



**City of West Palm Beach
City Commission**

PASS/FAIL AGENDA

**May 5, 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 – 15): ALL CONSENT CALENDAR ITEMS PASSED.

- 1. Minutes for the Regular City Commission Meeting held April 7, 2008.
Agenda Cover Memorandum No.: 16804**

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting held April 7, 2008.

- 2. Cancellation of the Regular City Commission Meeting of June 30, 2008.
Agenda Cover Memorandum No.: 16805**

Staff Recommended Motion:

Approve the cancellation of the Regular City Commission Meeting of June 30, 2008.

Background:

Past practice has been for the City Commission to cancel its meeting when it falls near the 4th of July 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 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 canceled or the date of time thereof changed."

- 3. Resolution No. 210-08 authorizing settlement of the attorney's fees claim in the matter of Halfpap, et al v. City of West Palm Beach.**

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

Agenda Cover Memorandum No.: 16824

Staff Recommended Motion:

Approve Resolution No. 210-08.

Background:

The federal court recently entered a judgment against the City for nominal damages in the amount of \$100 for the three plaintiffs in Halfpap, et al v. City in the suit challenging the buffer zone and the noise ordinance. Although the court ruled in favor of the city on the portion of the noise ordinance being challenged, the court ruled in favor of the plaintiffs in connection with the buffer zone. The court reserved jurisdiction to award attorney's fees and expenses to the plaintiffs as prevailing parties on the buffer zone. The plaintiffs are seeking attorney's fees and expenses in the approximate amount of \$119,209.13. The amount sought includes expenses of approximately \$8,969.63. The plaintiffs are willing to settle their entire fee and expense claim for \$70,000. Resolution No. 210-08 authorizes the settlement and execution of all documents needed to finalize

the settlement. (Please note: although similar to Pine v. City, different claims were raised in Halfpap v. City.)

Fiscal Note:

Funds are available within the Self Insurance Fund for this settlement.

4. **Resolution No. 194-08 authorizing a Special Event License Agreement between the City of West Palm Beach and Taco Tavern LLC, d/b/a Rocco's Tacos & Tequila Bar, to produce "Diaz de Mayo" on May 10, 2008 from 3:00 p.m. to 12:00 a.m.**

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 TACO TAVERN LLC, D/B/A ROCCO'S TACOS & TEQUILA BAR, IN THE 200 BLOCK OF CLEMATIS STREET AND THE PIONEER LINEN PARKING LOT; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NONALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16806

Staff Recommended Motion:

Approve Resolution No. 194-08.

Background:

Rocco's Tacos will host "Diaz de Mayo" on Saturday, May 10, 2008 from 3:00 p.m. to 12:00 a.m. on the 200 block of Clematis Street and in the Pioneer Linen parking lot. "Diaz de Mayo" is a street party to attract attention to downtown West Palm Beach. Prior to the event, Rocco's Tacos will pay the City of West Palm Beach a \$2,750 Special Event permit fee, a \$2,500 Special Event security deposit, Police, EMS and all applicable parking fees within 14 days of the event. Rocco's Tacos will also be responsible for paying all costs related to City services including but not limited to Fire Inspections, Sanitation, and Community Events on call services within 30 days after the event, if applicable. The promoter will provide the City of West Palm Beach with \$1 million general liability insurance policy and \$1 million liquor liability insurance policy, both naming the City as additionally insured.

5. **Resolution No. 197-08 authorizing an agreement between Palm Beach County and the City of West Palm Beach for a Recreation Assistance Program (RAP) grant from the County for Kaleidoscope 2008.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND PALM BEACH COUNTY FOR RECREATION ASSISTANCE PROGRAM (RAP) FUNDING FROM PALM BEACH COUNTY FOR KALEIDOSCOPE 2008.

Agenda Cover Memorandum No.: 16807

Staff Recommended Motion:

Approve Resolution No. 197-08.

Background:

Kaleidoscope 2008, held January 27, 2008, was a celebration of many cultures, featuring 18 villages created through partnerships with local cultural organizations and Palm Beach County public schools, two stages of ethnic entertainment, a kids' area, International Bazaar, and food and refreshments from around the world.

Palm Beach County offered to provide \$7,500 in Recreation Assistance Program (RAP) funding from District 2 for Kaleidoscope 2008.

6. Resolution No. 201-08 amending the City's Salary Plan for FY 2007-08.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CITY'S SALARY PLAN AS PROVIDED IN RESOLUTION NO. 361-07, APPROVED ON SEPTEMBER 24, 2007, TO UPGRADE THE PAY GRADE FOR THE JOB CLASSIFICATION OF SENIOR PURCHASING AGENT AND PUBLIC UTILITIES OPERATIONS COORDINATOR, TO CREATE THE JOB CLASSIFICATIONS OF FINANCIAL ANALYST, LIBRARY ACQUISITION SPECIALIST, ASSISTANT CIRCULATION SUPERVISOR, AND CHIEF OF FIRE TRAINING AND DEVELOPMENT, TO CHANGE THE JOB TITLE OF COMMUNITY RESOURCES COORDINATOR TO COMMUNITY RESOURCES MANAGER, AND TO CHANGE THE JOB CODE AND BARGAINING UNIT REPRESENTATION OF THE BATTALION CHIEF AND DIVISION FIRE CHIEF JOB CLASSIFICATIONS AND PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16816

Staff Recommended Motion:

Approved Resolution No. 201-08.

Background:

In March 24, 2008 the bargaining agreement between the City of West Palm Beach and the West Palm Beach Association of Firefighters, Local 727 was ratified. The ratification of this agreement required a change in the job code and bargaining unit representation of the following job classifications: Battalion Chief, Chief of Emergency Medical Services, Chief of Fire Prevention, and Fire Rescue Special Operations Coordinator. The Chief of Fire Training and Development was included as part of the jobs recognized by the union. Therefore, it is necessary to amend the City's Salary Plan to implement the above mentioned changes.

The job classifications of Library Acquisition Specialist and Assistant Circulation Supervisor are created to properly reflect the duties, responsibilities, and requirements of the Purchasing Agent and Office Supervisor positions assigned to the West Palm Beach Library.

The Finance Department reviewed the duties and responsibilities of the Senior Purchasing Agent job classification. Based on the job evaluation and in order to have the ability to recruit and retain

the most qualified person for the position, it is recommended to allocate this job to pay grade 51, with a salary range of \$42,895 - \$64,343. The former Management Analyst position assigned to the Finance Department was reviewed and the new Financial Analyst job classification is created to properly reflect the duties, responsibilities, and requirements for this position.

