



**City of West Palm Beach  
City Commission**

**PASS/FAIL AGENDA**

**February 8, 2010  
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, 401 CLEMATIS STREET, WEST PALM BEACH, FLORIDA 33401, {(561) 822-1210}**

**MAYOR**

LOIS J. FRANKEL

**CITY COMMISSION**

PRESIDENT MOLLY DOUGLAS

COMMISSIONER WILLIAM MOSS

COMMISSIONER ISAAC ROBINSON, JR.

COMMISSIONER KIMBERLY MITCHELL

COMMISSIONER GERALDINE MUOIO

**ADMINISTRATION**

CITY ADMINISTRATOR EDWARD MITCHELL

CITY ATTORNEY CLAUDIA M. MC KENNA

CITY CLERK BLANE KAUTHEN

**CALL TO ORDER:**

**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**PRESENTATION AND AWARDS OF MERIT (1 – 3):**

1. Proclamation honoring the Grand Opening of the new West Palm Beach Waterfront; and Resolution No. 39-10 **ADOPTED** authorizing the sale, possession and consumption of alcoholic beverages for the opening of the Waterfront and the temporary closure of Flagler Drive between Banyan Boulevard and Fern Street.  
[Agenda Cover Memorandum No.: 17818](#)
2. Presentation by Barbara Chieves, Converge & Associates Consulting and Suzanne Turner, CEO of the YWCA regarding an update of Community Chats for Action.  
[Agenda Cover Memorandum No.: 17834](#)
3. Presentation and Resolution No. 56-10(F) **ADOPTED** amending the Fiscal Year 2009/2010 General Fund budget to recognize Parking Meter donation revenue for Martin Luther King Day, January 18, 2010, and appropriating said funds for a donation to the Martin Luther King Caregivers; and presentation of a donation check.  
[Agenda Cover Memorandum No.: 17832](#)

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

**RECEIVED / FILED:**

**CONSENT CALENDAR (4 – 12): ALL CONSENT CALENDAR ITEMS PASSED.**

4. **Minutes of the Regular City Commission meeting held January 11, 2010.**  
[Agenda Cover Memorandum No.: 17817](#)

**Staff Recommended Motion:**

Approve the Minutes of the Regular City Commission meeting held January 11, 2010.

5. **Resolution No. 40-10 authorizing the Mayor to execute an Agreement for Vote Processing Equipment Use and Election Services with the Palm Beach County Supervisor of Elections.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

[Agenda Cover Memorandum No.: 17821](#)

**Staff Recommended Motion:**

Approve Resolution No. 40-10.

**Background:**

The Palm Beach County Supervisor of Elections ("SOE") has assisted with equipment and processing of election results during municipal elections. Due to economic situations, the SOE can

no longer financially support these expenditures in supporting municipal elections. Therefore, the City and the SOE desire to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Code are followed during municipal elections. The form of the agreement was negotiated and approved by the Palm Beach County League of Cities and they have asked all municipalities to approve the agreement.

**Fiscal Note:**

Because of additional costs being imposed on the City by the SOE, an additional \$25,000 may be needed for the City's March 2010 election. If additional budget is needed, an agenda item will be brought to Commission at a later date.

6. **Resolution No. 44-10 authorizing a Special Event License Agreement between the City of West Palm Beach and Palm Beach India Association, Inc. to produce India Fest on February 27, 2010 from 10:00 a.m. to 10:00 p.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 PALM BEACH INDIA ASSOCIATION TO CONDUCT "INDIA FEST 2010" TO BE HELD ON FEBRUARY 27, 2010 AT THE MEYER AMPHITHEATRE; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NON ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17819](#)**

**Staff Recommended Motion:**

Approve Resolution No. 44-10.

**Background:**

Palm Beach India Association will host "India Fest" on Saturday, February 27, 2010 from 10:00 a.m. to 10:00 p.m. at the Meyer Amphitheatre. "India fest" is a free event to celebrate Indian Culture with live music and food. Expected attendance is 5000. Palm Beach India Association will pay the City of West Palm Beach a \$1,375.00 Special Event permit fee and a \$2,500.00 Special Event security deposit. In addition, Palm Beach India Association shall pay the estimated Police costs to be provided by and paid directly to the Police Department and the estimated EMS charges prior to the Special Event and all parking fees shall be paid within fourteen (14) days of the conclusion of the Special Event. 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.

