

PRESENTATION AND AWARDS OF MERIT:

1. Internal Auditor's Office Annual Report for the fiscal year ending September 30, 2009.
[Agenda Cover Memorandum No.: 17837](#)

2. **Proclamation commemorating Northwood Hills' 85th Anniversary on March 4, 2010. Proclamation will be accepted by Bob Beaulieu, President of the Northwood Hills Neighborhood Association.**
[Agenda Cover Memorandum No.: 17842](#)

13. **Resolution No. 83-10 authorizing the possession and consumption of alcoholic beverages on March 11, 2010 at the dedication ceremony for the new Gaines Park Multipurpose Center.**

A RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON MARCH 11, 2010 AT THE DEDICATION CEREMONY FOR THE NEW GAINES PARK MULTIPURPOSE CENTER.

[Agenda Cover Memorandum No.: 17858](#)

Staff Recommended Motion:

Approve Resolution No. 83-10.

Background:

The new 10,000 square foot multipurpose center will be dedicated at Gaines Park on March 11, 2010. This center has been much anticipated by the Parks and Recreation Advisory Committee (PRAC) and the community. PRAC would like to host a dedication ceremony that includes the consumption of beer and wine at the 5 p.m. - 7 p.m. ceremony.

Fiscal Note:

No fiscal impact.

14. **Resolution No. 82-10 authorizing the naming of the new multipurpose center and certain rooms at Gaines Park.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DECLARING THAT THE NEW GAINES PARK MULTIPURPOSE CENTER LOCATED AT 1501 N. AUSTRALIAN AVENUE BE NAMED THE "MARY V. MCDONALD WILSON CENTER" WITH THE "ADDIE GREENE HALL" AND "INERIA E. HUDNELL ROOM"; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17859](#)

Staff Recommended Motion:

Approve Resolution No. 82-10.

Background:

A new 10,000 square foot multipurpose center at Gaines Park will be dedicated on March 11,

2010. The Parks and Recreation Advisory committee recommended naming the new building after a former West Palm Beach Parks & Recreation Department employee. Mary V. McDonald Wilson was a recreation manager more than 40 years ago and was personally committed to ensuring recreational opportunities were available for the children who lived in the city's north end. Ms. McDonald Wilson oversaw programs at Gaines Park, Roosevelt Park and Lincoln Park (now known as Coleman Park). She is fondly remembered as someone who understood the importance of parks and recreation in the lives of all children and members of the community regardless of where they lived and what they could afford. Requests for other name suggestions for this new building were put out to the community and advertised on the city's web site for more than two months. The PRAC also recommends naming the great hall in the new center after former Palm Beach County Commissioner Addie Greene. Commissioner Greene secured \$2 million in funding from a county parks bond issue to ensure this improvement to Gaines Park. The PRAC also recommends naming one of the two meeting rooms after West Palm Beach Historian and long-time resident Ineria E. Hudnell. Ms. Hudnell still visits school children and participants in the city's recreation centers to share her historical perspective of life in West Palm Beach and extensive collection of African American artifacts.

Fiscal Note:

No fiscal impact.

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

RECEIVED / FILED:

CONSENT CALENDAR (2 – 19): ITEMS #2, #13 AND #14 WERE PULLED FROM THE CONSENT CALENDAR AND MOVED TO PRESENTATIONS AND AWARDS OF MERIT. ITEMS #12 AND #16 WERE PULLED FROM THE CONSENT CALENDAR FOR DISCUSSION. ALL OTHER CONSENT CALENDAR ITEMS PASSED.

2. **Moved to Presentations and Awards of Merit.**
3. **Reappointment of Dorritt Miller to the Firemen's Pension Board of Trustees for a term of two years which will expire February 28, 2012. This appointment is subject to City Commission ratification.**

[Agenda Cover Memorandum No.: 17846](#)

Staff Recommended Motion:

Approve reappointment.

4. **Minutes of the Special City Commission Meeting held January 25, 2010.**

[Agenda Cover Memorandum No.: 17838](#)

Staff Recommended Motion:

Approve the Minutes of the Special City Commission Meeting held January 25, 2010.

5. **Minutes of the Regular City Commission Meeting held January 25, 2010.**

[Agenda Cover Memorandum No.: 17839](#)

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting held January 25, 2010.

