the proposed Marriott has already begun the site plan review process.

17. **Public Hearing and Second Reading of Ordinance No. 4136-08 **ADOPTED** containing additional revisions to the City's noise control regulations.**

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 34 (ENVIRONMENT), ARTICLE II (NOISE CONTROL REGULATIONS), ESTABLISHING REGULATIONS THAT COMPLY WITH RECENT DECISIONAL LAW; PROVIDING FOR A CODIFICATION CLAUSE, A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16802

Staff Recommended Motion:

Approve Ordinance No. 4136-08.

Background:

On March 10, 2008, the City Commission adopted Ordinance No. 4105-08 containing various revisions to the City's noise control regulations. Ordinance No. 4136-08 contains some additional revisions that eliminate potential conflict with the new provisions and clarify the sound amplification restrictions relating to health care facilities.

PUBLIC HEARING - QUASI-JUDICIAL:

- DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY*
- SWEARING IN OF WITNESSES

18. **Public Hearing and Second Reading of Ordinance No. 4083-07 **ADOPTED**: A request by Chuck Millar, of Moyle, Flanigan, Katz, Breton, White & Krasker, P.A., on behalf of 5701 Military, LLC, to annex approximately 2.18 acres located at 5701 North Military Trail; Public Hearing and Second Reading of Ordinance No. 4084-07 **ADOPTED**: A companion request to assign an Industrial (I) Future Land Use designation to the annexed property; and Public Hearing and Second Reading of Ordinance No. 4085-07 **ADOPTED**: A companion request to assign an Industrial (I) zoning designation to the annexed property.**

ORDINANCE NO. 4083-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ANNEXING APPROXIMATELY 2.18 ACRES OF LAND LOCATED AT 5701 NORTH MILITARY TRAIL; DECLARING THAT THE VOLUNTARY ANNEXATION PETITION BEARS THE SIGNATURE OF THE OWNER OF THE REAL PROPERTY ANNEXED HEREBY; DIRECTING THE MAYOR OR HER DESIGNEE TO DO ALL THINGS NECESSARY TO EFFECTUATE

THIS ANNEXATION; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 4084-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY BY ASSIGNING AN INDUSTRIAL (I) FUTURE LAND USE DESIGNATION TO APPROXIMATELY 2.18 ACRES LOCATED AT 5701 NORTH MILITARY TRAIL; DECLARING THE PROPOSED SMALL SCALE AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; AMENDING THE FUTURE LAND USE MAP OF THE CITY ACCORDINGLY; PROVIDING A CONFLICTS AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 4085-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY, ASSIGNING AN INDUSTRIAL (I) ZONING DESIGNATION TO APPROXIMATELY 2.18 ACRES LOCATED AT 5701 NORTH MILITARY TRAIL; 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 AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16787

Staff Recommended Motion:

Approve Ordinance Nos. 4083-07, 4084-07, and 4085-07.

Background:

***Note: First Reading of this request was heard October 22, 2007. Shortly before Second Reading, the applicant requested the item to be pulled from the agenda to allow them time to ensure that a tenant on the subject property would not be negatively impacted by the annexation. Those issues have been resolved and the applicant has requested the City Commission act on this request. ***

The subject 2.18 acre property is located on the west side of North Military Trail, just north of 45th Street (ATTACHMENT IV). The property is bounded by the City of West Palm Beach on the north and east sides, and Palm Beach County on the south and west sides. The property is vacant, with the exception of a mobile telephone tower and related equipment located roughly in the center of the property. The applicant intends to submit an application for an informal site plan review to construct two (2) buildings on the site consisting of retail and warehouse uses. The site plan is only required to go through a staff-level review; therefore, it is not a part of this application.

Annexation (Ordinance No. 4083-07)

The property is located within the City's Future Annexation Area and is immediately south of the existing City Limits. Furthermore, the subject property is not included in the Future Annexation Plans of any other municipality. The Planning Department has determined that the parcel meets the criteria for annexation as defined in Chapter 171, Florida Statutes, "Municipal Annexation or Contraction." Additionally, the Palm Beach County Planning Department issued a letter on May 25, 2007, indicating that they did not identify any inconsistencies with Chapter 171, F.S. in their annexation review. In connection with an annexation/utility agreement between the City of West Palm Beach and the City of Riviera Beach (Resolution No. 26-90), the subject property will be provided potable water and sanitary sewer service by the City of Riviera Beach. Furthermore, the proposed annexation complies with the boundary agreement set forth in the same document.

