

PRESENTATION AND AWARDS OF MERIT (1 – 2):

1. Proclamation proclaiming September 21, 2009 as National Childhood Cancer Awareness Month. The proclamation will be accepted by Mr. Don Chester, Associate Administrator for St. Mary's Medical Center.
Agenda Cover Memorandum No.: 17620
2. Proclamation declaring the "Muck Monster" to be a resident of the City of West Palm Beach.
Agenda Cover Memorandum No.: 17621

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

RECEIVED / FILED:

CONSENT CALENDAR (3 – 10): ALL CONSENT CALENDAR ITEMS PASSED.

3. **Appointment of Mr. Peter Camacho to the West Palm Beach Housing Authority for a term to expire September 4, 2013. This appointment is subject to City Commission ratification.**
Agenda Cover Memorandum No.: 17605

Staff Recommended Motion:

Approve appointment.

4. **Resolution No. 274-09(F) authorizing the funding for the pressure cleaning and painting of the Jenkins House Roof.**

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 2008/2009 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 PROJECT FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE JENKINS HOUSE ROOF; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17604

Staff Recommended Motion:

Approve Resolution No. 274-09(F).

Background:

In 2004 the roof of the Jenkins Historic House, located at 815 Palm Beach Lakes Blvd, was heavily damaged in the hurricanes of 2004. The roof was replaced and painted white. In order to preserve the original historic look of the building the roof was later painted a clay tile red.

Fiscal Note:

Resolution No. 274-09(F) transfers \$2,000 from reserves for building maintenance within the

Capital Projects Fund for this project. Upon approval of this item, the balance in reserves will be approximately \$190,000.

5. Resolution No. 275-09(F) providing budget detail for the purchase of laptop computers for the Engineering Services Department site construction management operations.

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 ENGINEERING DEPARTMENT FOR THE PROCUREMENT OF GOODS AND/OR SERVICES IN COMPLIANCE WITH THE PROCUREMENT CODE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17606

Staff Recommended Motion:

Approve Resolution No. 275-09(F).

Background:

With the relocation of Engineering Services to City Center, the combining of permit tracking and plan reviews (ProjectDox) databases with Construction Services can take place. A component of this system is for field inspectors to utilize a laptop computer network for Capital Improvement and Site Development projects. A successful pilot program was completed in 2007 as a test of the functionality and practicality of the initiative. The success of that endeavor supports the use of laptop computers to improve both staff operational efficiency and deliverable customer service.

The improvements in staff efficiency will contribute to an increase in work load capacity without hiring additional staff. This increased capacity will be immediately beneficial in reducing consultant construction administration costs and allow Engineering Services staff to assume these duties and result in a first-year savings in excess of \$100,000 of capital costs. Reduced consultant services fees can be expected in subsequent years. In addition to the consultant service costs, Engineering Services anticipates a savings of \$2,000 - \$2,500 in the first year for printing and records management / retention. The annual savings amount will gradually escalate in subsequent years, in recognition of compounded saving from reduced records retention costs.

The cost to provide five (5) laptops is \$26,000. All laptops will be equipped with aircards at a total cost of \$250 per month.

Fiscal Note:

Resolution No. 275-09(F) provides budget detail for the purchase of this equipment. Funds are available within Engineering Services budget due to vacancies.

6. Resolution No. 332-09 authorizing the assessment of city liens in the total amount of \$51,272.18 for unpaid water service, sewer service and storm water service charges for the month of June 2009.

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.: 17607

Staff Recommended Motion:

Approve Resolution No. 332-09.

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. 332-09 are for unpaid water, sewer and stormwater service charges for the month of June 2009. The list of properties to be assessed and the associated charges totaling \$51, 272.18 are attached to Resolution No. 332-09 as Exhibit A - Utility Lien List June 2009.

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

Fiscal Note:

No fiscal impact.