Other changes to the salary plan include:

1. Changing the job title of the Community Resources Coordinator to Community Resources Manager. The recommended job title is more in accordance with the duties of the position as manager of the Youth and Family Services Division.
2. Upgrade the pay grade of the Public Utilities Project Coordinator. The recommended pay grade will keep the relationship of this job class and the Maintenance Supervisor job classification. Currently, both are assigned to the same pay grade, being the Maintenance Supervisor position supervised by the Public Utilities Operations Coordinator position.

The requested changes to the City's Salary Plan do not have any budget impact.

Fiscal Note:

No fiscal impact.

7. **Resolution No. 192-08 approving conveyance of seven (7) City-owned infill lots in the Pleasant City area to the City of West Palm Beach Community Redevelopment Agency.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH ("CITY") APPROVING AND AUTHORIZING THE CONVEYANCE OF SEVEN LOTS LOCATED IN PLEASANT CITY FROM THE CITY OF WEST PALM BEACH TO THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY ("AGENCY"); APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE DEEDS TO EFFECTUATE THE CONVEYANCE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16815

Staff Recommended Motion:

Approve Resolution No. 192-08.

Background:

Several CRA initiatives are underway within the Pleasant City community, including the MerryPlace development, the Rebirth of Pleasant City, the FEC Beautification Buffer and streetscape improvements. A master plan to incorporate the findings of the Pleasant City Citizens Master Plan (the "Master Plan"), with the programs created by the CRA is underway. Several areas have been identified as target areas for infrastructure and streetscape improvements.

The Community Redevelopment Agency ("CRA") owns seven (7) infill lots in the Pleasant City neighborhood. One of the projects identified in the Strategic Finance Plan for the Northwood/Pleasant City CRA District is the disposition of vacant parcels for private

development to increase home ownership. Currently, less than 30% of the properties within the Pleasant City Community are owner occupied. The CRA intends to issue a Request for Proposals ("RFP") for infill single family home development. The City of West Palm Beach owns seven (7) infill lots in the Pleasant City neighborhood. CRA Staff would like to continue the holistic approach to the improvements within the Pleasant City Target area and is requesting the conveyance of these seven (7) infill lots to the CRA to then be included in the RFP. The approval of this Resolution will further the goals set forth in the Northwood Pleasant City Strategic Finance Plan as well as the findings of the Pleasant City Citizens Master Plan.

Approval of Resolution No. 192-08 will authorize the conveyance of seven (7) infill lots from the City to the CRA.

Fiscal Note:

No fiscal impact.

8. **Resolution No. 206-08(F) amending the personnel detail of the Water and Sewer Operating Fund budget for FY 2007/2008 by reallocating the positions of Utilities Dispatcher to Customer Relations Specialist; and Resolution No. 200-08 amending the City's Salary Plan for FY 2007-08 to upgrade the pay grade of the Customer Relations Specialist job classification.**

RESOLUTION NO. 206-08(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE WATER & SEWER OPERATING FUND BUDGET TO AMEND THE FULL TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE PUBLIC UTILITIES DEPARTMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 200-08: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CITY'S SALARY PLAN AS PROVIDED IN RESOLUTION NO. 361-07, APPROVED ON SEPTEMBER 24, 2007, TO UPGRADE THE PAY GRADE FOR THE JOB CLASSIFICATION OF CUSTOMER RELATIONS SPECIALIST AND PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16814

Staff Recommended Motion:

Approve Resolution No. 206-08(F) and Resolution No. 200-08.

Background:

The Public Utilities Customer Service Division currently has five (5) Utilities Dispatch positions. These positions and their job responsibilities have been audited by the Human Resources Department and it has been determined that these positions should be reclassified to the position of Customer Relations Specialist. The basis for this reclassification is that these positions have assumed the additional responsibility of responding to all calls received via the Mayor's Response Team (MRT) telephone line and providing assistance in difficult customer situations regarding citizens concerns. They also track and monitor calls received to ensure that proper response is

given to citizens in a timely manner. In addition, they will be responsible for monitoring computer and radio systems to ensure public utilities functions are working properly and to dispatch work crews as necessary to undertake repairs or provide services to the customers.

This reclassification will result in the positions going from pay grade 38 to pay grade 41 with an annual cost impact of approximately \$7,600.

Fiscal Note:

Resolution No. 206-08(F) amends the personnel detail for the upgrade of these positions. The fiscal impact to FY 2008 is \$3,500 and will come from salary savings due to vacancies.

9. Resolution No. 209-08 approving agreements with the Property Appraiser and Tax Collector related to the proposed Fire Services Special Assessment.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND ASSIGNMENT OF COMPUTER DATA WITH GARY R. NIKOLITS, PALM BEACH COUNTY PROPERTY APPRAISER FOR THE PROVISION OF INFORMATION TO DEVELOP AN ASSESSMENT ROLL FOR THE PROPOSED FIRE SERVICES SPECIAL ASSESSMENT; AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH ANNE M. GANNON, TAX COLLECTOR FOR PALM BEACH COUNTY FOR COLLECTION OF THE PROPOSED FIRE SERVICE SPECIAL ASSESSMENT THROUGH THE PROPERTY TAX BILLS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16817

Staff Recommended Motion:

Approve Resolution No. 209-08.

Background:

The City is contemplating the imposition of special assessments for the provision of fire protection services. While no fire services special assessment has been approved to date, Florida Statutes requires the City to take certain actions in anticipation of such a special assessment. None of these actions obligate the City to impose a special assessment.

By Resolution No. 93-08, the City expressed its intent to use the uniform method for collecting such non-ad valorem special assessments for the cost of providing fire protection services to property within the incorporated area of the City as authorized by Section 197.3632, Florida Statutes, as amended, because this method will allow such special assessments to be collected annually commencing in November 2008, in the same manner as provided for ad valorem taxes.

Pursuant to Section 197.3632(2), Florida Statutes, the City is required to enter into an agreement with the Property Appraiser for the provision of data from the Property Appraiser in order for the City to prepare an assessment roll and for the Property Appraiser to maintain and update the assessment data on the Property Appraiser's system (PAPA). The City is also required to

reimburse the Property Appraiser for his costs; which will be \$150 per year plus \$0.75 per parcel subject to the assessment, estimated at approximately \$41,850 for this year.

Pursuant to Section 197.3632(2), Florida Statutes, the City is also required to enter into an agreement with the Tax Collector for collection of the fire service special assessment, if assessed, and for which the City agrees to pay the Tax Collector 1% of the assessment collected.