Future Land Use (FLU) Map Amendment from CH/5 to I (Ordinance No. 4084-07)

Concurrently, the applicant is requesting a City Industrial (I) FLU designation, which will allow commercial/industrial development with a maximum Floor Area Ratio (FAR) of 0.75. The property's current Palm Beach County CH/5 FLU permits a maximum 0.35 FAR for retail uses and a 0.50 FAR for non-retail uses. The applicant has provided a Level of Service (LOS) Analysis showing that the proposed FLU change will result in an increase in demand for potable water and sewer. The applicant has provided a letter from the City of Riviera Beach indicating that sufficient capacity exists to absorb the potential increases in demand. The LOS Analysis also found there would be a reduction in traffic generation as a result of the land use change.

The Planning Staff has determined that the proposed land use is appropriate as the subject parcel is immediately south of a parcel that has the same designation. The parcels adjacent to the south and west are used for auto salvage, crane rental, and a commercial landscaping business. The Planning Department has also found that the request complies with the Future Land Use Amendment Standards found in Policy 1.1.4c of the Future Land Use Element of the Comprehensive Plan (ATTACHMENT V).

Rezoning from CG to I (Ordinance No. 4085-07)

To correspond with the proposed Industrial (I) FLU designation, the applicant is requesting to rezone the site from a Palm Beach County Commercial General (CG) designation to Industrial (I). The proposed Industrial zoning will allow a more intense use of the property as certain industrial uses, which are not permitted under the current Commercial General (CG) zoning, will become permitted uses upon the rezoning. The most intensive uses, however, will be subject to additional standards or Special Use Permits as set forth in the Zoning and Land Development Regulations. Based upon the compatibility with the surrounding uses and zoning, the Planning Department has found that the request complies with the required rezoning standards found in Section 94-32 of the Zoning and Land Development Regulations (ATTACHMENT VI).

As each of the requests meet the requirements in the Zoning and Land Development Regulations, and Chapter 171, Florida Statutes, where applicable, Staff recommends approval of the requests.

The Planning Board recommended APPROVAL (5-0) of this request to the City Commission after a Public Hearing on August 21, 2007.

All statutorily-required notices have been provided.

Upon annexation, the subject property will be located within Commission District No. 2 - Commissioner Isaac Robinson, Jr.

Fiscal Note:

No fiscal impact.

19. **Public Hearing and Second Reading of Ordinance No. 4125-08 **ADOPTED**: Regarding a request by Lynda Harris, of Carlton Fields, on behalf of CityPlace Retail LLC and CityPlace Office I, LLC, for a Major Amendment to the CityPlace Commercial Planned Development (CPD) to rescind the signage program approved by Ordinance No. 3327-00 and replace it with the "Amended and Restated CityPlace Master Sign Plan."**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE CITYPLACE MASTER SIGN PLAN TO RESCIND ORDINANCE NO. 3327-00 AND REPLACE IT WITH THE "AMENDED AND RESTATED CITYPLACE MASTER SIGN PLAN," (HEREINAFTER REFERRED TO AS THE "PLAN"); FINDING THE PLAN CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16803

Staff Recommended Motion:

Approve Ordinance No. 4125-08.

Background:

CityPlace is a Development of Regional Impact (DRI) that is governed by Ordinance No. 3098-97, which established the regulations for the DRI in its current form. The retail part of the DRI was leased to the CityPlace developers by the Community Redevelopment Agency (CRA) to develop the mixed use project that exists today. This property is governed by the CityPlace Master Lease and has a Commercial Planned Development (CPD) zoning designation. The CityPlace Master Lease did not establish signage criteria. The City Commission approved Ordinance No. 3327-00, a major planned development amendment, to establish signage criteria for the CityPlace development. The CityPlace Master Sign Plan includes uniform signage criteria for the retail tenants, the residential units and directional signage, as well as provisions for awnings.

Since the adoption of the CityPlace Master Sign Plan in 2000, original anchor tenants have left, the office tower has been constructed and marketing goals have changed. These factors have required that CityPlace revisit the CityPlace Master Sign Plan. Some of the changes are the deletion of the references to FAO Schwartz and Wild Oats and the addition of the Office Tower

façade and free standing sign requirements. This amendment will rescind the sign program approved by Ordinance No. 3327-00 and replace it with the "Amended and Re-stated CityPlace Master Sign Plan".