7. **Resolution No. 333-09 authorizing the assessment of City liens in the total amount of \$1,116.42 for an unpaid board and secure charge.**

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

Agenda Cover Memorandum No.: 17608

Staff Recommended Motion:

Approve Resolution No. 333-09.

Background:

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

The property to be assessed and the associated charge totaling \$1,116.42 is attached to Resolution No. 333-09 as Exhibit A - Board and Secure Lien - 2009B.

If not paid, the lien may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

8. **Resolution No. 326-09(F) amending the Fiscal Year 2008/2009 Miscellaneous Trust fund budget to authorize appropriations from the State Law Enforcement forfeiture receipts for charitable contributions.**

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 2008/2009 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 LAW ENFORCEMENT FORFEITURE RECEIPTS FOR CHARITABLE DONATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17609

Staff Recommended Motion:

Approve Resolution No. 326-09(F).

Background:

Resolution No. 326-09(F) amends the Miscellaneous Trust Fund budget to authorize the appropriation of State Law Enforcement forfeiture receipts for the purpose described below.

The State Law Enforcement Trust Fund expenditure of \$14,023 which the Chief of Police certifies is in compliance with Section 932.7055(5)(a), Florida Statutes, is for the following charitable donations:

1. PAL Football/Cheerleading Program (\$5,500): The Police Athletic League is a juvenile crime prevention program that currently serves more than 400 youth annually with programs such as football, cheerleading, karate, after school tutoring, scouting and summer camps. The West Palm Beach PAL "Patriots" Football/Cheerleading program started six years ago and grows every year. This program participates in the Pop Warner Little Scholars program in which academics are a big part of the program. The children need to maintain a minimum 2.0 grade point average. Students that fall below are placed on academic probation until grades improve and must provide weekly progress reports to coaches that are signed by his/her teacher in order to participate. There are approximately 200 boys and girls registered this season with more than 40 children still on the waiting list. The additional funding will allow the program to expand.
2. Palm Beach Lakes Community High School (\$523): This donation would provide funding to pay for facilities use for the school swim team. The school is located within the city limits and a

number of the students are unable to participate due to increasing fees and insurance costs. Palm Beach Lakes High School has been a valuable partner with the Police Athletic League and has been very generous in allowing the use of their facilities. This funding will help offset some of the costs of this youth program.

3. Quantum House (\$3,000): The Quantum House is a 501(c)(3) organization located on the campus of St.Mary's Medical Center. This organization provides on site lodging and support for families of children being treated for serious injuries and critical illnesses. Many of these children are victims of crimes and traffic crashes. Keeping their families in close proximity is a valuable tool that aids in the recovery process for the child and the emotional well being of the family. The Quantum House is the only facility of this kind between Ft Lauderdale and Orlando and provides a valuable service to the families of the most innocent of victims. This funding will assist in providing support for the victims and their families.

4. Police Explorers (\$5,000): The West Palm Beach Police Explorers is a youth program that currently has 20 participants. This program exposes youths to the possibilities of pursuing careers in law enforcement and/or other public service fields. The participants are active in the community and participate in crime prevention programs and assist the police department at major events and festivals. The program is routinely recognized for their quality of work and involvement with the community. This funding will provide training and equipment to maintain and enhance their current standard of excellence.

Fiscal Note:

Resolution No. 326-09(F) provides appropriations from State Forfeiture funds for the above items. Upon approval of this item, the balance remaining in the state funds will be approximately \$67,000.

9. **Resolution No. 300-09 authorizing the Mayor to execute an agreement with Cityscape Consultants for communications site development, consulting and management services.**

RESOLUTION NO. 300-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND CITYSCAPE CONSULTANTS FOR COMMUNICATIONS SITE DEVELOPMENT, CONSULTING AND MANAGEMENT SERVICES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 320-09(F): 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 CITY ADMINISTRATION DIVISION OF THE MAYOR'S DEPARTMENT FOR THE PROCUREMENT OF GOODS AND/OR SERVICES IN COMPLIANCE WITH THE PROCUREMENT CODE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17611

Staff Recommended Motion:

Approve Resolution No. 300-09 and Resolution No. 320-09(F).