None of these agreements obligate the City to approve the proposed Fire Service Special Assessment, and each will be terminated in the event the special assessment is not imposed. It is, nevertheless, necessary to enter into these agreements at this time, as the Property Appraiser and Tax Collector must provide the City with property information in order to prepare the preliminary assessment rolls so that the City can analyze the implications of the Fire Service Special Assessment;

Fiscal Note:

If approved, approximately \$42,000 for Property Appraiser services, plus a \$150 annual fee; Tax Collector retains 1% of assessments collected each year.

10. **Resolution No. 176-08 authorizing the assessment of City liens in the total amount of \$6,148.56 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.: 16808

Staff Recommended Motion:

Approve Resolution No. 176-08.

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 \$6,148.56 are attached to Resolution No. 176-08 as Exhibit A - Lot Clearing - 2007-I.

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

Fiscal Note:

No fiscal impact.

11. **Resolution No. 196-08 authorizing the assessment of City liens in the total amount of \$18,490.73 for unpaid water, sewer and stormwater service for the month of January 2008.**

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.: 16809

Staff Recommended Motion:

Approve Resolution No. 196-08.

Background:

In accordance with 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. 196-08 are for unpaid water, sewer and stormwater service charges for the month of January 2008. The list of properties to be assessed and the associated charges totaling \$18,490.73 are attached to Resolution No. 196-08 as Exhibit A - Utility Lien List - January 2008.

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

Fiscal Note:

No fiscal impact.

12. **Resolution No. 171-08 approving a revocable permit and license to use portions of certain City rights-of-way.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A REVOCABLE PERMIT AND LICENSE AGREEMENT TO USE PUBLIC PROPERTY IN FAVOR OF RINKER MATERIALS OF FLORIDA, INC., FOR THE USE OF CERTAIN CITY'S PROPERTY; APPROVING THE VACATION AND ABANDONMENT OF THE PROPERTY UPON CERTAIN CONDITIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16810

Staff Recommended Motion:

Approve Resolution No. 171-08.

Background:

Rinker Materials of Florida owns a ready mix plant located between 7th Street and 10th Street, Rosemary Avenue and the Florida East Coast railway line, within the Downtown's Industrial Chic District. The plant has been in operation at that location for almost 40 years. In 2006, Rinker Materials of Florida LLC committed to a major program to improve the appearance of its plant. The improvements include the demolition and removal of several older buildings, the use of smaller scale portable concrete batching equipment, and the addition of landscaping along Rosemary Avenue.

As part of the improvement program, the applicant desires to formalize the use of certain public property included within the boundaries of the ready mix plant as depicted in attachment I. The applicant submitted a formal application to the City for a Revocable Permit and License to use public property on December 18, 2007. The City's staff has reviewed the application and determined that the subject right-of-way may is not needed for City purposes. The six portions of right-of-way total 13,120 square feet of land and have a market value of \$130,000 according to an appraisal by Anderson & Carr, Inc. dated February 25, 2008. Based on the property appraisal, Rinker Materials of Florida LLC has agreed to pay an annual permit fee of \$11,700 for the one-year license.

City's staff recommends the City abandon the property; however, due to the applicant's request, the City's staff is amenable to accept the execution of a Revocable Permit and License to Use Public Property for one year with the condition that the applicant shall apply for a right-of-way abandonment and submit payment of \$130,000 within one year of approval of the Revocable Permit. The permit will expire after one year.

In addition to the Revocable Permit, the applicant shall apply for a Class B Special Use permit to obtain board's approval on the proposed improvements.

13. **Resolution No. 208-08(F) amending the Capital Project Fund budget to provide appropriations for carpet replacement within the Police Department headquarters.**

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 CAPITAL PROJECTS FUND BUDGET TO PROVIDE APPROPRIATIONS FOR CARPET REPLACEMENT AT THE POLICE STATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16821

Staff Recommended Motion:

Approve Resolution No. 208-08(F).

Background:

The original carpeting at the police station was installed in 1994. The current carpeting is a low grade commercial use carpet that has exceeded its life span. Carpeting typically lasts about ten (10) years. The police station experiences heavy foot traffic and several of the carpeted areas have buckling and separation at the seams. Repairs and stretching have been done to prolong the wear, but are no longer a viable alternative to replacement. The \$50,000 will be used to replace the carpet in the areas needed the most.

Fiscal Note:

Resolution No. 208-08(F) transfers \$50,000 from building improvement reserves within the Capital Projects budget for this project. Upon approval of this item, the balance will be approximately \$140,000

14. **Resolution No. 207-08(F) amending the Fiscal Year 2007/08 Miscellaneous Trust fund budget to authorize appropriations from the State Law Enforcement forfeiture receipts for law enforcement equipment and programs.**

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 MISCELLANEOUS TRUST FUND BUDGET TO PROVIDE APPROPRIATIONS FROM THE STATE OF FLORIDA LAW ENFORCEMENT FORFEITURE RECEIPTS FOR EQUIPMENT AND PROGRAMS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16822

Staff Recommended Motion:

Approve Resolution No. 207-08(F).

Background:

Resolution No. 207-08(F) amends the Miscellaneous Trust Fund budget to authorize the appropriation of State Law Enforcement forfeiture receipts for the purposes described below.

The State Law Enforcement Trust Fund expenditure of \$67,250, which the Chief of Police certifies are in compliance with Section 932.7055(4)(a), Florida Statutes, is for the following crime prevention programs and law enforcement equipment:

1. **LAPTOP COMPUTERS (\$40,000)** To acquire eight (8) additional laptop computers to effectively equip new officers as they are released from the field training program to assume patrol functions.
2. **COMMISSION FOR LAW ENFORCEMENT ACCREDITATION NATIONAL CONFERENCE (\$5,000)** To assist in supporting Palm Beach County's hosting of the national conference in Boca Raton in 2009. These funds will be provided to the Boca Raton Police Athletic

League which is serving as the fiscal agent for the conference. This conference will provide a multitude of timely law enforcement training opportunities for personnel in our area.