7. **Resolution No. 43-10 authorizing a Special Event License Agreement between the City of West Palm Beach and Supercar Experience to produce "Supercar Experience" on February 27, 2010 from 10:00 a.m. to 8:00 p.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 SUPERCAR EXPERIENCE TO HOST "SUPERCAR EXPERIENCE" AT FLAGLER DRIVE BETWEEN FERN STREET AND LAKEVIEW AVEUNUE ON SATURDAY FEBRUARY 27, 2010 FROM 10:00 A.M. TO 8:00 P.M.; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NON-ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17820](#)**

**Staff Recommended Motion:**

Approve Resolution No. 43-10.

**Background:**

Supercar Experience will host "Supercar Experience" on Saturday, February 27, 2010 from 10:00 a.m. to 8:00 p.m. on Flagler Drive between Fern Street and Lakeview. "Supercar Experience" is a gated luxury car show with food, drinks and live music. Tickets will cost \$24 with children 12 and under free. Expected attendance is 8000. Supercar Experience will pay the City of West Palm Beach a \$5500.00 Special Event permit fee and a \$2500.00 Special Event security deposit. In addition, Supercar Experience shall pay the estimated Police costs to be provided by and paid directly to the Police Department and the estimated EMS charges prior to the Special Event and all parking fees shall be paid within fourteen (14) days of the conclusion of the Special Event. 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. Supercar Experience will be responsible for sending out a notification letter to anyone affected by the event (area businesses, condo, etc.)

8. **Resolution No. 46-10 authorizing the assessment of City liens in the total amount of \$59,682.64 for unpaid water, sewer, and stormwater service charges for the month of November 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.: 17822](#)**

**Staff Recommended Motion:**

Approve Resolution No. 46-10.

**Background:**

In accordance with the Sections 90-4 and 90-5, Code of Ordinances, the City imposes liens on private real property for delinquent payments due for utility services. The liens to be assessed by

Resolution No. 46-10 are for unpaid water, sewer and stormwater service charges for the month of November 2009. The list of properties to be assessed and the associated charges totaling \$59,682.64 are attached to Resolution No. 46-10 as Exhibit A - Utility Lien List - November 2009.

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

**Fiscal Note:**

No fiscal impact.

**9. Resolution No. 50-10 authorizing the execution of an Interlocal Agreement between the City and the CRA for funding assistance for programming the City Commons and Waterfront.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AND THE CITY OF WEST PALM BEACH REGARDING FUNDING FOR PROGRAMMING THE CITY COMMONS AND WATERFRONT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17823](#)**

**Staff Recommended Motion:**

Approve Resolution No. 50-10.

**Background:**

As a result of recommendation from the Urban Land Institute, the City is constructing a City Commons and Waterfront Project to open up the waterfront and re-establish the historic link between the waterfront and the City's downtown and to draw the public to the downtown and stimulate economic development. By Resolution No. 05-65, the CRA adopted a Strategic Finance Plan for the Downtown/City Center CRA District, which set forth a strategy for implementing initiatives necessary for redevelopment within the District. The City Commons and Waterfront Project was included in the Plan as vital to the long-term economic health of the CRA District.

The grand opening of the City Commons and Waterfront is scheduled for February 20, 2010. To ensure the success of the City Commons and Waterfront Project as an economic stimulator, sufficient funds for programming the Waterfront must be allocated.

Resolution No. 50-10 approves an Interlocal Agreement between the City and the CRA whereby the CRA agrees to fund approximately \$750,000 per year toward programming the City Commons and Waterfront.

**Fiscal Note:**

No fiscal impact.

10. **Resolution No. 49-10: A City initiated request to authorize the Planning Department to apply for the 2009-2011 Forest Health Improvement Initiative Grant from the Florida Department of Agriculture and Consumer Services to install an urban forest along the banks of Clear Lake on the north side of Okeechobee Boulevard between Banyan and 7th Street.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY, FOR THE 2009-2011 FOREST HEALTH IMPROVEMENT INITIATIVE GRANT TO PLANT AN URBAN FOREST ALONG THE BANKS OF CLEAR LAKE ON THE NORTH SIDE OF OKEECHOBEE BOULEVARD BETWEEN BANYAN AND 7TH STREET; AUTHORIZING A GRANT MEMORANDUM OF AGREEMENT UPON AWARD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17831](#)**

**Staff Recommended Motion:**

Approve Resolution No. 49-10.

**Background:**

The City is eligible to receive a \$24,000 grant from the Florida Department of Agriculture and Consumer Services under a federal grant from the US Forest Services - the 2009-2011 Forest Health Improvement Initiative Grant Program. This forestry grant will allow the City to enhance Clear Lake along the north side of Okeechobee Boulevard (ATTACHMENT II - Clear Lake North). The scope of work will include site preparation, irrigation system upgrade and the installation of a variety of native trees along the bank. These trees will help to stabilize the lake, provide protection of the water basin as required by Homeland Security and create a healthier environment for both people and wildlife.