Background:

The City issued RFP #08/09-102 for the services of a consultant to provide advice and assistance for cellular communication site development and site selection for land lease of cell towers at various locations within the City. There were four (4) responses, of which CityScape Consultants, Inc. from Boca Raton was selected as the successful proposer. (The evaluation team consisted of Finance Director Randy Sherman, Planning Director Charles Wu and MIS Management Analyst Lee Menke.) Cityscape specializes in working with local governments seeking advice and solutions relating to wireless telecommunications and currently has contracts with a number of local governments in Florida including Seminole County, City of Margate, City of Palm Coast, and the City of Coconut Creek. The proposed Agreement with Cityscape provides for the following:

1. CityScape will create a Wireless Master Plan for the City. The master planning process will include an inventory of existing antenna support structures and buildings upon which antennas are located throughout the City; an analysis of reasonably anticipated cell phone growth over the next 10 years; engineering analysis of potential coverage; recommendations for providing City wide network coverages and recommendations for the use of City owned land and infrastructure to complete and enhance wireless network deployment. The process will also include the review of the City's existing telecommunications ordinance and recommendations for amendments to facilitate orderly wireless network deployments throughout the City. The result of that review may result in changes to the existing ordinance. This process is estimated to take 6 months to a year. The cost for the Master Plan is \$28,972.65.
2. Cityscape will serve as the City's exclusive manager of City owned sites for wireless communication development. Cityscape will work with the City to identify the potential sites and to analyze the capacity and potential revenue of the sites, will actively solicit leases with prospective tenants, and will manage the leases and the sites. The management responsibilities will include billing and collecting rent, performing interference studies, coordination of installation of equipment, mediating and resolving disagreements amount tenants, handling FCC or FAA issues, and evaluation of the condition of the structures and equipment. Cityscape will receive an commission of 25% of the gross rent paid by each tenant for the first five years of the lease. The potential city revenue generated cannot be estimated until the Master Plan is completed. All leases are subject to City Commission approval.
3. Cityscape will also review third party applications for new wireless telecommunications infrastructure. Cityscape will review applications to determine their accuracy and compliance with state and federal regulations and good engineering practices. Cityscape's fee of \$3,500 for each application will be paid out of the application fee paid by the telecommunications provider seeking approval.

The term of the agreement with Cityscape is three years with an option to renew for two additional terms of one year each.

10. Resolution No. 329-09 establishing the City's Salary Plan for FY 2009-2010.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO THE OFFICES, POSITIONS, TITLES AND COMPENSATION FOR THE UNCLASSIFIED SERVICE AND MEMBERS OF THE CLASSIFIED SERVICE FOR THE CITY OF WEST PALM BEACH; ESTABLISHING THE CITY'S SALARY PLAN AND PROVIDING FOR CLASSIFICATION TITLES AND SALARY RANGES; PROVIDING FOR A MANAGEMENT INCENTIVE PLAN; IMPLEMENTING THE PROVISIONS OF THE CURRENT COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND THE POLICE BENEVOLENT ASSOCIATION, THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, THE SERVICE EMPLOYEES INTERNATIONAL UNION, AND THE PROFESSIONAL MANAGERS AND SUPERVISORS ASSOCIATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17622

Staff Recommended Motion:

Approve Resolution No. 329-09.

Background:

Pursuant to Section 3.01 of the City Charter that provides that the Mayor is to recommend the City Commission pay scales for City employees for the ensuing year and to fix the salaries of employees within applicable scales as established by the City Commission.