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

The Planning Board recommended approval (4-0) of the Major Amendment to the City Commission after a Public Hearing on February 19, 2008. CityPlace is located generally at the intersection of Okeechobee Boulevard and Rosemary Avenue, within Commission District No. 3.

20. **Public Hearing and First Reading of Ordinance No. 4130-08 **APPROVED AS AMENDED**: A request by Damian Brink, of Kilday and Associates, on behalf of The Craig Collection, Inc., to annex approximately 10.44 acres located at 6870 Okeechobee Boulevard, which is on the south side of Okeechobee Boulevard approximately 520 feet west of Jog Road.**

Public Hearing and First Reading of Ordinance No. 4131-08 **APPROVED: A companion request to assign a Commercial (C) Future Land Use designation to the annexed property.**

Public Hearing and First Reading of Ordinance No. 4132-08 **APPROVED: A companion request to assign a General Commercial (GC) zoning designation to the annexed property.**

ORDINANCE NO. 4130-08: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ANNEXING APPROXIMATELY 10.44 ACRES OF LAND LOCATED AT 6870 OKEECHOBEE BOULEVARD; DECLARING THAT THE VOLUNTARY ANNEXATION PETITION BEARS THE SIGNATURE OF THE OWNER OF THE REAL PROPERTY ANNEXED HEREBY; REDEFINING THE BOUNDARY OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 4131-08: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY BY ASSIGNING A COMMERCIAL (C) FUTURE LAND USE DESIGNATION TO APPROXIMATELY 10.44 ACRES LOCATED AT 6870 OKEECHOBEE BOULEVARD; DECLARING THE PROPOSED LARGE SCALE AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; AMENDING THE FUTURE LAND USE MAP OF THE CITY ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 4132-08: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY BY ASSIGNING A GENERAL COMMERCIAL (GC) ZONING DESIGNATION TO APPROXIMATELY 10.44 ACRES LOCATED AT 6870 OKEECHOBEE BOULEVARD; 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; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16796

Staff Recommended Motion:

Approve Ordinance Nos. 4130-08, 4131-08, and 4132-08 on First Reading and direct staff to transmit the land use amendment application to the Florida Department of Community Affairs.

Background:

The subject 10.44 acre property is located on the south side of Okeechobee Boulevard, approximately 500 feet west of Jog Road. It is contiguous to the City Limits along Okeechobee Boulevard as the Riverwalk Residential Planned Development (RPD) is located to the north. The remainder of the area is located within unincorporated Palm Beach County. The property, which is home to Palm Beach Acura, currently contains two (2) structures, including an approximately 31,000 square foot sales and repair facility, as well as a 1,100 square foot ancillary building containing the used car department. Upon completion of the annexation process, the applicant intends to construct an 8,900 square foot, 17-bay service shop and a 1,300 square foot carwash facility immediately south of the existing sales and repair facility. This proposed construction is subject an Informal Site Plan Review and is not part of this application. A survey of the subject property is attached hereto as ATTACHMENT IV.

Annexation (Ordinance No. 4130-08)

The property is located within the City's Future Annexation Area (as well as that of the Town of Haverhill) and is immediately south of the existing City Limits, as described above. The Planning Department has determined that the parcel meets the criteria for annexation as defined in Chapter 171, Florida Statutes, "Municipal Annexation or Contraction." Additionally, the Palm Beach County Planning Department issued a letter on May 25, 2007, indicating that they did not identify any inconsistencies with Chapter 171, Florida Statutes, in their annexation review. In connection with a utility service agreement between the City of West Palm Beach and Palm Beach County, the site will remain connected to Palm Beach County's water and sewer service after the annexation.

Future Land Use Map Amendment from CH to C (Ordinance No. 4131-08)

In connection with the voluntary annexation, the applicant is applying for a City Commercial (C) FLU designation, which will allow commercial development with a maximum Floor Area Ratio (FAR) of 0.75. The property's current Palm Beach County Commercial High (CH) FLU permits a maximum 0.50 FAR. The Level of Service (LOS) Analysis indicates that the FLU change will result in a maximum future potable water demand of 34,108 gallons per day. The applicant has supplied a letter from Palm Beach County Utilities stating that the capacity exists to service the subject property. The applicant's traffic impact analysis showed a net increase in the number of trips; however, any new construction cannot occur without prior traffic concurrency approval from

Palm Beach County. The LOS information provided by the applicant shows sufficient traffic, potable water, sanitary sewer, and stormwater capacity. The capacity of the parks and schools will not be affected by this amendment.