The City has already completed the first two-thirds of the lake reforestation through its landscape mitigation program. Completing the forestation of this final stretch of shoreline will provide further protection for the drinking water, will attract more wildlife and will greatly enhance the scenic quality of Australian Avenue that connects many neighborhoods with the downtown.

This grant does not require any matching city funds.

**Fiscal Note:**

Grant does not require a match. No impact on the budget.

11. **Resolution No. 64-10 authorizing the selection of the Lord's Place to receive parking meter donation money for Presidents' Day, February 15, 2010.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SELECTION OF THE LORD'S PLACE TO RECEIVE PARKING METER DONATION MONEY ON PRESIDENTS' DAY,**

**FEBRUARY 15, 2010; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17835](#)**

**Staff Recommended Motion:**

Approve Resolution No. 64-10.

**Background:**

In FY 2008/2009, our generous citizens donated \$24,721 to charitable organizations which benefit the citizens of West Palm Beach through our Parking Meter Donation Days. The Lord's Place has requested the parking meter donations for Presidents Day, February 15, 2010.

The Lord's Place provides the chronically homeless with a place to get off the street and access programs and services which can lead them to self sufficiency.

**Fiscal Note:**

Actual donation will be approved by Resolution after each meter day.

12. **Resolution No. 51-10 authorizing the submittal of a grant application to the South Florida Regional Transportation Authority (RTA) requesting \$1,350,000 for trolley operating funding for a three (3) year period.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO MAKE CERTAIN CERTIFICATIONS AND TO SUBMIT A GRANT APPLICATION REQUESTING \$1,350,000 IN FUNDING FOR TROLLEY OPERATIONS TO THE SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY FOR A FEDERAL TRANSIT AUTHORITY JOB ACCESS & RECOVERY COMMUTE GRANT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17836](#)**

**Staff Recommended Motion:**

Approve Resolution No. 51-10.

**Background:**

City staff recently became aware of RTA offering a call for projects as part of a competitive selection process, the Job Access & Reverse Commute (JARC) grant program. The grant is intended to provide Federal Transit Administration (FTA) funding for local transportation related programs that offer job access and reverse commuter services. Under this grant program, there is a 50/50 match requirement. The application deadline is February 19, 2010.

The city received grant funding from FTA for the capital purchase of eight (8) trolley vehicles. Five (5) are presently under construction and anticipated delivery is scheduled for Spring 2010. Due to recent budget constraints for operating costs, City/CRA/DDA staff is recommending only operating 4-5 vehicles at this time. It is anticipated that 2-3 trolleys will provide a new, free commuter route in the downtown linking the Tri-Rail/Palm Tran/Amtrak intermodal center to

various governmental, employment, library and tourist destinations, as well as other prominent downtown destinations. In addition, the new commuter route service will link to the existing CityPlace/Clematis trolley service. The anticipated operating costs for the proposed new service is \$300,000 per vehicle annually. The total project operating cost is anticipated to be \$900,000 per year, or \$2.7 million for three (3) years.

City staff is presently completing an application requesting 50/50 operating funding matching grant for \$1.35 million for three (3) years of operating funding. It is anticipated that CRA and City general funds will provide the matching operating funding.

As part of the Certifications of the City in applying for the grant, the City will be certifying to the FTA that it has the financial capacity to operate the trolleys and that the City has or will have available from the general fund the funds required for the City's matching share. The program fraud civil remedies and criminal provisions apply to the certifications made in support of this grant. All certifications to be made by the City are attached as Attachment A.

The grant, if awarded, will be available October 2010 with final expenditures by December 2013.

**Fiscal Note:**

The City is certifying that it will have \$1.35 million for three (3) years of trolley operating funding.

**PUBLIC HEARING (13 – 16):**

13. **Public Hearing and Second Reading of Ordinance No. 4256-10 **ADOPTED**: Declaring a moratorium as to the issuance and/or approval of any permit for the establishment of a pain management clinic within the City.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DECLARING A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION FOR THE ESTABLISHMENT OF A PAIN MANAGEMENT CLINIC; PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF THE NEW REGULATIONS THAT REGULATE SUCH USES; PROVIDING FOR LEGISLATIVE FINDINGS OF FACT; PROVIDING FOR INTENT AND PURPOSE; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING FOR AUTOMATIC REPEAL; PROVIDING AN EFFECTIVE DATE.**

**[Agenda Cover Memorandum No.: 17825](#)**

**Staff Recommended Motion:**

Approve Ordinance No. 4256-10.