3. **GUN BOUNTY PROGRAM (\$5,000)** The Gun Bounty Program makes it possible for residents to get a \$1,000 reward for turning someone in with an illegal gun. The goal is to get weapons and criminals off the streets by reaching out to individuals who know someone with an illegal firearm. The Program is designed to maintain anonymity for all tipsters. They will not be identified and their information will remain confidential. Each informational will be assigned a secret numerical code that serves as the only identification in the reporting and payment process. The tipster must contact the police and supply detailed information about the possession and location of the person with the gun. If the offender is arrested for possession of the firearm, the tipster is eligible for a \$1,000.00 reward. This program has been in proven effective in numerous jurisdictions throughout the United States.
4. **LAW ENFORCEMENT TRAINING (\$10,000)** As budgets are limited these funds will be utilized to host training for our personnel. Hosting classes at our facility provides more of our personnel the opportunity to attend, reduces per diem substantially, and provides for subject-matter standardization.
5. **COLD CASE PLAYING CARDS (\$7,250)** The Cold Case Playing Cards initiative consists of a standard deck of 52 playing cards, each card portraying a photograph of the victim, factual information about the unsolved homicide and potential reward for tips leading to an arrest and conviction. Using methodology proven during the Florida prison system project, the West Palm Beach Police Department proposes to develop a deck of cards featuring 52 of the most recent and unsolved cold case murder investigations. The cases begin in 2007 and go back to January of 2000. Through partnerships with State, local and Federal Correctional Facilities to include Coleman and Miami Federal Detention Centers, these cards will be distributed to more than 5,000 inmates.

Fiscal Note:

Resolution No. 207-08(F) provides appropriations of \$67,250 for the above mentioned projects from Law Enforcement Forfeiture Receipts. Upon approval of this item, the balance in the State Forfeiture Funds will be approximately \$91,000.

15. **Resolution No. 213-08: A City initiated request to authorize the Planning Department to apply for the 2008 Urban and Community Forestry Grant from the Florida Department of Agriculture and Consumer Services to install an urban forest along the banks of Clear Lake on the south side of Okeechobee Boulevard.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING STAFF TO SUBMIT AN APPLICATION TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY, FOR THE 2008 URBAN AND COMMUNITY FORESTRY GRANT TO PLANT AN URBAN FOREST ALONG THE BANKS OF CLEAR LAKE ON THE SOUTH

SIDE OF OKEECHOBEE BOULEVARD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16825

Staff Recommended Motion:

Approve Resolution No. 213-08.

Background:

The City is eligible to receive a \$10,000 matching grant from the Florida Department of Agriculture and Consumer Services. The State will provide \$10,000, and the City will provide \$10,000 in in-kind services as a requirement for the 50/50 match. This forestry grant will allow the City to enhance Clear Lake along the south side of Okeechobee Boulevard (ATTACHMENT II). The scope of work will include the removal of all weed growth within 25 feet of the water line, and the installation of Bald Cypress trees around the perimeter. These trees will help to stabilize the lake and create a healthier environment for both people and wildlife.

The City has already received a grant from the Florida Department of Transportation (FDOT), administered by the Metropolitan Planning Organization, to construct a pedestrian/ bike path with landscaping along the eastern perimeter of Clear Lake (between Clear Water Place and Okeechobee Boulevard). Construction and landscaping of the Clear Lake pedestrian/ bike path, with an overlook, is due to commence by the end of 2008. The City is also proposing to enhance the landscaping within the median strip, and on both sides of Okeechobee Boulevard between I-95 and Australian Avenue as an effort to enhance the gateway to the City.

The overall gateway project will link both basins of Clear Lake, and enhance the experience of residents and visitors entering the City of West Palm Beach.

Fiscal Note:

No fiscal impact. City will provide a minimum of \$10,000 in in-kind service as the required match for the grant funds.

RESOLUTIONS (16 – 18):

16. **Resolution No. 167-08 **ADOPTED** establishing Stormwater Management Service Fees and Charges and the effective date of such fees.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING STORMWATER MANAGEMENT SERVICE FEES AND CHARGES PURSUANT TO CHAPTER 90, SECTIONS 165 AND 166 OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16819

Staff Recommended Motion:

Approve Resolution No. 167-08.

Background:

During Fiscal Year 2007, the Public Utilities and Public Works Departments undertook a detailed review and analysis of their capital and renewal and replacement expenditure requirements for the next five years. During this process, the Stormwater Master Plan was reviewed and projects for Phase II and Phase III re-prioritized to reflect current drainage and street failure conditions. As a result of this review, it was determined that thirteen (13) projects needed to be included in the proposed Fiscal Year 2008 financing. These projects total \$18,282,028. Additionally, it was determined that \$500,000 in advanced design and engineering money be included in the financing in order to provide seed money for the balance of the neighborhood stormwater projects. This brings the total amount to be financed to \$18,782,028 in FY 2008. It was also determined that an additional \$5,000,000 in stormwater projects would be financed in FY 2011/2012.

The amount to be financed, plus the anticipated future operation and maintenance requirements of the Stormwater Utility System, were provided to the City's rate consultant, Public Resources Management Group, Inc. (PRMG). PRMG then conducted a detailed rate study and analysis in order to determine what rates would have to be put into effect in order to provide sufficient revenues to offset the additional operations and maintenance and debt service costs over the next five (5) years. The study also looked at the historic growth rates in stormwater customers and Equivalent Residential Units (ERU'S) over the preceding five (5) year period, as well as the proposed facilities and new ERU's expected to come on line over the next five (5) years.

The study has been completed and this Resolution adopts the consultant's rate recommendations with an effective date of June 1, 2008. The rates being adopted are shown on Exhibit A to the Resolution. The Resolution also contains a provision that rates will be adjusted by a five percent (5%) rate index each October 1st, beginning October 1, 2012.

Fiscal Note:

The rates proposed in this resolution will provide sufficient revenues for the Stormwater Utility to pay the projected costs of the additional debt service and operation and maintenance costs for the period June 1, 2008 to September 30, 2012.

17. **Resolution No. 166-08 ADOPTED, establishing Water and Wastewater Fees and Charges pursuant to Chapter 90 of the Code, amending and replacing Resolution No. 140-04.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING WATER AND WASTEWATER FEES AND CHARGES PURSUANT TO CHAPTER 90, SECTION 2 OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA; AMENDING AND REPLACING RESOLUTION NO. 140-04; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16811

Staff Recommended Motion:

Approve Resolution No. 166-08.

Background:

During Fiscal Year 2007, the Public Utilities Department undertook a detailed review and analysis of its capital and replacement expenditure requirements for the next five years. During this process, projects were prioritized according to regulatory requirements, water supply requirements, system growth and upgrade requirements, operational requirements and budgetary impact and savings. As a result of the review, it was determined that ten (10) water and sewer projects, together with eleven (13) neighborhood and other stormwater projects should be financed as a part of the FY 2008 Capital Improvement Program (CIP). The water and sewer portion of the CIP totals \$95,423,602. In addition, it was determined that \$118,000,000 in water and sewer projects and \$5,000,000 in stormwater projects should be financed in FY 2011/2012. The department directed its utility rate consultant, Public Resources Management Group, Inc. (PRMG), to include the projects and the amounts to be financed in their FY 2007 rate study. The last rate study was performed by PRMG in FY 2003.