6. Minutes of the Special City Commission Meeting held on February 1, 2010.

[Agenda Cover Memorandum No.: 17840](#)

Staff Recommended Motion:

To approve the Minutes of the Special City Commission Meeting held on February 1, 2010.

7. The disinterment of Clementine Newton from Block 7 Lot 49 and the interment of Clementine Newton in Block 7 Lot 48.

[Agenda Cover Memorandum No.: 17841](#)

Staff Recommended Motion:

Approve the disinterment of Clementine Newton from Block 7 Lot 49 and the interment of Clementine Newton in Block 7 Lot 48.

Background:

Clementine Newton was interred in Block 7 Lot 49 on December 26, 1998, however, she was designated by the owner to be buried in Block 7 Lot 48. It was mistakenly entered on the Woodlawn Cemetery intake sheet. Ms. Newton's son, Harry L. Newton, who owns both Lots 48 and 49, came into the Clerk's office January 18, 2010 after his wife was buried in Woodlawn Cemetery and noticed his mother, Clementine Newton was buried in the wrong lot. He requested for Ms. Newton to be interred in the correct lot. Document attached.

Fiscal Note:

No fee is being charged for this service.

8. Resolution No. 62-10(F) authorizes a Haitian Relief for City employees as a program within the Donation Fund.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A HAITIAN RELIEF FOR CITY EMPLOYEES PROGRAM FOR THE DONATION FUND; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17843](#)

Staff Recommended Motion:

Approve Resolution No. 62-10(F).

Background:

Several City employees and their families are impacted by the earthquake in Haiti on January 12, 2010. The Mayor has requested employees who would like to help other city employees affected by the earthquake to make donations to the City for this program. Resolution No. 62-10(F)

authorizes the creation of a Haitian Relief for City Employees within the Donation Fund and allows the Finance Director to appropriate revenues and expenditures equivalent to donations received for this program.

Fiscal Note:

There is no fiscal impact as the expenditures will not exceed the donations collected.

9. **Resolution No. 54-10 authorizing a Special Event License Agreement between the City of West Palm Beach and the Historical Society of Palm Beach County to produce the 15th Annual "Evening on Antique Row" on March 6, 2010 from 5:30 p.m. to 9:30 p.m.; and Resolution No. 55-10 authorizing a sponsorship agreement between the City of West Palm Beach and the Historical Society of Palm Beach County .**

RESOLUTION NO. 54-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE HISTORICAL SOCIETY OF PALM BEACH COUNTY INC. TO CONDUCT "EVENING ON ANTIQUE ROW" TO BE HELD ON MARCH 6, 2010 FROM 5:30 P.M. TO 9:30 P.M. ON DIXIE HIGHWAY BETWEEN SOUTHERN BOULEVARD AND GREENWOOD DRIVE AND ALL EAST/WEST STREETS LEADING TO DIXIE HWY; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NON-ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 55-10:A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SPONSORSHIP AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE HISTORICAL SOCIETY OF PALM BEACH COUNTY PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17844](#)

Staff Recommended Motion:

Approve Resolution No. 54-10 and Resolution No. 55-10.

Background:

The Historical Society of Palm Beach County will host the 15th Annual Evening on Antique Row on March 6, 2010 from 5:30 p.m. to 9:30 p.m. on Dixie Highway between Southern Boulevard and Greenwood Drive with tickets costing \$45.00. This event is to raise awareness of and benefit the Historical Society of Palm Beach County and attract people to the Antique Row shops on South Dixie Highway. County restaurants will provide samples for ticket holders and there will also be entertainment along the street.

Resolution No. 55-10 authorizes the execution of a Sponsorship Agreement between the City and the Historical Society of Palm Beach County and receive certain sponsorship benefits in exchange for waiving fees and providing the services detailed in the agreement. The Historical Society of Palm Beach County will provide the City with a sponsorship valued at \$10,000 which includes

marketing, public relations and admission benefits associated with the 15th Annual Evening on Antique Row. In return, the City will waive the Special Event Permit Fee of \$1,925, the Security Deposit of \$500 and dumpster fees estimated at \$300. The City will also coordinate the traffic plan and permit for road closures, resulting in a \$1500 savings for the Historical Society of Palm Beach County. The Historical Society of Palm Beach County will pay for the City's traffic overtime costs and rental equipment needed for the road closure. The total value of the City's inkind services and permit fee waivers is \$4,225.