Resolution No. 329-09 sets forth the classification titles and salary scales for all positions in the City service for authorization by the Commission as required by City Code Section 2-216(a). The Resolution is established annually to reflect the compensation as negotiated with the various bargaining units (police, fire, general employees, and professional/supervisor units), and to reflect changes in job titles and/or new job classifications approved as part of the budget process. This resolution supersedes Resolution No. 395-08, which was approved on September 22, 2008. The number of positions, as well as funding for personnel detail was approved during the budget process and constitutes the City's plan of employment for the ensuing year. This Resolution serves as the basis for the City's published pay plan and does not include any raises across the board.

Table A, which is attached, summarizes the City's pay practices for each employee group for fiscal year 2009-10.

Section One of the attached resolution lists the classifications in alphabetical order with pay grades and pay charts. New classifications are indicated in bold print and changes in pay grade assignments are indicated with a carat ("^").

Section Two describes special pay provisions.

Section Three provides for a Management Incentive Plan.

Section Four provides for an effective date.

Fiscal Note:

No fiscal impact

RESOLUTIONS:

11. **Resolution No. 324-09 CONTINUED** relating to ratification of a successor collective bargaining agreement between the City of West Palm Beach and the Professional Managers and Supervisors Association (“PMSA”) Certified Unit No. 1073, for the period October 1, 2009 - September 30, 2010.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA RELATING TO A CERTAIN UNION-RATIFIED COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE PROFESSIONAL MANAGERS AND SUPERVISORS ASSOCIATION (PMSA), CERTIFIED UNIT NO. 1073 FOR THE PERIOD OCTOBER 1, 2009 TO SEPTEMBER 30, 2010; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17613

Staff Recommended Motion:

Administration recommends that the City Commission approve Resolution No. 324-09 based on the fact that the Florida Retirement System (FRS) will not be an option for PMSA bargaining unit members (or any other City employee) as of October 1, 2009 (see Article 29, Retirement).

Background:

Article 29 (Retirement) states that (1) all employees hired on or after October 1, 2009 shall become members of the Florida Retirement System (FRS) and that (2) all current bargaining unit members on or before September 30, 2009 shall have the option of remaining in the City’s Defined Benefit Plan or the City’s Defined Contribution Plan or transferring to the Florida Retirement System (FRS).

The parties tentatively agreed to a successor collective bargaining agreement (enclosed) which was subsequently ratified by the PMSA on September 2, 2009. Prior to the union ratification vote, PMSA knew that the FRS would not be an option for its bargaining unit members starting October 1, 2009 and declined the City's requests (including, but not limited to, the City Administrator's call to the PMSA Executive Director on August 31, 2009) to keep Article 29 open for further negotiations prior to union ratification.

Administration will continue good faith negotiations with PMSA to present the City Commission with another agreement for ratification.

PUBLIC HEARING (12 – 14):

12. **Public Hearing and Second Reading of Ordinance No. 4236-09 ADOPTED:** Regarding the adoption of the Coleman Park Neighborhood Improvement Plan and designation of the Plan as the updated Urban Infill and Redevelopment Plan for the area.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ADOPTING THE COLEMAN PARK NEIGHBORHOOD IMPROVEMENT PLAN, DATED JULY 2009, AS THE LONG RANGE VISION FOR THE AREA LOCATED NORTH OF PALM BEACH LAKES BOULEVARD, SOUTH OF 25TH STREET, AND BETWEEN THE FEC AND CSX RAILROAD TRACKS, KNOWN AS THE COLEMAN PARK NEIGHBORHOOD, FOR PURPOSES OF GUIDING FUTURE DEVELOPMENT AND REVITALIZATION EFFORTS AS WELL AS RECOGNIZING THE PLAN AS THE UPDATED URBAN INFILL AND REDEVELOPMENT AREA PLAN FOR THE COLEMAN PARK NEIGHBORHOOD PURSUANT TO SECTION 163.2517, FLORIDA STATUTES; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17602

Staff Recommended Motion:

Approve Ordinance No. 4236-09.