PRMG conducted the FY 2007/2008 rate study to determine what rates would have to be put into effect in order to provide sufficient revenues to offset the additional operations and maintenance and debt service costs over the next five (5) years. The study also looked at the historic growth rates for water and sewer customers, effects of the recent drought conditions on consumption and the proposed new facilities and customers expected to come on line over the next five (5) years. The study has been completed and this resolution adopts the consultant's rate recommendations with an effective date of June 1, 2008. The rates being adopted are shown in the resolution and the annual indexing of those rates is shown on Exhibit A to the resolution. Additionally, the resolution also contains a provision that rates will be adjusted by a five percent (5%) rate index each October 1st, beginning October 1, 2012.

Fiscal Note:

The rates proposed in this resolution will provide sufficient revenues for the Water & Sewer Utility to pay the proposed costs of the additional debt service and operation and maintenance costs for the period June 1, 2008 to September 30, 2012.

18. **Resolution No. 190-08(F) **ADOPTED** amending the personnel detail of the Water and Sewer Operating Fund and the Stormwater Operating Fund budgets for FY 2007/2008 by adding twenty one (21) new positions and Resolution No. 189-08(F) **ADOPTED** amending the Water and Sewer Operating Fund, the Water and Sewer Capital Fund, the Stormwater Operating Fund and the Stormwater Capital Fund budgets to provide additional revenues and appropriations for the new positions.**

RESOLUTION NO. 190-08(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE WATER & SEWER OPERATING FUND BUDGET TO AMEND THE FULL TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE PUBLIC UTILITIES DEPARTMENT AND THE PUBLIC WORKS DEPARTMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 189-08(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 WATER AND SEWER OPERATING FUND, THE WATER AND SEWER CAPITAL FUND, THE STORMWATER OPERATING FUND AND THE STORMWATER CAPITAL FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR THE ADDITION OF NEW PERSONNEL AND EQUIPMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16818

Staff Recommended Motion:

Approve Resolution No. 190-08(F) and Resolution No. 189-08(F).

Background:

In connection with the proposed Utilities System Revenue Bond sale and the completion of the Water, Sewer and Stormwater rate study, staff is proposing to add twenty one (21) new positions to the budget. The positions requested are three (3) positions for the Field Customer Service Division, sixteen (16) positions for the Water Treatment Plant (WTP), and two (2) positions for the Stormwater Drainage Division.

The sixteen (16) positions for the WTP include a Utilities O&M Superintendent, Maintenance Supervisor, Utilities Control Technician, Utilities Electrician, two (2) Maintenance Mechanics, Utility Worker and eight (8) Water Plant Operators along with a Laboratory Technician for the Laboratory Services Division. With the recent and continuing upgrading and improvement of the WTP, staff has determined that fifteen (15) additional positions are needed at the WTP to properly operate and maintain the facility. Additionally, as a result of increased laboratory testing requirements by the FDEP and the Health Department, as well as the increased work load required by the City's Industrial Pretreatment Program (IPP), one additional Laboratory Technician is also being requested. Note that a staffing efficiency study is being conducted to determine the staffing requirements to operate the WTP as further improvements are implemented.

The three (3) positions in Field Customer Service include a Utilities Maintenance Leader, a Maintenance Mechanic and a Utility Worker that will form a large meter change out crew. The above mentioned bond includes \$877,000 for the purchase of 325 large water meters and this crew will do the installation of those meters. The installation period is approximately one year. At the end of that time, the crew will convert to a small meter change out crew and continue the process of changing out the remaining 15,000 small meters. Prior to this program, meter change outs were done by outside contractors at a substantially higher cost.

The two (2) positions in the Stormwater Drainage Division include two (2) Environmental Compliance Technicians. The City of West Palm Beach is currently subject to the federal regulation of the National Pollution Discharge Elimination System (NPDES), which permits the release of our stormwater into state and federal waters. The provisions of this permit require that the City provide pro-active inspections of suspected illicit connections, discharges and dumping, as well as respond to complaints and discoveries of such incidents. The NPDES also requires that the City provide education and training related to keeping our waters free of pollution. The

addition of these two (2) positions will enable the Department of Public Works to comply with these regulations.

The total annual cost of the new personnel is approximately \$1,152,000 (approximately \$300,000 for the remaining portion of FY 2007/2008). In addition to the new personnel, trucks, golf carts, computers and other equipment are needed to support these positions. The total cost of the vehicles and equipment is approximately \$200,000. These additional costs were included in the recently completed water, sewer and stormwater rate study and will be offset by additional revenues. The F-Resolution also adjusts certain operating expense accounts for both water, sewer and stormwater for the balance of the fiscal year.

Fiscal Note:

The additional cost of personnel and equipment will be offset by additional water, sewer and stormwater revenues.

PUBLIC HEARING (19 – 20):

19. **Public Hearing and Third Reading of Ordinance No. 4095-07 **ADOPTED** 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, (BUSINESS 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 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.: 16823

Staff Recommended Motion:

Approve Ordinance No. 4095-07.

Background:

Ordinance No. 4095-07 was approved on First Reading on November 5, 2007, and approved on Second Reading on 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 FY 2008-09.

20. **Public Hearing and First Reading of Ordinance No. 4138-08 **APPROVED**: Directing Staff to extend all development approvals, which were set to expire between March 17, 2008, and December 31, 2008, for a period of one (1) year.**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, EXTENDING CERTAIN ACTIVE DEVELOPMENT APPROVALS FOR A PERIOD OF ONE (1) YEAR; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16812

Staff Recommended Motion:

Deny Ordinance No. 4138-08.

Background:

At a Mayor/Commission Work Session on January 7, 2008, the City Commission directed Staff to review the current regulations that pertain to the expiration of development approvals for projects that are approved by the City Commission, the Zoning Board of Appeals (ZBA), the Downtown Action Committee (DAC), and by Staff. The purpose of such review was to explore the options available in granting automatic extensions to those projects that were set to expire in the upcoming year, in light of the economic conditions that have occurred during 2007-2008.

On March 13, 2008, a memo outlining Staff's findings was provided to the Mayor and City Commission indicating that there were approximately 35 projects throughout the City that had obtained site plan approval, were not under construction, and were set to expire in the year 2008 (ATTACHMENT II). Staff's reasoning for recommending denial is also contained within this memo.

At the March 17, 2008, Mayor/Commission Work Session, it was determined that projects that were set to expire between March 17, 2008, and December 31, 2008, should be granted an automatic one (1) year extension to their approval, allowing them to move forward toward development.