**Background:**

On December 8, 2009, the Board of County Commission declared a one-year moratorium on pain management clinics within unincorporated County. As a result, the City has been receiving numerous inquires for such uses to be located within the City limits.

To appropriately address the effects of such uses, staff recommends the City Commission approve a similar moratorium to allow staff time to analyze these uses and proposed appropriate regulations. The moratorium is proposed to terminate when the newly proposed regulations are adopted and become effective.

This Ordinance has been specifically advertised in the Palm Beach Post.

**Fiscal Note:**

No fiscal impact.

14. **Public Hearing and Second Reading of Ordinance No. 4258-10 **ADOPTED** regarding a change to the alcoholic beverage regulation to allow retail establishments for the sale of liquor to be consumed, either on or off the premises, or for the sale of beer, ale or wine to be consumed, either on or off the premises, to be located within 500 feet of a church.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 6 (ALCOHOLIC BEVERAGES) SECTION 6-2, TO ALLOW CERTAIN ALCOHOLIC BEVERAGE RETAIL ESTABLISHMENTS TO BE LOCATED WITHIN 500 FEET OF A CHURCH WITHIN THE DOWNTOWN; DECLARING THE AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17826](#)**

**Staff Recommended Motion:**

Approve Ordinance No. 4258-10.

**Background:**

On November 20, 2009, Al Malefatto of Greenberg Traurig submitted a request to the City on behalf of WG Compass Realty, the leasing agent for CF West Palm Office, L.P., owner of Waterfront Clematis, located at 1 and 101 N Clematis Street requesting a change to chapter 6 of the City Code to allow the location of a liquor store in the former "Quiznos" space in the 101 North Clematis building. The 101 North Clematis building is located within the 500 feet radius of the St Ann's Catholic Church and school.

According to the City code, "No retail establishment for the sale of liquor to be consumed, either on or off the premises, or for the sale of beer, ale or wine to be consumed on the premises shall be allowed where the location designated therefore is within 500 feet of a church or public, private or parochial school." Thus, no liquor sales and no on-site sale and consumption of beer, wine or ale is permitted within 500 feet of a church or school. (Package sales of beer, wine and ale for off-site consumption may currently be sold).

The proposed code change amends chapter 6 of the City code to allow retail establishments for the sale of liquor to be consumed off the premises (package sales of liquor), or for the sale of beer, ale or wine to be consumed, either on or off the premises, to be located within 500 feet of a church in

the downtown master plan area. The effect of the proposed change will be to allow package sales of liquor and sales with on-site consumption of beer, ale or wine within 500 feet of a church in the downtown area.

The proposed regulation maintains the statutory prohibition of on-premises consumption of any alcohol within 500 feet of a public, private or parochial school, in accordance with Florida Statutes Sec. 562.45.

In addition, the proposed ordinance prohibits the sale of pint-size or smaller bottles of liquor, single cans or bottles of beer or ale, and the small 187ml bottles of wine (4-pak) and cocktails in the downtown.

15. **Public Hearing and First Reading of Ordinance No. 4252-09 CONTINUED which establishes certain terms, conditions and methods of calculation for the existing tax rates contained in Chapter 82, Taxation, Section 82-163, Business Tax Classifications and Rate Schedule relating to Retail and Wholesale Businesses.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 82 (TAXATION), SECTION 82-163 (BUSINESS TAX CLASSIFICATIONS AND RATE SCHEDULE) OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, TO ESTABLISH THE TERMS, CONDITIONS AND CALCULATION METHOD FOR RETAIL AND WHOLESALE BUSINESSES; AND PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17827](#)**

**Staff Recommended Motion:**

**STAFF RECOMMENDS THAT THIS ITEM BE CONTINUED TO FEBRUARY 22, 2010.**

**Background:**

The issuance of a local business tax receipt is used by a local government to grant the privilege of engaging in or managing any business, profession and occupation within its jurisdiction. Local governments are authorized to levy and set the amount of a business tax for the privilege of engaging in a business or profession, or occupation within its jurisdiction.

The City of West Palm Beach collects a Local Business Tax in order to generate sufficient revenue to offset the costs the City experiences in providing essential services to businesses and their customers for those businesses which are located within the City limits. The City Business Tax system utilizes several methods to calculate an annual local business tax depending on the applicable business classification. For wholesale and retail businesses, an "inventory-based" taxation methodology is used which is intended to fairly levy a tax based upon the value of inventory which a business reports to the City on an annual basis.