The Planning Staff has determined that assigning the parcel a Commercial (C) designation is appropriate as all of the parcels on the south side of Okeechobee Boulevard, several of which have been annexed into the City in recent years, were assigned the same designation. The Planning Department has also found that the request complies with the Future Land Use Amendment Standards found in Policy 1.1.4c of the Future Land Use Element of the Comprehensive Plan (ATTACHMENT V).

Rezoning from MUPD to GC (Ordinance No. 4132-08)

To correspond with the proposed Commercial (C) FLU designation, the applicant is requesting to rezone the site from its Palm Beach County Multiple Use Planned Development (MUPD) zoning designation to General Commercial (GC). The proposed zoning is consistent with the current use of the site and is the same zoning designation assigned to the recently-annexed parcels on the south side of Okeechobee Boulevard. The uses presently on-site are permitted by right under the GC zoning. Based upon the compatibility with the surrounding zoning districts, the Planning and Zoning Department has found that the request complies with the required Rezoning Standards found in Section 94-32 of the Zoning and Land Development Regulations (ATTACHMENT VI).

The applicant's LOS documentation is attached hereto as ATTACHMENT VII. Note that only the body of the Transportation Analysis is attached due to length. A copy of the full analysis, including exhibits, is available for review upon request.

Since the requests meet the requirements in the Zoning and Land Development Regulations, and Chapter 171, Florida Statutes, where applicable, Staff recommends approval of the requests.

The Planning Board recommended APPROVAL (5-0) of this request to the City Commission after a Public Hearing on February 19, 2008.

Upon annexation, the subject property will be located within Commission District No. 4 - Commissioner Jeri Muoio.

Fiscal Note:

No fiscal impact.

21. **Public Hearing and First Reading of Ordinance No. 4134-08 CONTINUED:** A request by Timothy Stillings, of Kimley-Horn and Associates, Inc., on behalf of Dayton Hudson Corp./Target Corp., for a rezoning of approximately 0.79 acres, located along Palm Beach Lakes Boulevard, approximately 450 feet west of Congress Avenue, from General Commercial (GC) to Commercial Planned Development (CPD).

Public Hearing and First Reading of Ordinance No. 4135-08 CONTINUED: A companion request for a Major Amendment to the Target Commercial Planned Development (CPD),

located at 1760 Palm Beach Lakes Boulevard, to expand the boundaries of the CPD to include an approximately 0.79 acre parcel, located along Palm Beach Lakes Boulevard, approximately 450 feet west of Congress Avenue.

ORDINANCE NO. 4134-08: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, REZONING APPROXIMATELY 0.79 ACRES, LOCATED ON THE SOUTH SIDE OF PALM BEACH LAKES BOULEVARD, APPROXIMATELY 450 FEET WEST OF CONGRESS AVENUE, 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.

ORDINANCE NO. 4135-08: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING ORDINANCE NO. 4091-07 TO ALLOW FOR A MAJOR AMENDMENT TO THE "TARGET" COMMERCIAL PLANNED DEVELOPMENT (CPD), LOCATED AT 1760 PALM BEACH LAKES BOULEVARD, TO EXPAND THE BOUNDARIES OF THE CPD TO INCLUDE AN APPROXIMATELY 0.79 ACRE PARCEL LOCATED ALONG PALM BEACH LAKES BOULEVARD, APPROXIMATELY 450 FEET WEST OF CONGRESS AVENUE; AMENDING DEVELOPMENT REGULATIONS; DECLARING THIS MAJOR AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16797

Staff Recommended Motion:

THE APPLICANT HAS REQUESTED A CONTINUANCE OF THIS ITEM UNTIL THE MAY 19, 2008 COMMISSION MEETING.

Background:

To modernize its existing stores, Target Corporation proposes to demolish the existing retail store, located at 1760 Palm Beach Lakes Boulevard, to make way for a new 150,124 square foot retail center with a pharmacy and food/beverage services. This development was approved by the City Commission on December 3, 2007 (Ordinance No. 4091-07). As the Zoning and Land Development Regulations (ZLDRs) required the provision of 601 parking spaces, the applicant was approved for a waiver of 118 parking spaces, or 19.6% of the required parking. To partially justify the waiver, Target utilized an existing shared parking agreement it had with McDonald's, located immediately to the east, allowing Target retailers to utilize the adjacent 80 parking spaces that McDonald's has beyond their requirement.