10. **Resolution No. 61-10 authorizing a Special Event License Agreement between the City of West Palm Beach and Irish Cultural Institute, Inc. to produce Irish Fest on March 13, 2010 from 12:00 p.m. to 11:00 p.m. and March 14, 2010 from 11:00 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 IRISH CULTURAL INSTITUTE, INC. TO CONDUCT "IRISH FEST" TO BE HELD ON MARCH 13, 2010 AND MARCH 14, 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.: 17845](#)

Staff Recommended Motion:

Approve Resolution No. 61-10

Background:

The Irish Cultural Institute, Inc. will host "Irish Fest" on March 13, 2010 from 12:00 p.m. to 11:00 p.m. and March 14, 2010 from 11:00 a.m. to 8:00 p.m. "Irish Fest" is a gated event to celebrate Irish Culture featuring live Irish music, dancing, pipes, arts and crafts and food. Tickets for Irish Fest will cost \$7 at the gate and children are free. Expected attendance is 4000. The Irish Cultural Institute, Inc. will pay the City of West Palm Beach a \$1000 Special Event permit fee and a \$2500 Special Event security deposit. In addition, the Irish Cultural Institute, Inc. 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.

11. **Resolution No. 70-10 authorizing the Mayor to execute a Donation of Services and Space Agreement between the City and the U.S. Census Bureau for use of space at Coleman Park Community Center.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA AUTHORIZING THE MAYOR TO EXECUTE A DONATION OF SERVICES AND SPACE AGREEMENT BETWEEN THE CITY AND THE U.S. CENSUS BUREAU FOR THE USE OF SPACE IN COLEMAN PARK TO BE USED FOR A

QUESTIONNAIRE ASSISTANCE CENTER IN CONNECTION WITH THE 2010 CENSUS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17847](#)

Staff Recommended Motion:

Approve Resolution No.70-10.

Background:

The U.S. Census Bureau has asked the City of West Palm Beach to donate space at the Coleman Park Community Center from March 1, 2010 to April 30, 2010. The U.S. Census Bureau will use Coleman Park as one of their Questionnaire Assistance Centers in connection with the 2010 Census. Last year the U.S. Census Bureau utilized the Coleman Park Community Center to test and train local residents to be census takers.

Fiscal Note:

No fiscal impact.

12. **Resolution No. 77-10(F) CONTINUED provides appropriations for Census 2010 marketing and promotional items to encourage residents to complete and return the 2010 Census questionnaire.**

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 PLANNING 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.: 17856](#)

Staff Recommended Motion:

Approve Resolution No. 77-10(F).

Background:

The U.S. Constitution (Article 1, Section 2) mandates a headcount every 10 years of everyone residing in the United States. The next census day is April 1, 2010. The population totals from this census will determine the number of seats each state has in the House of Representatives and funding allocations for various community programs and services. Raising awareness of the Census, and encouraging residents to complete and return their forms is essential to a full and complete Census count.

While many residents are aware of the census, many are not familiar with the timing or the process. To help raise awareness of the 2010 Census and ensure that Census questionnaires are completed and returned, the City has embarked on a Be Counted in 2010 awareness and motivational program to encourage all residents to complete and return their questionnaire. Special emphasis and actions will be taken to address undercounted and hard-to-count areas within the City. As part of the program, promotional items will be purchased and distributed at various

census awareness events or locations within the City, and at Be Counted and Census Assistance Centers (Vickers House North and South, and possibly other City locations as determined by the Census Bureau in March). Items anticipated to be purchased include: gift cards from Publix and Winn Dixie totaling approximately \$40,000, promotional items with the City and Census 2010 logos totaling approximately \$20,000. The remaining \$40,000 of the \$100,000 budgeted for Census promotion and marketing may be expended if additional needs arise throughout the Be Counted in 2010 Census program.

Fiscal Note:

Resolution No. 77-10(F) provides budget detail as described above. Funds were included in the FY 2010 budget.

13. Moved to Presentations and Awards of Merit.

14. Moved to Presentations and Awards of Merit.

15. Resolution No. 63-10(F) amending the personnel detail of the Water and Sewer Operating Fund Budget for FY 2009/2010 to for the reallocation of three vacant positions within Public Utilities to the positions of Laboratory Technicians.

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.

[Agenda Cover Memorandum No.: 17848](#)

Staff Recommended Motion:

Approve Resolution No. 63-10(F).