In May 2008, with the approval and adoption of Ordinance No. 4095-07, the City Commission adjusted the previously existing Rate Schedule for the City's business tax. This action, primarily intended to update the various tax rates charged to businesses within the City, by increasing the tax rates by 5%. Ordinance No. 4095-07 also altered the method of calculation for the tax rate of retail businesses by removing a previously existing "maximum tax" or "cap" of \$9,922.50 on all retail businesses. Since the City Business Tax system for retail businesses is inventory based, the \$9,922.50 maximum tax translated to an inventory level of approximately \$2.14 million based on the adjusted rate structure. Prior to the adoption of Ordinance No 4095-07, regardless of the actual inventory value, all businesses with an inventory value over \$2.14 million paid the exact same maximum or "cap" tax of \$9,922.50. Subsequent to removal of the "cap" a small number of retail businesses in the City, with reported inventories well over \$2.14 million dollars, primarily the new and used car dealers, experienced significant increases in the amount of tax levied. The amount of the increase experienced was directly proportional to the amount of inventory reported over the prior "cap" inventory limit. These specific businesses comprise a much less intensive ongoing use of municipal resources.

By Ordinance No. 4252-09, the City wishes to clarify the method of calculation in the current and existing Business Tax Rate Schedule. This ordinance does not seek to change the actual business tax classifications, nor does it represent a change in the actual business tax rate contained in the Business Tax Rate Schedule enacted by the City in May 2008. By Ordinance 4252-09, the City wishes to clarify the existing rate schedule by setting forth the terms and conditions for applying the inventory-based rate contained in Sector 44-45, Retail Trade of Section 82-163 entitled "Business tax classifications and rate schedule of the City Code", Sector 4410, 44110 New Car Dealers, and 44112 Used Car Dealers, by further articulating the method of calculation of those inventory-based rates. This clarification is sought solely for the purpose of refining the application and administration of the current business tax rate schedule and collection of related fees as applied to new and used car dealers in the City. The clarification sought is to remove the unlimited inventory base calculation inadvertently created by removal of the previous cap.

Ordinance No. 4252-09 is intended to top taxable inventory, for purposes of calculating a tax rate, at \$5 million dollars. This action is intended to clarify the method of calculation of local business taxes for new and used car dealer establishments.

In addition to the clarification relating to Retail Trades, the City also wishes to clarify the terms, conditions and method of calculation in Section 82-163 of the City Code, Sector 42 entitled "Wholesale Trade", for the sole purpose of clarifying that wholesale businesses with inventories valued at exactly one million dollars are to be included in the highest tax rate category for aforementioned sector.

The clarifications sought by Ordinance No. 4252-09 will not reclassify, increase, decrease or otherwise eliminate or alter the existing tax rate for Sector 44-45, Retail Trade or Sector 42, Wholesale Trade of Section 82-163, or any other sector contained in the Business Tax Classifications and Rate Schedule.

**Fiscal Note:**

Funding source is unknown at this time. This action results in loss of tax revenue to the General Fund as listed above.

16. **Public Hearing and First Reading of Ordinance No. 4259-10 **WITHDRAWN** to require all board members of the Historic Preservation Board, the Construction Board of Adjustment and Appeal and the Nuisance Abatement Board to file a statement of financial interest.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 2 (TWO) OF THE CODE OF ORDINANCES, ARTICLE III (THREE), TO REQUIRE ALL BOARD MEMBERS OF THE HISTORIC PRESERVATION BOARD, THE CONSTRUCTION BOARD OF ADJUSTMENT AND APPEAL AND THE NUISANCE ABATEMENT BOARD TO FILE A STATEMENT OF FINANCIAL INTEREST; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17828](#)**

**Staff Recommended Motion:**

Recommend passing Ordinance No. 4259-10 on First Reading, requiring all members of the Nuisance Abatement Board, Historic Preservation Board and Construction Board of Adjustment and Appeal to file a statement of financial interest and schedule a Public Hearing and Second Reading for February 22, 2010.

**Background:**

Florida Statutes, Section 112.3145 mandates that "local officers" file a statement of financial interest. However, members of the Nuisance Abatement Board, Historic Preservation Board, and Construction Board of Adjustment and Appeal are not considered "local officers" and are not required to file a statement of financial interest. The city is entitled to exercise its local option to require members of these boards file a statement of financial interest. To exercise the city's local option, Ordinance No. 4259-10 amends Chapter 2, Article III of the Code of Ordinances to require each member of the Historic Preservation Board, Construction Board of Adjustment and Appeal and Nuisance Abatement Board to file a statement of financial interest.