As part of the extension, developers/owners are required to submit an extension request to the Planning and Zoning Department with an application of \$50. Additionally, the proposed ordinance provides that reasonable conditions may be placed upon the extension in order to protect the general health, safety, and welfare of the public. All code violations and City liens on the property are also to be satisfied prior to approval of the extension.

Upon expiration of the extension authorized by this ordinance, all projects, with the exception of site plan reviews and variances, may request an additional one (1) year extension from the City Commission in accordance with Section 94-40(c)(5) of the City's Zoning and Land Development Regulations.

While the proposed ordinance only addresses those projects that were set to expire during the remainder of the 2008 calendar year, concerns arose regarding those projects that had recently expired, which would not benefit from the above-referenced extension. Further research found that there are 22 projects that have expired between January 1, 2007 and March 17, 2008; three (3) of which expired between January 1, 2008, and March 17, 2008. A table outlining all of the projects that have expired since January 2007 is attached hereto as ATTACHMENT III.

Fiscal Note:

No fiscal impact.

21. **Public Hearing and First Reading of Ordinance No. 4140-08 APPROVED declaring surplus and authorizing the sale of two small parcels, the granting of a permanent easement and a temporary construction easement to the Florida Department of Transportation (FDOT) for use of the land for the widening of Okeechobee at Okeechobee Boulevard and Australian Avenue.**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, FINDING THAT CERTAIN TRACTS OF LAND ALONG OKEECHOBEE BOULEVARD, DESIGNATED AS PARCELS 104, 800 AND 700, ARE NOT NEEDED FOR CITY PURPOSES AND ARE DECLARED TO BE SURPLUS; APPROVING THE SALE OF PARCEL 104, THE GRANTING OF A PERMANENT EASEMENT OVER PARCEL 800, AND THE GRANTING OF A TEMPORARY CONSTRUCTION EASEMENT OVER PARCEL 700 TO THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE OKEECHOBEE BOULEVARD WIDENING PROJECT AT AUSTRALIAN AVENUE; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS BETWEEN THE CITY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION AND ALL OTHER DOCUMENTS NECESSARY TO COMPLETE THESE TRANSACTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16820

Staff Recommended Motion:

Approve Ordinance No. 4140-08 at First Reading and schedule a Public Hearing and Second Reading for May 19, 2008.

Background:

As part of the Okeechobee Boulevard widening project, the FDOT is in the process of obtaining additional right-of-way and easements. The western portion of the project between Australian Ave. and I-95 has been completed and this phase is between Australian Ave. and Parker Ave.

FDOT intends to purchase from the City two (2) small parcels on each side of Okeechobee Blvd. adjacent to the gateway park, and obtain a retention easement and a temporary construction easement. The value according to an appraisal supplied by the FDOT is \$771,600 for the two parcels; \$82,100 for the temporary construction easement and \$175,500 for the retention easement for a total of \$1,092,200. FDOT has also complied with the legal requirements for condemnation of these parcels in the event the City does not consent.

Parcel No 104 (Offer and Purchase A): Sale of two (2) small parcels bisected by Okeechobee Blvd, consisting of approximately 7748 sq. feet. FDOT previously advised the City of its need for the two small parcels for the Okeechobee Blvd. widening, which the City has considered with respect to the gateway park. The Marriott Hotel sign is located on the northern parcel. FDOT has advised the Marriott that it must relocate its sign. FDOT's offer to purchase these two parcels equals the appraised value in the amount of \$771,600.

Parcel No. 800 (Offer and Purchase C): Permanent easement for stormwater retention on a parcel to the south of Okeechobee Blvd, consisting of approximately 7754 sq. feet. FDOT's offer to obtain a permanent easement equals the appraised value in the amount of \$175,500.

Parcel No. 700 (Offer and Purchase B): Temporary construction easement on a tract of land on the north side of Okeechobee Blvd, consisting of 1939 sq. feet. FDOT's offer for the use of the temporary construction easement equals the appraisal value of \$82,100. Construction is anticipated to be completed in October 2011, but the easement could extend through October 2013, in the event of construction delays.

Ordinance No. 4140-08 declares these parcels as surplus and not needed for City purposes, and authorizes the Mayor to execute the documents necessary for the conveyance of the two parcels and granting of the easement.

Fiscal Note:

The sale of these parcels will generate \$1,092,200 for the Water & Sewer Fund.

PUBLIC HEARING - QUASI-JUDICIAL:

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

22. **Public Hearing of Resolution No. 133-08 CONTINUED regarding a Level III Site Plan approval of the Opera Place project which will include a 270 rooms hotel, 306**

condominiums, 386,223 square feet of office space, 54,674 square feet of retail space and 1,524 parking spaces divided into two parking garages. The project is located between Lakeview Avenue and Iris Street, Quadrille Boulevard and Dixie Highway.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RI; APPROVING A LEVEL III SITE PLAN PURSUANT TO ORDINANCE NO. 3098-97, AS AMENDED, TO ALLOW THE CONSTRUCTION OF THE OPERA PLACE PROJECT LOCATED BETWEEN LAKEVIEW AVENUE AND IRIS STREET, QUADRILLE BOULEVARD AND DIXIE HIGHWAY; DECLARING THE SITE PLAN TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY AND THE REQUIREMENTS OF SECTION 94-35 OF THE CITY'S ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 16813

Staff Recommended Motion:

THE APPLICANT HAS REQUESTED A CONTINUANCE TO THE JUNE 2, 2008 CITY COMMISSION MEETING.

Background:

The CityPlace Development of Regional Impact (DRI) is an approximately 77 acre commercial planned development located in the heart of Downtown West Palm Beach. The CityPlace DRI is approved for a mix of residential, retail, restaurant, office, hotel and entertainment uses, as well as the Palm Beach County Convention Center. The DRI is nearing build-out with one 16-story office building and a 20-story residential tower currently under construction along Okeechobee Boulevard. Only five parcels remain undeveloped. One of the vacant parcels, the Convention Center Hotel, obtained a Level III Site Plan approval from the City Commission on October 22, 2007, for a 23-story hotel with 400 rooms and a 16-story residential tower with 104 units, in addition to restaurants, a spa, and other amenities for the hotel.

On October 4, 2004, the City Commission adopted Resolution No. 450-04 approving a Level III site plan for the construction of the Opera Place project. The approved project consisted of 556 residential units, 40,000 square feet of cultural uses including a 340 seat theater, and 40,773 square feet of retail with a resulting FAR of 4.0. The project provided 1,312 parking spaces and 26,782 square feet of open space configured as a plaza along Lakeview Avenue. The approved project was configured in two symmetrical towers, each 26 stories high along Lakeview Avenue and 7 stories high along Iris Street. Due to the housing market downturn, a building permit for the approved project was never obtained.