Background:

The Public Utilities department has a need for three (3) Laboratory Technician positions to take water samples in the water distribution system.. Currently these positions are being filled by contract employees of US Water Services Corp. The Public Utilities Director has determined that three current vacancies in the utility, one Water Meter Reader (Job Code 001943, Position Control No. 1233.002), one Chemical Spray Technician (Job Code 005123, Position Control No. 2890.000), and one Utility Worker (Job Code 005227, Position Control No. 1500.005) can be transitioned to Laboratory Technician positions (Job Code 009134). Providing this service in-house will be more cost effective and save the utility approximately \$212,000 annually based upon the contractor cost of \$349,000 annually.

Fiscal Note:

Resolution No. 63-10(F) amends the personnel detail as detailed above. The additional funds required by this reallocation and change in pay grades will be offset by salary savings due to vacancies. Additionally, approximately \$212,000 will be saved in the Water Treatment Plant Improvement Project.

16. **Resolution No. 60-10 ADOPTED AS AMENDED resolving all disputed impasse issues between the City and the Palm Beach County Police Benevolent Association (PBA).**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RESOLVING ALL DISPUTED IMPASSE ISSUES BETWEEN THE CITY OF WEST PALM BEACH AND THE PALM BEACH COUNTY POLICE

BENEVOLENT ASSOCIATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17853](#)

Staff Recommended Motion:

Consider Resolution No. 60-10.

Background:

On February 1, 2010, the City Commission, as the legislative body of the City, conducted a public hearing pursuant to Florida Statutes, sec. 447.403, regarding disputed impasse issues between the City and the PBA.

17. **Resolution No. 74-10 authorizing the Mayor to execute a Memorandum of Understanding establishing a multi-agency task force relating to combined operational assistance and voluntary cooperation to address narcotics activity in Palm Beach County.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR MULTI-AGENCY TASK FORCE NARCOTICS INVESTIGATIONS TO PROVIDE COMBINED OPERATIONAL ASSISTANCE AND VOLUNTARY COOPERATION BETWEEN THE CITY OF WEST PALM BEACH, THE PALM BEACH COUNTY SHERIFF'S OFFICE (PBSO), AND OTHER LAW ENFORCEMENT AGENCIES LOCATED IN PALM BEACH COUNTY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17855](#)

Staff Recommended Motion:

Approve Resolution No. 74-10.

Background:

The City of West Palm Beach Police Department and the Palm Beach County Sheriff's Office ("PBSO"), and other law enforcement agencies located in Palm Beach County are so located in relation to each other that it is to the advantage of each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to continuing multi-jurisdictional law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people.

The City of West Palm Beach Police Department, the PBSO, and other law enforcement agencies located in Palm Beach County have the authority under the Florida Mutual Aid Act, section 23.12, Florida Statutes et. seq., to enter into a combined mutual aid agreement for law enforcement services which permits voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines. Section 23.1225(1)(a), Florida Statutes, specifically contemplates voluntary cooperation written agreements between law enforcement agencies establishing joint task force agreements on narcotics smuggling.

Certain Palm Beach County law enforcement agencies have entered into a combined mutual aid agreement for law enforcement services that is currently in full force and effect (the Mutual Aid Agreement). The City of West Palm Beach Police Department, the PBSO, and other law enforcement agencies located in Palm Beach County have identified narcotics as a serious crime problem within the City of West Palm Beach and in the unincorporated areas of Palm Beach County and wish to create a multi-agency law enforcement task force to address narcotics and enter into a memorandum of understanding evidencing and controlling that task force. Under the Mutual Aid Agreement, the participating agencies have authority to enter into this memorandum of understanding.

Fiscal Note:

There is no impact to the budget.

18. **Resolution No. 67-10 amending the City's Commercial Facade Program to increase the maximum loan amount under the Program from \$25,000 to \$35,000.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CITY'S COMMERCIAL FACADE PROGRAM TO INCREASE THE MAXIMUM LOAN AVAILABLE UNDER THE PROGRAM FROM \$25,000 TO \$35,000; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17849](#)

Staff Recommended Motion:

Approve Resolution No. 67-10.

Background:

At its meeting of July 11, 2005, the City Commission approved Resolution No. 298-05 authorizing creation of the City's Commercial Facade Program (the "Program"). This Program is designed to halt property value deterioration and to promote economic growth and vitality by rehabilitating the facades of eligible commercial properties within the City. The intent of the Program is to create consistency in design, materials and architectural character, thereby enhancing the physical appearance and economic health of the City. Eligible improvements include building and exterior property enhancements, such as awnings, signs, lighting, roof replacement, landscaping and paved areas. Interior improvements and furnishings are not eligible expenses under the Program as originally approved. The maximum loan amount per commercial property is currently limited to \$25,000.