Background:

Coleman Park is the historic center of the City of West Palm Beach's African-American community. Located between Palm Beach Lakes Boulevard and 25th Street, between the FEC and CSX railroad tracks, the neighborhood is rich in history and the home or birthplace for many of the community's business and political leaders, educators and professionals. In an effort to provide a blueprint for the future of Coleman Park and express the vision of the residents of the neighborhood, the City contracted with Glating Jackson Kercher Anglin, Inc. to develop the Coleman Park Neighborhood Improvement Plan (the "Plan"), which commenced work in October of 2008.

As a result of the Coleman Park neighborhood planning process, which included numerous neighborhood meetings, residents, business owners, property owners and other key stakeholders were given the opportunity to provide their input regarding needs, issues, concerns, opportunities, and solutions. The Plan provides for a long range vision for the neighborhood, including physical, social, and economic improvements, and provide a guide for implementation of the vision.

Additionally, as provided in Policy 1.2.7 of the City's Comprehensive Plan, a portion of the Plan's study area is also designated as an Urban Infill and Redevelopment Area (UIRA). Pursuant to this policy, the City is to continue redevelopment and revitalization efforts for the purpose of targeting economic development and the construction of affordable housing. As required by Section 163.2517, Florida Statutes, the Plan will also serve as the updated UIRA plan, outlining the City's objectives within the designed area.

The proposed Ordinance, attached hereto as ATTACHMENT I, will officially adopt the Plan, dated July 2009, as the official long range vision for the Coleman Park Neighborhood for purposes of guiding future development and revitalization efforts, as well as recognizing it as the updated UIRA Plan for the area. A copy of the Plan, the Conceptual Physical Improvement Plan, as well as the proposed action items and estimated costs, have been attached hereto as ATTACHMENTS II through IV, respectively.

Coleman Park is located within Commission Districts 1 and 2 - Commissioners Molly Douglas and Isaac Robinson, Jr., respectfully.

The public hearing on the ordinance will be advertised in the Palm Beach Post. Notices of the hearing was sent to all property owners within the study area, and flyers were distributed to neighborhood residents.

Fiscal Note:

No fiscal impact at this time; however, action items proposed for 2009-2010 are estimated at \$550,000 in capital expenses and \$515,000 in annual operation costs.

13. **Public Hearing and Second Reading of Ordinance No. 4237-09 **ADOPTED** imposing a payment in lieu of taxes (PILOT) on the City's Parking System.**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE IMPOSITION OF A PAYMENT IN LIEU OF TAXES UPON PROPERTY UTILIZED BY THE CITY'S PARKING SYSTEM; PROVIDING FOR THE AMOUNT AND SOURCE OF SUCH PAYMENTS; DIRECTING THAT PAYMENT BE CREDITED TO THE GENERAL FUND; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17603

Staff Recommended Motion:

Approve Ordinance No. 4237-09.

Background:

The City promotes "full cost of service budgeting." There are no cross fund subsidies for service provided between departments. As some examples, parks pay for water, utilities pays for legal services and each department pays for employee parking. The City's Golf course and Utilities systems are self-supporting enterprises that budget a PILOT to cover costs of City services provided to all City constituents. The Parking System does not make a PILOT payment. If the Parking System were a private entity, it would pay taxes and would be responsible for its infrastructure. The Community Redevelopment Agency (CRA) funded the garages at City Center and Clematis Street. A PILOT payment will more accurately reflect the full cost of operations for the parking system since it is an enterprise fund. Ordinance No. 4237-09 will impose a PILOT on the City's Parking System based on 10% of gross revenues. The General Fund will collect approximately \$400,000 in FY 2010.

This item was approved on first reading on September 8, 2009.

Fiscal Note:

The FY 2010 budget will include a revenue of \$400,000 for the Parking PILOT.

14. **Public Hearing and Second Reading of Ordinance No. 4233-09 **CONTINUED** amending Chapter 78 (Street, Sidewalks and Public Places) of the Code of Ordinances to include**

additional conditions for a right-of-way permit regarding utility location marking from the Sunshine State One Call of Florida and providing for the use of special marking paint.