Since then, Target has pursued the acquisition of a portion of the McDonald's property (approximately 0.79 acres), expanding the boundaries of the Target CPD development (ATTACHMENT III). Per Section 94-207(e)(1) of the ZLDRs, "Any boundary change of the

planned development” requires a Major Amendment. By acquiring the additional parking, Target is able to increase its parking count by an additional 100 parking spaces, providing a total of 583 spaces, reducing the parking waiver from 19.6% to 3%. With the additional parking, the applicant is also proposing to reconfigure the previously-approved parking layout to provide for the most efficient traffic flow. Upon completion of the reconfiguration, the McDonald’s property will continue to meet all of the requirements of the ZLDRs.

The Planning Department has determined that the request complies with all eight (8) of the required Rezoning Standards, as well as all eight (8) Amendment Standards. A detailed analysis of compliance with these standards is attached hereto as ATTACHMENTS IV and V.

The Planning Board recommended approval (6-0) of the request at their March 18, 2008, public hearing.

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

Fiscal Note:

No fiscal impact.

22. **Public Hearing of Resolution No. 106-08 ADOPTED:** A request by Dan Tran, of Construction Technologies, on behalf of William Sned, for a Class A Special Use Permit construct a 30-foot extension to an existing 95-foot long dock, located at 165 Elwa Place.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CLASS A SPECIAL USE PERMIT TO CONSTRUCT A 30-FOOT EXTENSION TO AN EXISTING 95-FOOT LONG DOCK LOCATED AT 165 ELWA PLACE, PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16790

Staff Recommended Motion:

Approve Resolution No. 106-08.

Background:

The subject 1.9 acre property is located at 165 Elwa Place. The upland property is approximately 112 feet wide by 730 feet deep and contains a single-family residence constructed in 1923. Originally constructed in 1990, the existing 95-foot long dock does not provide sufficient depth at low tide to allow for the mooring of a boat. According the applicant, the low tide water depths at the north and south boat lifts are 1.9 feet and 1.4 feet, respectively. Silt and sediment have since accumulated beneath the dock, further reducing the available depth at low tide.

In order to provide adequate depth at low tide, the applicant is requesting approval to add an additional 30 feet to the end of the existing dock to 125 feet. After the extension, the furthest distance from the bulkhead to the furthest mooring pile would be approximately 170 feet. The two

(2) boat lifts would also be relocated to the end of the new dock. The resulting low tide water depths at the north and south boat lifts would be 6.2 feet and 4.8 feet, respectively.

Because the property possesses non-contiguous riparian rights, Section 94-302(e)(2) of the City's Zoning and Land Development Regulations (ZLDRs) requires a Class A Special Use Permit, which was originally approved on May 9, 1988 (Resolution No. 82-88). Due to the modifications

proposed a new Class A Special Use Permit is required. The applicant is requesting one (1) waiver from the ZLDRs to allow for the extension of the dock (ATTACHMENT III).

The waiver requested is from Section 94-304(e)(1)(c)(8), which caps the maximum length of docks at 100 feet. As the applicant proposes a total length of 125 feet, a 25-foot waiver is required. At 125 feet, the proposed dock would be one of the longest of the six (6) docks in the immediate vicinity. The existing docks in the area are shorter than many of the new docks under construction because they were constructed prior to 2003 when the maximum dock length was the lesser of 70 feet or half the width of the riparian property. In 2003, the text amendment changed the regulation to the lesser of 100 feet or the minimum length approved by the Department of Environmental Protection (DEP) or the Army Corps of Engineers (Corps). There is one dock in the immediate area that was constructed in 2006, under the current regulations, with an approved Class A Special Use Permit for a length of 124 feet (6101 South Flagler).

The DEP issued an approval letter on June 22, 2007. Pursuant to a coordination agreement between the DEP and the Corps, no further review was required by the Corps. (ATTACHMENT IV). As the applicant has satisfied all of the DEP and Corps requirements, and the extension of the dock will not adversely affect surrounding properties, the Staff has found that the request satisfies all of the standards found within the City's ZLDRs (ATTACHMENTS V through IX).

The Planning Board recommended APPROVAL (5-0) of this request to the City Commission after a Public Hearing on February 19, 2008.

The subject property will be located within Commission District No. 5 - Commissioner William Moss.