Resolution No. 67-10 amends the Program to increase the maximum loan available from \$25,000 to \$35,000 per commercial property. The increase is intended to provide funds for interior improvements necessary to correct building code violations and safety and health hazards. This amendment will further the viability of participating commercial enterprises by creating safer and cleaner environments in which to conduct business.

Fiscal Note:

No fiscal impact.

19. **Resolution No. 86-10 disclaiming any interest of the City in property located west of the Flagler Drive right-of-way and east of Coconut Lane.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A DISCLAIMER OF INTEREST IN PROPERTY ADJACENT TO CERTAIN PARCELS SHOWN ON THE PLAT OF MATTHAMS PARK AND LOCATED WEST OF THE FLAGLER DRIVE RIGHT OF WAY AND EAST OF COCOANUT LANE, AS FURTHER DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17861](#)

Staff Recommended Motion:

Approve Resolution No. 86-10.

Background:

Unity of the Palm Beaches, Inc., has requested that the City disclaims its interests, if any, in an area of land adjacent to certain parcels shown on the Matthams Park plat and located adjacent to the Flagler Drive right of way and east of Coconut Lane. The area of land in question was created in the 1950s when a bulkhead was constructed and land filled to construct Flagler Drive; however the area in question is not part of the Flagler Drive right-of-way as constructed.

The City has determined that it has no claim of ownership or interest in the property and desires to disclaim any interest.

Fiscal Note:

No fiscal impact.

RESOLUTIONS (20):

20. **Resolution No. 9-10 **PULLED, NO ACTION TAKEN** authorizing the execution of an Agreement for Consulting Services between the City of West Palm Beach and Cavanaugh MacDonald Consulting, LLC; and Resolution No. 10-10(F) **PULLED, NO ACTION TAKEN** providing appropriations.**

RESOLUTION NO. 9-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A PENSION PLAN CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF

**WEST PALM BEACH AND CAVANAUGH MACDONALD CONSULTING, LLC;
PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

RESOLUTION NO. 10-10(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 2009/2010 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND

BUDGET TO PROVIDE APPROPRIATIONS FOR A POLICE AND FIRE PENSIONS STUDY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17854](#)

Staff Recommended Motion:

Approve Resolution No. 9-10 and Resolution No. 10-10(F).

Background:

The City has been experiencing rising costs pertaining to meeting the funding obligations of City sponsored defined benefit pension systems. The regressive performance of the stock market has had a negative effect on the return on pension fund investments. The lack of positive pension fund investment returns has placed even more of a financial obligation on the City in order to meet actuarial requirements. According to the September 30, 2008 actuarial valuation reports, the Police Officers retirement System is funded at 92% which equates to an unfunded liability of \$18.8 million and the Firefighters Retirement System is funded at 68.4 which equates to an unfunded liability of \$40.3 million.

The City's pension contribution for the Police Officers Retirement System for FY 2010 is \$4.0 million as compared to the previous fiscal year contribution of \$3.4 million. This represents a 15% increase. The City's pension contribution for the Firefighters Retirement System for FY 2010 is \$4.4 million as compared to the previous fiscal year contribution of \$3.8 million. This represents a 13.6% increase. These increases put a tremendous strain on the FY 2010 budget and are unsustainable in the future.

All municipalities are facing financial challenges that require analysis of major expense items to determine where monies can be saved and still remain competitive for attracting and retaining top human talent. The City, like other Florida cities, believes that future pension expense can be better controlled through a study of current pension plans and an analysis of alternative pension plan designs.

The Town of Palm Beach recently conducted an RFP for a similar pension study. The Town selected and entered into an agreement with Cavanaugh MacDonald Consulting, LLC. The City wishes to piggyback on the contract entered into by the Town of Palm Beach.

Fiscal Note:

Resolution No. 10-10(F) provides appropriations of \$96,500 for this study. Funds are available

within the City Administrator's budget from the following sources: Police Management Study (\$84,500) and Tech Solve Lean Government (\$50,000) for a total of \$134,500 available. The balance of \$38,000 will be added to General Fund contingency. Upon approval of this item, the balance in contingency will be approximately \$2.4 million.