On August 2, 2007, BAP Development, Inc. submitted a new application for a Level III site Plan review for a new project. The new project includes 306 residential units, 386,223 square feet of office space, 52,899 square feet of retail uses, a 270 rooms hotel and 1524 parking spaces, with a total gross square footage of 1,307,146 square feet, excluding parking areas. The resulting floor area ration (FAR) for the proposed project is 9.34. No cultural spaces are included in the new proposal.

Ordinance No. 3087-97, the Development Order for the CityPlace DRI, sets forth in Section 3.21.A that the Planning Board's and City Commission's review are to "ensure that the development of individual parcels is consistent with the conditions of approval, and that the design characteristics of each component have no substantial, adverse effect on surrounding properties." Section 3.21.C indicates that the qualitative development standards by which the project is evaluated are contained in Section 94-35(c) of the City of West Palm Beach Zoning and Land Development Regulations.

The review of the project in reference to the Downtown Master Plan will include an evaluation in accordance with the 1994 DMP and the recently updated DMP version since the surrounding properties are currently being developed under the 1994 DMP and other vacant properties are subject to the revised DMP. In addition, it is staff professional opinion that the urban design arguments which supported the revisions of the 1994 DMP are applicable to the proposed Opera Place project as described below.

PROJECT ANALYSIS

The proposed project is organized into two separate buildings, the east building and the west building. The east building is configured with one 35-story tower, 430 feet in height, located at the corner of Lakeview Avenue and Dixie Highway and a lower building along Dixie Highway. The tower contains 386,223 square feet of office space with its main pedestrian entrance from Lakeview Avenue. Towards the north, the building steps down from a 35-story tower to a 13-story residential tower which contains 153 residential units and serves as a liner use to conceal the 10-story parking garage. The parking garage provides 762 parking spaces. The first floor of the building also allocates 27,369 square feet for retail uses. The west building is configured in a similar way than the east tower, with one 27-story tower located at the corner of Lakeview Avenue and Quadrille Boulevard and a lower building along Quadrille Boulevard. The tower contains a 270 room hotel with its main pedestrian entrance from Lakeview Avenue. Toward the north, the building steps down from a 26-story tower to a 13-story residential tower with 153 units which serves as a liner use to conceal the 10-story parking garage behind. The parking garage of the west building provides 762 spaces. The first floor of the building also allocates 25,530 square feet for retail uses. The two buildings are set back approximately 45 feet from the Lakeview frontage to provide for pedestrian space. Along the Iris Street frontage and a portion of the Quadrille Boulevard frontage, the building provides for a 10-foot wide pedestrian arcade.

The vehicular circulation for the two buildings is handled primarily through an access drive located along Iris Street. The access drive is a three lane, 36-foot wide drive, which serves as entrance/exit point for the two parking garages (762 parking spaces on each garage structure), and the drop off area. One additional vehicular egress drive is provided along Quadrille Boulevard and one additional vehicular ingress drive is provided along Dixie Highway.

It is staff's professional opinion that the proposed project does not comply with the following Site Design Qualitative Development Standards set forth in Section 94-35(c) of the Zoning and Land Development Regulations:

1. Harmonious and efficient organization.
6. Access to public ways.

8. Design of access and egress drives.
9. Coordination of on-site circulation with off-site circulation.
13. Protection of property values.
14. Consideration of future development.

HARMONIOUS AND EFFICIENT ORGANIZATION. This relates to the building mass and development intensity proposed by the project. According to the standard "All elements of a plan shall be organized harmoniously and efficiently in relation to topography, the size and type of the property affected, the character of adjoining property, and the type and size of buildings. The site will be developed in a manner that will not impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance."

While the subject property is within the CityPlace DRI, which is exempt from the DMP regulations, the ZLDRs still require some compatibility with adjoining properties. The proposed project, at 35 stories, 430 feet in height and an FAR of 9.34, exceeds the maximum height and intensity allowed for the surrounding properties included within the DMP (QBD-25 –maximum height 308 feet and 7.0 FAR), and exceeds any height and FAR previously allowed under the CityPlace DRI (Convention Center Hotel - 320 feet and a 3.74 FAR). The excess in height and intensity negatively affects the adjacent properties.

Despite Okeechobee Boulevard has been characterized as the preferred location for the Downtown's tallest buildings, the proposed Opera Place at 430 feet and 9.34 FAR is clearly out of scale. The three tallest buildings within the CityPlace DRI do not exceed 330 feet in height and have a resulting FAR far below the proposed 9.34 for the Opera Place project. At the same time, existing buildings in the surrounding area, within the Downtown Master Plan, are lower than the proposed Opera Place project but have a comparable resulting FAR such as the CityPlaza I and City Plaza II. However, due to their undesirable impacts on the public realm, the City took the initiative to update the Downtown Master Plan to specifically address these negative impacts. The Master Plan update was approved by the City Commission through Ordinance 4042-07 on August 27, 2007, resulting in a new regulation which controls the development capacity of private property. Within the updated Master Plan the maximum FAR is 7.0. A detail comparison with the surrounding buildings is included as Attachment I.

It is staff's professional opinion that the building mass proposed by the Opera Place project negatively impacts the public realm due to its overwhelming presence at the street level. The building rises as a massive wall from the street level without providing any additional interest for the pedestrian level. The open space created along Lakeview Avenue is designed merely as a greater setback in relation with the building but does not provide any variety and added interest to the public environment.

In the case of the Opera Place project, the amount of square footage proposed does not allow room for building articulation. The parking needed for the project uses a large portion of the floor plate and locates any possibility for building variation at the top of the 10th floor. A reduction on FAR may open opportunities for additional articulation and a more compatible building mass with an enhanced and engaging public realm. For example, a reduction of FAR on one point represents approximately 140,000 square feet of development and its corresponding 280 parking spaces.

Even though the Opera Place project is exempt from the Downtown Master Plan requirements, the DRI regulations require any building within the CityPlace DRI to be designed harmoniously and efficiently in relation to the character of adjoining property and the type and size of buildings. The amount of development proposed for the site seems to be excessive, resulting in a negative traffic impact for the surrounding area, overwhelming shadows on neighboring properties and a disproportionate capture of redevelopment capacity.

ACCESS TO PUBLIC WAYS; DESIGN OF ACCESS AND EGRESS DRIVES; AND COORDINATION OF ON-SITE CIRCULATION WITH OFF-SITE CIRCULATION. Standards number 6, 8 and 9 are related with safe and convenient vehicular circulation in and around the project.