**PUBLIC HEARING - QUASI-JUDICIAL (17 – 18):**

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

17. **Public Hearing and Second Reading of Ordinance No. 4255-10 **ADOPTED**: Regarding a request by Lynda Harris of Carlton Fields, on behalf of CityPlace Retail, LLC, for a Major Amendment to the CityPlace Commercial Planned Development (CPD) to approve an amendment to the Amended and Re-stated CityPlace Master Sign Plan to add signage provisions for the Upper Plaza Entertainment Area located in "C" Block.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE AMENDED AND RE-**

**STATED CITYPLACE MASTER SIGN PLAN ADOPTED BY ORDINANCE NO. 4125-08 TO ADD SIGNAGE PROVISIONS FOR THE UPPER PLAZA ENTERTAINMENT AREA LOCATED IN “C” BLOCK; DECLARING THIS AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**[Agenda Cover Memorandum No.: 17829](#)**

**Staff Recommended Motion:**

Approve Ordinance No. 4255-10, granting a Major Amendment to the CityPlace Commercial Planned Development and approving an amendment to the Amended and Re-stated CityPlace Master Sign Plan to add signage provisions for the Upper Plaza Entertainment Area.. This motion is based upon the factual testimony presented, the application submitted, the staff report, the recommendation of the Planning Board, and the finding that the factors listed in Section 94-32 of the Zoning and Land Development Regulations have been met.

**Background:**

The Planning and Zoning Department has determined that the request complies with all of the required standards found in Section 94-32 of the City’s Zoning and Land Development Regulations, as detailed in the Staff Report attached hereto as ATTACHMENT II.

The Planning Board recommended approval (6-0) of this request to the City Commission after a Public Hearing on December 15, 2009.

**ANALYSIS:**

CityPlace is a Development of Regional Impact (DRI) that is governed by Ordinance No. 3098-97, which established the regulations for the DRI in its current form. The retail part of the DRI was leased to the CityPlace developers by the Community Redevelopment Agency (CRA) to develop the mixed use project that exists today. This property is governed by the CityPlace Master Lease and has a Commercial Planned Development (CPD) zoning designation. The CityPlace Master Lease did not establish signage criteria. The City Commission approved Ordinance No. 3327-00 to establish signage criteria for the portion of the CityPlace DRI north of Okeechobee Boulevard between Sapodilla Avenue and Quadrille Boulevard, which was subsequently amended by Ordinance No. 4125-08. The CityPlace Master Sign Plan includes uniform signage criteria for the retail tenants, the residential units and directional signage, as well as provisions for awnings.

The Upper Plaza Area of CityPlace “C” Block has evolved into a live entertainment area, including the Improv Comedy Club and the B. B. Kings Blues Bar. CityPlace is proposing to amend the CityPlace Master Sign Plan to add criteria for marquee signs for these entertainment venues, as well as add standards for blade signs extending above South Rosemary Avenue for these users. Additionally, CityPlace is requesting that the signs for the Upper Plaza Area be allowed to have visible neon, which is currently prohibited by the CityPlace Master Sign Plan.

CityPlace is located generally at the intersection of Okeechobee Boulevard and Rosemary Avenue, within Commission District No. 3 - Commissioner Kimberly Mitchell.

Individual notices were mailed to all property owners within 400 feet of the property. The public hearing was advertised in the Palm Beach Post on January 29, 2010.

The motion for the Ordinance is attached hereto as ATTACHMENT III.

**Fiscal Note:**

No fiscal impact.

18. **Public Hearing and Second Reading of Ordinance No. 4253-10 **ADOPTED**, request for Zoning Code revisions to Chapter 94 of the City's Code of Ordinances (Zoning and Land Development Regulations), Article I (In General), Article VII (Special Districts), and Article IX (Permitted Uses, Uses Permitted with Extra Requirements, and Special Uses) to incorporate a newly created Utility (UT) Zoning District and associated regulations.**

**Public Hearing and Second Reading of Ordinance No. 4254-10 **ADOPTED**, approving a companion rezoning request to change the Zoning Designation of the approximately 300 acre East Central Regional Water Reclamation Facility (ECRWF) Site from Conservation (CON) and Single Family Low Density (SF7) to a newly created Utility (UT) Zoning Designation.**

**Public Hearing and Second Reading of Ordinance No. 4257-10 **ADOPTED**, approving a companion rezoning request to change the Zoning Designation of the approximately 316 acre West Palm Beach Wellfield Site from Conservation (CON) to a Utility (UT) Zoning Designation.**