PUBLIC HEARING (21 – 23):

21. **Public Hearing and First Reading of Ordinance No. 4261-10 **APPROVED** amending the Downtown Master Plan (DMP) Urban Regulations to allow self storage and warehousing for families and small business in certain districts within the Downtown Master Plan area.**

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), AT ARTICLE IV (DOWNTOWN MASTER PLAN), SECTION 94-105 (USE REQUIREMENTS), TO ALLOW SELF STORAGE FACILITIES FOR FAMILIES AND SMALL BUSINESS WITHIN THE INDUSTRIAL CHIC DISTRICT AND THE BRELSFORD PARK DISTRICTS; DECLARING THESE AMENDMENTS 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.: 17851](#)

Staff Recommended Motion:

Approve Ordinance No. 4261-10, amending the Downtown Master Plan (DMP) Urban Regulations to allow self storage and warehousing for families and small business use within certain districts of the DMP area, based upon the staff report, along with the finding that the petition satisfies all eight amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

Lynn Harris and Joe Verdone of Carlton Fields, P.A. are requesting, on behalf of Burlington Self Storage of WPB, LLC, an amendment to the Zoning and Land Development Regulations to allow self storage and warehousing facilities for families and small business as a primary use within the Industrial Chic-5 and Brelsford Park-5 subdistricts of the Downtown area.

The Planning and Zoning Department has determined that the request complies with all eight amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

The Downtown Action Committee (DAC) reviewed the proposal presented by the applicant at a public hearing on January 13, 2010, suggested revisions, and recommended approval (6-0) (Attachment I- DAC Staff Report). The Planning Board also reviewed the proposal presented by the applicant at a public hearing on January 19, 2010, and recommended approval (7-0) (Attachment II- PB Staff Report).

History

Burlington Self Storage of West Palm Beach, LLC is the current owner of the two buildings located at 411 and 422 7th Street. The buildings were built in 2000 as an office and storage facility. The office use occupies the frontage line, and the storage use is located behind it. The parking for the facility is located to the rear of Building "B" (north building), and to the east of Building "A" (south building). On-street parallel parking is provided along 7th Street, and a mid-block crosswalk connects both sides of the road.

In November of 2005, Burlington Self Storage of WPB, LLC, made an application to the Downtown Action Committee regarding the construction of a 5,600 square foot storage building on a portion of the parking lot located at the rear of Building "B". At that time, the proposed structure, Building "C", resulted in the elimination of 27 existing parking spaces on the north parcel, and the provision of an additional 11 parking spaces per regulations in effect. The proposed site plan did not provide for the replacement of parking spaces due to the construction of a new storage building or for the additional parking required by this facility. The applicant requested a variance from the number of parking spaces required by the Zoning and Land Development Regulations, but the application was denied by the DAC.

With the implementation of the Downtown Master Plan update, adopted on June 29, 2009, new parking regulations were introduced, reducing the amount of parking required for storage facilities, and eliminating the need for a parking variance for the proposed expansion. However, it is staff's interpretation of the use regulation that rendered the proposed storage as a prohibited use. The Downtown Master Plan (DMP) regulation does not allow storage as a primary use, and includes a specific definition of primary uses, not included in the previous code as follows:

Section 94-105 (c) Prohibited uses within all districts. The following uses shall be prohibited within the DMP area: outdoor sales of motor vehicles; motor vehicles service stations; drive-in facilities except banking facilities; pawn shops; chemical manufacturing; storage or distribution as primary use; unscreened outdoor storage either as a primary or accessory use, except as otherwise provided in this article; enameling; painting or plating, except artist's studios; off-premises signage; carting; moving or hauling terminal or yard, except delivery of goods to businesses; prisons; detention centers; sites for disposal of hazardous waste materials; scrap yards; mobile homes; sand, gravel or other mineral extraction; exterior kennels except as ancillary use to police station or courthouses; rooming houses; group homes type V; adult entertainment establishments; and retail uses selling adult material.

Section 94-109

PRIMARY USE means the principle or main use of land, structures or buildings, as distinguished from secondary, ancillary or accessory uses.

As a result of this interpretation, Lynn Harris and Joe Verdone of Carlton Fields, P.A. are requesting, on behalf of Burlington Self Storage of WPB, LLC, an amendment to the Zoning and Land Development Regulations to allow self storage and warehousing facilities for families and small business as a primary use within certain districts of the Downtown area.