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 78 (STREETS, SIDEWALKS AND PUBLIC PLACES), ARTICLE XV (PUBLIC RIGHT-OF-WAY USE PERMIT), AMENDING SECTION 433 (PERMIT CONDITIONS) TO ADD PERMIT CONDITIONS REGARDING MARKING OF UNDERGROUND UTILITIES AND EXPLORATORY EXCAVATION OF ANY CITY RIGHT-OF-WAY OR SIDEWALK; CREATING SECTION 439 REQUIRING REGISTRATION BY ANY OPERATOR THAT PERFORMS MARKING OF UNDERGROUND FACILITIES; PROVIDING FOR CODIFICATION; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17610

Staff Recommended Motion:

Staff recommends that this Ordinance be continued to the October 5, 2009 City Commission Meeting.

Background:

The Underground Facility Damage Prevention and Safety Act, Florida Statute, Chapter 556, requires the advance notification of excavation in public rights-of-way or easements and the location marking of existing underground utilities. The statute does not require the utility owner, excavator, or excavating contractor to remove the marking upon completion of the work. These markings create a particular aesthetic nuisance in areas with hard or paved surfaces.

In order to more effectively manage the public rights-of-way, Ordinance No. 4233-09 amends Article XV, Chapter 78, to include right-of-way permit conditions requiring work area marking prior to obtaining utility location marking from the Sunshine State One Call of Florida and providing for the use of special marking paint by member operators locating their facilities. The marking of the work area by excavation contractors prior to contacting Sunshine State One Call of Florida will specify the work location and potentially reduce unnecessary utility location marks. The use of special marking paint on hard or paved surfaces will satisfy the provisions of Chapter 556 while reducing the exposure or fade-away time for paint that must be applied in these areas.

PUBLIC HEARING - QUASI-JUDICIAL:

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

15. **Public Hearing and Second Reading of Ordinance No. 4223-09 **ADOPTED**: A request by Randall Granberry, of the School District of Palm Beach County, for a Small-Scale Future Land Use Map Amendment to change the designation for 2 parcels within the Northboro Elementary School campus, totaling approximately 0.40 acres, from Single Family (SF) to Community Service (CS); Public Hearing and Second Reading of Ordinance No. 4224-09 **ADOPTED**: A companion request to rezone the 2 parcels from Single Family High Density**

(SF14) Residential to Community Service (CS); and Resolution No. 236-09 **ADOPTED: A companion request for a major subdivision to replat the entire 8.4 acre Northboro Elementary School campus.**

ORDINANCE NO. 4223-09: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR APPROXIMATELY 0.40 ACRES LYING WITHIN THE CAMPUS OF NORTHBORO ELEMENTARY SCHOOL, LOCATED AT 400 40TH STREET, FROM A SINGLE FAMILY ("SF") FUTURE LAND USE DESIGNATION TO A COMMUNITY SERVICE ("CS") FUTURE LAND USE DESIGNATION; DECLARING THE PROPOSED SMALL-SCALE LAND USE AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 4224-09: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY, FOR TWO PARCELS TOTALING APPROXIMATELY 0.40 ACRES LYING WITHIN THE CAMPUS OF NORTHBORO ELEMENTARY SCHOOL, LOCATED AT 400 40TH STREET, FROM A SINGLE FAMILY HIGH DENSITY ("SF14") RESIDENTIAL ZONING DESIGNATION TO A COMMUNITY SERVICE ("CS") ZONING DESIGNATION; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 236-09: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR SUBDIVISION OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "NORTHBORO ELEMENTARY SCHOOL", A REPLAT OF A PORTION OF SECTION 9, TOWNSHIP 43 SOUTH, RANGE 43 EAST, CONSISTING OF A SINGLE PARCEL TOTALING APPROXIMATELY 8.4 ACRES; PROVIDING AND EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 17612