**ORDINANCE NO. 4253-10: 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 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE I (IN GENERAL), ARTICLE VII (SPECIAL DISTRICTS), AND ARTICLE IX (PERMITTED USES, USES PERMITTED WITH EXTRA REQUIREMENTS, AND SPECIAL USES) TO INCORPORATE A NEWLY CREATED UTILITY (UT) ZONING DISTRICT AND ASSOCIATED REGULATIONS; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**ORDINANCE NO. 4254-10: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY FOR THE APPROXIMATELY 300 ACRE EAST CENTRAL WATER RECLAMATION FACILITY (ECRWF) SITE, LOCATED AT THE NORTHEAST CORNER OF THE FLORIDA TURNPIKE AND ROEBUCK ROAD AT 4335 EASLEY DRIVE (SOUTHERN PORTION OF THE PROPERTY) AND 4325 HAVERHILL ROAD (NORTHERN PORTION OF THE PROPERTY), FROM CONSERVATION (CON) AND**

**SINGLE FAMILY LOW DENSITY (SF 7) TO A NEWLY CREATED UTILITY (UT) 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.**

**ORDINANCE NO. 4257-10: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY FOR THE APPROXIMATELY 316 ACRE WEST PALM BEACH WELLFIELD SITE, LOCATED AT THE SOUTHEAST CORNER OF THE FLORIDA TURNPIKE AND ROEBUCK ROAD, FROM CONSERVATION (CON) TO A NEWLY CREATED UTILITY (UT) 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.**

**[Agenda Cover Memorandum No.: 17830](#)**

**Staff Recommended Motion:**

Approve Ordinance No. 4253-10, approving text amendments to Chapter 94 of the City's Code of Ordinances (Zoning and Land Development Regulations), specifically Sections 94-4, 94-208 and 94-272, to create the Utility (UT) Zoning District and associated regulations. This motion is based upon the factual testimony presented and the staff report, the recommendation of the Planning Board, along with the findings that the Rezoning Standards of Section 94-32 of the Zoning and Land Development Regulations have been met.

Approve Ordinance No. 4254-10, rezoning the East Central Regional Water Reclamation Facility, totaling approximately 300 acres, from a Conservation and Single Family Low Density zoning designation to a Utility (UT) 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 Zoning and Land Development Regulations have been met.

Approve Ordinance No. 4257-10, rezoning the West Palm Beach Wellfield Site, totaling approximately 316 acres, from a Conservation zoning designation to a Utility zoning designation. This motion is based upon the factual testimony presented and the staff report, the advise of the Planning Board, along with the findings that the Rezoning Standards of Section 94-32 of the Zoning and Land Development Regulations have been met.

**Background:**

The Planning and Zoning Department has determined that the Utility Zoning Designation code revision and Zoning Map amendments are consistent with the Comprehensive Plan and the criteria and standards provided in Section 94-32 of the City's Zoning and Land Development Regulations.

The Planning Board recommended approval (6-0) of these requests to the City Commission after a Public Hearing on December 15, 2009. The City Commission recommended approval of these requests after a Public Hearing on January 25, 2010.

ORDINANCE NO. 4253-10: This is a City-initiated request for Zoning Code revisions to Chapter 94 of the City's Code of Ordinances (Zoning and Land Development Regulations), specifically Article I (In General), Article VII (Special Districts), and Article IX (Permitted Uses, Uses Permitted with Extra Requirements, and Special Uses) to incorporate a newly created Utility (UT) Zoning District and associated regulations.

The proposed text amendment creating a Utility Zoning District (ATTACHMENT I) implements the Comprehensive Plan language associated with the newly created Utility Future Land Use Designation adopted by the City Commission on November 30, 2009 as part of Amendment Round 09-1. As part of the referenced amendment round, staff incorporated descriptions for each of the Future Land Use designations and created a Utility Future Land Use designation. Additionally, site specific amendments to a Utility Future Land Use designation were adopted to more accurately reflect the past, current, and desired future uses for the East Central Regional Water Reclamation Facility (ECRWRf) site and City Wellfield site (see companion rezoning staff report for the ECR Site and Wellfield Site rezonings - ATTACHMENT II).

Staff's proposed zoning text revisions are attached hereto as ATTACHMENT I. The proposed zoning text language provides a matching zoning district and associated land development regulations to the Utility Future Land Use designation. Staff has determined that adopting a Utility Zoning District with associated regulations complies with all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations (ZLDR) (ATTACHMENT I).

ORDINANCE NO. 4254-10, East Central Regional Water Reclamation Facility (ECRWRf) Site: This is a City-initiated rezoning for the East Central Regional Water Reclamation Facility (ECRWRf) Site that has been approved for and has been utilized as a utility site for over 30 years. Staff's proposed rezoning staff report is attached hereto as ATTACHMENT II.