Staff analysis

The DMP includes specific regulations to enhance the quality of the urban environment. One of the most important requirements relates to the provision of active uses along certain streets. In general, the regulation intends to promote the location of active uses along primary streets and avenues, and prohibits the location of undesirable uses along those street designations. Active use is defined by the DMP as a use within an enclosed building designated for human occupation with a direct view to adjacent streets or public open space. The intent of the regulation is to encourage pedestrian activity by providing uses along the street frontage. Building entrances, stores, restaurants or offices will be located at the street level and above, enhancing the environment for pedestrians and providing additional surveillance for the street.

In general, storage has been classified by the DMP as a non-active use, similar to parking uses. In particular, the DMP prohibits storage and distribution as primary uses. The intent is to promote uses that generate regular activity and demand services from surrounding uses.

The applicant is requesting a code change to allow self storage and warehousing facilities for families and small businesses within the Industrial Chic-5 Subdistrict and the Brelsford Park -5 Subdistrict. The following conditions are proposed:

Active use requirement.

For buildings up to 2 stories: minimum 80% of the first floor buildable lot frontage.

For buildings above 2 stories: minimum 80% of the first and second floor buildable lot frontage.

Minimum active use depth shall be as required by the corresponding building requirement table.

Self storage or warehousing uses are not permitted within any required active use area.

A self storage use is considered a non-active use, similar to a parking lot use; however, due to the fact that the self storage is not supporting an active use, staff supports the applicant's proposal to increase the active use requirement for this type of uses to ensure the desired level of activity along street frontages. The DMP regulation includes minimum active use requirements depending on the street type designation. In this case, staff recommends the active use requirement to be applicable to the self storage use regardless of the street type designation.

In addition, staff recommends:

1. Limit the size of the storage facility to a maximum of 1.5 acre parcel. Staff considers it important to avoid large storage facilities that result in a minimum percentage of active uses in relation with the total square footage of the building.
2. Limit the maximum height to 3 stories or 40 feet, as recommended by the DAC.

22. **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.: 17852](#)

Staff Recommended Motion:

STAFF RECOMMENDS THAT THIS ORDINANCE BE CONTINUED TO THE MARCH 8, 2010 CITY COMMISSION MEETING.

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 No. 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.

23. **Public Hearing and First Reading of Ordinance No. 4260-10 CONTINUED requiring owners and foreclosing lienholders to register vacant property.**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS), ARTICLE VI (VACANT BUILDINGS, VACANT STRUCTURES AND VACANT OR UNIMPROVED LOTS), DIVISION 2 (RESPONSIBILITY OF OWNERS), SECTION 18-206 (DEFINITIONS), OF THE CODE OF ORDINANCES; ADOPTING CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS), ARTICLE VI (VACANT BUILDINGS, VACANT STRUCTURES AND VACANT OR UNIMPROVED LOTS), DIVISION 2 (RESPONSIBILITY OF OWNERS), SECTION 18-213 (REGISTRATION OF VACANT PROPERTY), OF THE CODE OF ORDINANCES, REQUIRING OWNERS AND FORECLOSING LIENHOLDERS TO REGISTER VACANT PROPERTY LOCATED WITHIN 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.: 17857](#)

Staff Recommended Motion:

Approve Ordinance No. 4260-10 on First Reading and schedule a Public Hearing and Second

Reading for March 8, 2010.

Background:

The economic downturn and instability in the real estate market have contributed to a significant increase in the number of vacant properties located within the City of West Palm Beach.

After California, the State of Florida had the nation's highest number of total foreclosures last year. In January 2010, Palm Beach County experienced a 58 percent increase in foreclosure filings compared with January 2009. According to RealtyTrac, Inc., the City of West Palm Beach currently has 3,351 properties in various stages of foreclosure, 219 properties awaiting courthouse auction and another 378 bank-owned properties. Regardless of whether or not a vacant property is in foreclosure, the lack of regular maintenance by a responsible individual or entity negatively impacts all of the City's neighborhoods.

The most frequent violations cited by the Code Compliance Division include overgrown and dead vegetation, broken windows, fences in disrepair, unsanitary pools, improperly board windows and doors, discarded furnishings and an accumulation of trash, junk and debris. If left uncorrected for any length of time, these violations create a sense of community blight, lower property values, discourage potential buyers and unduly burden the City's taxpayers by shifting maintenance costs to the Code Compliance Division.