Staff Recommended Motion:

Approve Ordinance No. 4223-09, approving a Small-Scale Comprehensive Plan Future Land Use Map Amendment for two (2) parcels within the Northboro Elementary School campus, from Single Family ("SF") Future Land Use designation to Community Service ("CS") Future Land Use designation. This motion is based upon the staff report and the recommendation of the Planning Board, along with the findings that the amendment is consistent with Chapter 163, Florida Statutes, the Florida Administrative Code, and the Comprehensive Plan, along with the finding that the amendment standards for additional comprehensiveness found in Policy 1.1.7 of the Future Land Use Element of the Comprehensive Plan have been met.

Approve Ordinance No. 4224-09, to rezone two (2) parcels within the Northboro Elementary

School campus from a Single Family High Density ("SF14") Residential designation to a Community Service ("CS") zoning designation. This motion is based upon the factual testimony presented, the application submitted and the staff report, along with the finding that the Rezoning Standards of Section 94-32 of the City's Zoning and Land Development Regulations have been met.

Approve Resolution No. 236-09, approving a Major Subdivision to create the Northboro Elementary School plat. This motion is based upon the factual testimony presented, the application submitted and the staff report, which constitute competent, substantial evidence, along with the

finding that the Subdivision General Standards of Section 94-342 of the Zoning and Land Development Regulations have been met.

Background:

The Planning and Zoning Department has determined that the requests comply with one or more of the Future Land Use ("FLU") Amendment Standards found in the Future Land Use Element Policy 1.1.7 of the City's Comprehensive Plan and the Rezoning Standards found in Section 94-32 of the Zoning and Land Development Regulations ("ZLDR"), as detailed in the Staff Report attached hereto as ATTACHMENT I.

The Planning Board recommended approval (4-0) of this request to the City Commission after a Public Hearing on June 16, 2009.

ANALYSIS

The subject 8.4-acre campus is located at 400 40th Street, at the southwest corner of 40th Street and North Flagler Drive. Northboro Elementary School has occupied this site since 1925 and has been expanded numerous times in terms of building size and land area. The School District of Palm Beach County (SDPBC) is in the midst of a large-scale modernization program, which involves the demolition and reconstruction of significant portions of the classroom space, as well as numerous other site improvements. As part of the process, the SDPBC is requesting a Small-Scale Future Land Use (FLU) Map amendment, rezoning, and replat to "clean up" the property from a real estate standpoint.

The FLU and rezoning requests pertain to two (2) vacant residential lots owned by the SDPBC located between 38th and 39th Streets, immediately west of Calvin Avenue. After purchasing the properties in 1994 and 2005, the SDPBC did not request a change of the Single Family ("SF") FLU and Single Family High Density ("SF14") Residential zoning designations of the properties, which are inconsistent with the remainder of the campus' Community Service ("CS") FLU and zoning designation. Staff does not object to the requests, as they will make the properties consistent with the proposed use, as well as provide a single FLU and zoning designation across the entire campus.

Currently, the campus is composed of eight (8) parcels, as well as portions of 39th Street and Calvin Avenue, which were abandoned on March 9, 2009 (Res. No. 80-09). The SDPBC is requesting a Major Subdivision to replat the entire campus, which will serve to combine the

existing parcels, as well as the abandoned rights-of-way, into a single uniform parcel. The public hearings are scheduled to be advertised in the Palm Beach Post on September 1, 2009, and September 9, 2009, for Ordinance No. 4223-09. Ordinance No. 4224-09 will be advertised on September 11, 2009, and Resolution No. 236-09 will be advertised on September 11, 2009. Additionally, individual notices of the public hearing have been mailed to all property owners within 400 feet of the property.

The subject property is located within Commission District No. 1 - Commissioner Molly Douglas.

The motions for the Ordinances and Resolution are attached hereto as ATTACHMENT V through ATTACHMENT VII.

Fiscal Note:

No fiscal impact.

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.