Fiscal Note:

No fiscal impact.

23. **Public Hearing of Resolution No. 149-08 ADOPTED: A request by Frank Navarro, on behalf of Centrepark Investment Corporation and the Centrepark Property Association, for a Major Amendment to the Centrepark Development of Regional Impact (DRI) development order to extend the built-out date to September 1, 2013, in accordance with Sec. 380.06(19), Florida Statutes.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR CENTREPARK, A DEVELOPMENT OF REGIONAL IMPACT (DRI), AS ADOPTED BY RESOLUTION NO. 121-85, AS AMENDED, TO EXTEND THE BUILD-OUT DATE TO SEPTEMBER 1,

**2013; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 16798**

Staff Recommended Motion:

Approve Resolution No. 149-08.

Background:

Located on the east side of Australian Avenue, south of Interstate 95 (ATTACHMENT II), the Centrepark Development of Regional Impact (DRI) was originally a part of the Airport Industrial Park Commercial Planned Development (CPD); created in 1979 (Ordinance No. 1438-79). In 1985, the property that now comprises the Centrepark DRI was removed from the Airport Industrial Park CPD (Ordinance No. 1878-85), establishing the Centrepark DRI as a separate development (Ordinance No. 1884-85 and Resolution No. 121-85).

The original Development Order for the DRI (Resolution No. 121-85) did not contain an overall build-out date. It did provide, however, that the DRI would be terminated if development did not exceed 1.1 million square feet of office space and a 250-room hotel by December 31, 1995. This deadline was extended in 1992, establishing a build-out date of September 17, 2005 (Resolution No. 90-92), which was extended again to September 1, 2010 (Resolution No. 87-05).

In 2007, the Florida Legislature made several changes to Chapter 163 of the Florida Statutes related to the build-out dates of DRIs. Specifically, HB7203, which became effective on July 1, 2007, amended Section 380.06(19)(c), Florida Statutes, to provide:

“...all phase, buildout, and expiration dates for projects that are developments of regional impact and under active construction on July 1, 2007, are extended for 3 years regardless of any prior extension. The 3-year extension is not a substantial deviation, is not subject to further development-of-regional impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection.”

While the legislation does not require the local government to approve the 3-year extension, the Florida Department of Community Affairs (DCA) has encouraged developers to formally revise Development Orders to reflect the extension as a perfunctory matter. Therefore, the applicant is currently requesting to amend the Development Order to extend the build-out date from September 1, 2010, to September 1, 2013.

As required by the adopted legislation, the extension only applies to those developments which were under active construction on July 1, 2007. As shown in ATTACHMENT III, the developer was issued a permit on June 29, 2007, providing for the clearing and grubbing of Lot 2 North, Centrepark Plat 4, within the Centrepark DRI. A Notice of Commencement and Affidavit have also been provided (ATTACHMENTS IV and V).

A detailed analysis showing compliance with Section 94-32 of the City’s Zoning and Land Development Regulations is attached hereto as ATTACHMENT VII.

In accordance with F.S. Section 380.06, the Treasure Coast Regional Planning Council (TCRPC) and the DCA have reviewed the request and determined that the proposed change does not constitute a Substantial Deviation to the Development Order, as defined by F.S. Section 380.06(19), and that no additional impacts will be created on regional resources and/or facilities in the area. A letter from the TCRPC has been provided as ATTACHMENT VI.

The Planning Board recommended APPROVAL (5-0) of the request at their February 19, 2008, public hearing.

The Centrepark DRI is located within Commission District No. 3.

Fiscal Note:

No fiscal impact.

PRESENTATIONS AND AWARDS OF MERIT:

24. **Presentation of a plaque by Mayor Lois Frankel to Battalion Chief Dennis Withington. His last shift was March 27, 2008 after 34 years of service to the City of West Palm Beach Fire Rescue.**
Agenda Cover Memorandum No.: 16788

Staff Recommended Motion:

Hear presentation.

Background:

Battalion Chief Dennis Withington began his career with the City of West Palm Beach and West Palm Beach Fire Rescue in 1974. Over the years he rose through the ranks, serving as a Driver-Engineer, Lieutenant, Captain, and Battalion Chief, the position he held at retirement. In addition to his formal positions within the department, he has chaired numerous committees and represented the department on several important regional task groups. He has served as a role model and a mentor to countless young firefighters and fire officers along the way, and both the City and Fire Rescue have benefited significantly from his service.

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.