In many instances, the Code Compliance Division lacks accurate contact information and is unable to promptly communicate notice of a violation to a responsible individual or entity who can then correct the violation and maintain the vacant property. Ordinance No. 4260-10 requires vacant property owners and foreclosing lienholders to register their contact information with the City and keep that information up to date. The vacant property registry will be available online for both the convenience of the property owner and foreclosing lienholder and to ensure that the Code Compliance Division has real-time access to the most accurate contact information for purposes of notice. Based on staff discussions with other Florida cities and counties, registration ordinances have been successful in helping to promote the responsible management of vacant properties.

Ordinance No. 4260-10 will be accompanied on Second Reading by Resolution No. 53-10, which provides a fee schedule for the registration of vacant property and is intended to recover the costs incurred by the City in establishing and maintaining the registration website.

Fiscal Note:

No fiscal impact.

PUBLIC HEARING - QUASI-JUDICIAL (24):

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

24. **Public Hearing of Resolution No. 57-10 ADOPTED authorizing the City Commission to grant a variance from Chapter 6 Section 6-2 (d)(3), and (4) of the City's Code of Ordinances to allow a new alcohol beverage establishment to be located at 314 Clematis Street.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH FLORIDA AUTHORIZING AND APPROVING A VARIANCE FROM THE REGULATIONS OF CHAPTER 6 REGARDING THE LOCATION OF AN ALCOHOLIC BEVERAGE ESTABLISHMENT TO BE KNOWN AS “OFF THE HOOKAH” AT 314 CLEMATIS STREET; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17850](#)

Staff Recommended Motion:

Approve Resolution No. 57-10.

Background:

OTH Palm Beach, Inc, owners of the Off the Hookah nightclub, bar, restaurant and lounge have leased the retail space located at 314 Clematis Street (old Z Gallery space). The intention of the applicant is to open a new location for his business in downtown West Palm Beach. The business is described by the applicant as an entertainment center, including restaurant, nightclub and bar. General information and pictures of the existing Off the Hookah in Fort Lauderdale can be found on line at www.offthehookahfl.com.

The nature of the business requires the establishment to be licensed as an alcoholic beverage establishment, and not as a bona fide restaurant. Current regulations in the downtown limit the number of alcoholic establishments that can be located within a block (Chapter 6, Section 6-2(d)).

Downtown West Palm Beach has been envisioned by the community as an active downtown, with streets which promote variety of uses and attract people day and night. The establishment of night clubs, particularly along Clematis Street, does not contribute to the fulfillment of this goal due to their hours of operation. With this concept in mind, the City Commission adopted a specific regulation in 2002 to limit the number of alcoholic beverage establishments allowed per block within the downtown area. The adopted regulation authorizes applicants to seek variances from the City Commission for compliance with specific distance requirements.

A detail analysis of existing alcoholic beverage establishment along the 300 block of Clematis Street has determined that the proposed alcoholic beverage establishment does not comply with the following provisions:

- Section 6-2(d)(3) - There shall be no more than 100 feet of alcoholic beverage establishment storefront on facing street frontages.

The 300 block of Clematis Street already has two (2) alcoholic beverage establishments along the north side of the block (Roxy's and Fun House) with a frontage of 50 linear feet each. These establishments are recognized as grandfathered establishments due to the fact that they existed at the time the regulation was adopted by the City Commission in 2002. A variance of 75 feet will be required to allow 175 feet of alcoholic beverage establishment storefront on facing street frontages.

- Section 6-2(d)(4) - There shall be no more than 50 contiguous linear feet of bar frontage on any street frontage.

The proposed Off the Hookah has 75 feet of bar frontage along Clematis street. A variance of 25

feet will be required to allow the proposed establishment.

It is staff's professional opinion that granting the variance will not have a negative impact to the Clematis Street activity if the following conditions are met:

1. Off the Hookah shall operate as a restaurant during lunch and dinner, serving full course meals to the general public, at least six (6) days a week.
2. Security measures shall be implemented, requiring all employees acting as security personnel according to Chapter 6, Section 6-3(d) of the City Code to obtain the Department of Agriculture and Consumer Services Division of Licensing Class "D" security officer license. This license will ensure a minimum level of training for the security personnel.
3. Off the Hookah shall implement all the requirements of the "Responsible vendor program."

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.