The subject property, approximately 300 acres, is owned and operated by the City and administered by the East Central Regional (ECR) Wastewater Treatment Plant Operations Board. The property has been used as a utility site with a functioning wastewater treatment plant since the 1970s. On the south western portion of the property, a Reclaimed Water Facility (RWF) is currently being constructed to produce up to 27 million gallons per day (MGD) of reclaimed water suitable for coolant water for Florida Power and Light's West County Energy Center (WCEC).

In the early 1970s, the Cities of West Palm Beach, Lake Worth, and Riviera Beach, along with the Town of Palm Beach and Palm Beach County entered into an Interlocal Agreement to create the ECR Wastewater Treatment Plant Operations Board. The ECR Board funds and governs the ECRWRf. The ECRWRf facility processes and disposes of wastewater and residuals from its constituent customers. The plant's rated capacity of 70 MGD is expected to serve the area's projected build-out population anticipated for the year 2025.

The ECR Board members recognize the importance of increasing the availability of alternative water resources throughout central Palm Beach County. Highly treated wastewater, referred to as reclaimed water, is in high demand by irrigation and industrial customers. As such, portions of the property have been used to construct and operate water reclamation facilities. As demands

increase over time, expansion of the reclamation facilities will likely be warranted. All existing and future uses of the site are intended to meet utility needs. This regional facility cannot be relocated to another site in the future due to the complexity of existing piping networks and infrastructure.

Staff has determined that the rezoning complies with all eight (8) of the required rezoning standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations (ZLDR) (ATTACHMENT II).

ORDINANCE NO. 4257-10: West Palm Beach Wellfield Site: This is a City initiated rezoning for the West Palm Beach Wellfield Site that has been approved for and has been utilized as a utility site for over 30 years. The subject property, approximately 316 acres, is located at the southeast corner of the Florida Turnpike and Roebuck Road. Staff's proposed rezoning staff report is attached hereto as ATTACHMENT II.

The City constructed the groundwater wellfield as part of its Wetlands Based Water Reclamation Project. The wellfield is a critical component of the City's overall water supply system. The Water Reclamation Project is a highly innovative, unique and widely recognized supplemental water treatment process supported by the Federal Environmental Protection Agency (EPA), the Florida Department of Environmental Protection (DEP), and the South Florida Water Management District (SFWMD). The project was designed to restore hydrologically altered Everglades wetlands within the City's Grassy Waters Preserve by providing 10 million gallons per day (MGD) of highly treated reuse quality water from an advanced wastewater treatment facility. After winding its way through 108,900 acres of natural wetlands and mixing with rainwater, this highly treated flow arrives at the City's wellfield. The City uses ten (10) production wells on the subject site to regulate surface water levels and supplement water supplies in the Water Catchment Area and its surface water reservoir system. The wellfield pumps water into the M-Canal where it flows into Lake Mangonia and Clear Lake and then ultimately to the City's Water Treatment Plant for processing.

Staff has determined that the rezoning complies with all eight (8) of the required rezoning standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations (ZLDR). (ATTACHMENT II).

#### Rezoning Infrastructure Impact Analysis

The two (2) subject properties are currently being utilized for utility purposes.

East Central Regional Water Reclamation Facility (ECRWF) Site Infrastructure Impact Analysis: The proposed zoning designation of Utility is expected to generate 5,352 fewer daily automobile trips than the current zoning designations of Conservation and Single Family 7. Given the reduction in trips expected as a result of the amendment, there will be no significant traffic impact due to the proposed zoning amendment. Additionally, analysis for all of the other LOS related items indicates a decrease in LOS demands for services. Therefore, there are no LOS increased demands or infrastructure impacts associated with this corrective amendment.

West Palm Beach Wellfield Site Infrastructure Impact Analysis: The proposed zoning designation

of Utilities is expected to generate 632 fewer daily automobile trips than the current zoning designation of Conservation. Given the reduction in trips expected as a result of the amendment, there will be no significant traffic impact due to the proposed zoning amendment. Additionally, analysis for all of the other LOS related items indicates a decrease in LOS demands for services. Therefore, there are no LOS increased demands or infrastructure impacts associated with this corrective amendment.

The Zoning Code text amendments are applicable City-wide and the Rezonings are within Commission District No. 4 - Commissioner Muoio.

These Ordinances have been advertised in the Palm Beach Post, as required by law.

The motions for the Ordinances are attached.

**Fiscal Note:**

There is no fiscal impact associated with this item.

**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.**