Based on the traffic analysis performed by Traf Tech Engineering, Inc. and submitted by the applicant, it is staff's professional opinion that the project is generating traffic circulation and operational problems impacting the surrounding area and creating unsafe conditions. The submitted traffic analysis reinforces staff's concerns with the possible traffic impact and the need to implement specific mitigation measures. The critical point has been identified as the intersection of Quadrille Boulevard and Iris Street. According with staff's analysis and based on the trip distribution and the traffic assignment presented by the traffic analysis, an increase on the vehicular circulation at the intersection of Quadrille Boulevard and Iris Street justifies the implementation of specific traffic mitigation measures for the entire intersection. The following are the recommended mitigation measures:

- a. Signalize the intersection of Quadrille Boulevard and Iris Street.
- b. Provide three lanes on Iris Street, between Quadrille Boulevard and the main project entrance (one eastbound lane and two westbound lanes). The westbound lanes shall be striped with one exclusive left-turn lane and one shared left/right-turn lane.
- c. Provide a right-turn only lane at the northbound intersection of Quadrille Blvd. and Iris St.
- d. Provide a left-turn lane only at the southbound intersection of Quadrille Blvd. and Iris St.

Staff recommends the requirement of a developer bond to ensure the implementation of the mitigation measures are in place when needed. A highway Capacity Manual analysis for levels of service and queue length, with and without a signal, will be required.

The applicant has modified the project to include a third travel lane on Iris Street, maintaining the on-street parking as it was recommended by staff. However, staff considers the proposed solution detrimental for the public realm. With the introduction of the third lane on Iris Street, required to mitigate the traffic impact generated by the project, the applicant has decided to create a 10 foot arcade on the first floor and maintain the 9 stories above the arcade only 3 feet 2 inches away from the new curb line. It is staff's professional opinion that the proposed section generates a negative impact for the pedestrian environment and increases the overwhelming presence of the building at the street level.

The applicant has provided the recommended right-turn only lane at the northbound intersection of Quadrille Boulevard and Iris Street. However, the right-turn lane has been provided sacrificing the previous characteristics of the public realm. Under the existing circumstances, the property line is

located 17 feet away from the curb and provides for a 7 foot planting area and a 10 foot sidewalk. The proposed design locates the 13 story building only 10 feet away from the curb and provides for a 10 foot arcade on the first floor, maintaining only a 4 feet planting area.

As of the writing of this report, the applicant has not provided any information that confirms the left-turn only lane at the southbound intersection of Quadrille Boulevard and Iris Street is feasible. Staff has concerns with the traffic impact in case not all of the traffic mitigation measures recommended are implemented. For example, the traffic generated at the intersection of Quadrille Boulevard and Iris Street may negatively impact the functionality of the Quadrille Boulevard corridor.

The City will also require the applicant or successors to participate in the Special Events Task Team (SETT) meetings to discuss upcoming events at the Palm Beach County Convention Center and possible impacts on traffic circulation in the area.

In addition, if a traffic management study for Okeechobee Boulevard is conducted and long term operational modifications or intersection modifications are required by said study, then the burden and cost of such operational and /or intersection modification shall be borne by the affected parties in the affected area as determined by the City.

Regarding the internal vehicular circulation, staff still has concerns with the configuration of the basement speed ramp. The proposed ramp is designed with a 16% slope with 8% blend. National standards recommend a maximum slope of 12.5% with a 6% blend at landing. The proposed higher slope may represent a risk for pedestrians due to the speed required to travel the ramp, despite the two stop bars proposed by the project.

As a result of the changes, the two additional access points have generated new internal circulation issues. Staff recommends an internal circulation plan and traffic management be prepared by the applicant identifying traffic signals, drop-off and pick-up areas, stacking areas for taxis, hotel transportation and deliveries. Based on the numerous circulation patterns and potential conflicts, the internal circulation is not design with optimum efficiency.

PROTECTION OF PROPERTY VALUES. Standard number 13 reference the protection of property values and specifically states that "All elements of a site plan shall be arranged to have minimal negative impact on the property values of adjoining property."

It is staff's professional opinion that the high intensity of the proposed project, with an FAR of 9.34, will absorb a large percentage of the market demand, delaying the redevelopment of other vacant properties in the downtown. The maximum development intensity allowed by the revised DMP prescribes an FAR of 7.0, with the intention to distribute development throughout the area.

The project is also deficient in generating quality open spaces to enhance the surrounding area and compensate for the increase development intensity. While the proposal includes sidewalks that are wider than the 1994 DMP requirements, the proposed open space along Lakeview Avenue does not provide a quality space for public enjoyment and can be perceived as a wider sidewalk or a setback for the building.

CONSIDERATION OF FUTURE DEVELOPMENT. Standard number 14 reference consideration of future development and specifically states that "Site plan reviews performed pursuant to this section shall consider existing and likely future development adjacent to the site."

It is staff's professional opinion that the proposed project with a 9.34 FAR will negatively impact the existing developments in the surrounding area and the future development due to the reasons explained in the previous standards.

The Planning Board reviewed the proposed project at its February 18, 2008 meeting and forwarded the item to the City Commission with NO RECOMMENDATION. A motion was made to approve the project with conditions regarding the traffic mitigation but the motion failed 2-2. The two dissenting votes expressed their general support for the project but highlighted their concerns with the building mass proposed by the project and the lack of pedestrian opportunities to compensate for the proposed height. Minutes of the meeting are included as Attachment II.

Fiscal Note:

No fiscal impact.

PRESENTATION AND AWARDS OF MERIT:

23. **Presentation of a Life Saving Award by Mr. Joe Hansen from the American Red Cross to Mayor Lois Frankel.**

Staff Recommended Motion:

Hear presentation.

Background:

On May 18, 2007, Lois J. Frankel, trained in American Red Cross Adult CPR, helped save the life of Linda Hennesse. Lois was dining at a downtown restaurant when Linda Hennesse, who was choking on a piece of meat, approached her with her hands on her throat. Linda could not breathe. Lois jumped up and administered abdominal thrusts dislodging the food. Without a doubt, the citation reads as follows: On May 18, 2007, Lois J. Frankel, trained in American Red Cross Adult CPR, helped save the life of Linda Hennesse.

For this act, Lois J. Frankel, has been awarded the American Red Cross Certificate of Merit. This is the highest award given by the American Red Cross to an individual or team of individuals who saves or sustains a life by using the skills and knowledge learned in an American Red Cross Health and Safety services course. The certificate bears the signature of the President of the United States, who is the honorary chairman of the American Red Cross, and the signature of the chairmen of the American Red Cross.

This action exemplifies the highest degree of concern of one human being for another who is in distress.

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.