

PRESENTATION AND AWARDS OF MERIT (1 – 2):

1. **Presentation and Resolution No. 69-10(F) **ADOPTED** amending the Fiscal Year 2009/2010 General Fund budget to recognize Parking Meter donation revenue for New Year's Day, January 1, 2010, and appropriating said funds for a donation to the Palm Beach Zoo; and presentation of a donation check.**
[Agenda Cover Memorandum No.: 17862](#)
2. **Presentation of Resolution No. 88-10 **ADOPTED** approving the "Face of the City" design features for streetscape improvements to 20th Street, between Tamarind Avenue and East Parkway, within the Coleman Park neighborhood.**
[Agenda Cover Memorandum No.: 17863](#)

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

RECEIVED / FILED:

CONSENT CALENDAR (3 – 19): ITEM #12 WAS PULLED FROM THE CONSENT CALENDAR FOR DISCUSSION. ALL OTHER CONSENT CALENDAR ITEMS PASSED.

3. **Minutes of the Regular City Commission Meeting held February 8, 2010.**
[Agenda Cover Memorandum No.: 17864](#)

Staff Recommended Motion:
Approve the Minutes of the Regular City Commission Meeting held February 8, 2010.
4. **Minutes of the Special City Commission Meeting held February 16, 2010.**
[Agenda Cover Memorandum No.: 17865](#)

Staff Recommended Motion:
Approve the Minutes of the Special City Commission Meeting held February 16, 2010.
5. **Confirmation of reappointment for Seymour Foreman to the West Palm Beach Housing Authority. It is required that the Commission confirms his four (4) term reappointment. The Mayor is recommending approval of reappointment.**
[Agenda Cover Memorandum No.: 17876](#)

Staff Recommended Motion:
Approve reappointment.
6. **Approval of reappointment for Bettye T. Dawson to the Education Advisory Committee for a term of two years, which will expire February 17, 2012. Ms. Dawson has served over the maximum allowed number of terms (3) and it is required that the Commission confirms her reappointment. The Mayor is recommending the approval of reappointment.**
[Agenda Cover Memorandum No.: 17877](#)

Staff Recommended Motion:

Approve reappointment.

7. **Resolution No. 72-10 authorizing a Special Event License Agreement between the City of West Palm Beach and the Downtown Development Authority to produce Palm Beach Fashion Rocks on March 10, 2010 from 7:00 p.m. to 12:00 a.m.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE DOWNTOWN DEVELOPMENT AUTHORITY TO CONDUCT "PALM BEACH FASHION ROCKS" IN THE BEACH AREA OF THE WEST PALM BEACH WATERFRONT; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NON ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17866](#)

Staff Recommended Motion:

Approve Resolution No. 72-10.

Background:

The Downtown Development Authority will host "Palm Beach Fashion Rocks" on Wednesday, March 10, 2010 from 7:00 p.m. to 12:00 a.m. in the Beach area on the Waterfront with no amplified sound after 10:00 p.m. This event will include a road closure of Flagler Drive between North Clematis and South Clematis. The north bound lane of Flagler Drive will be closed at 10:00 a.m. on March 10, 2010, the western lane will reopen at 5:00 p.m. and the eastern lane will remain closed. Both lanes of Flagler will close at 6:30 p.m. and reopen at 12:00 p.m. Police will put barricades into place. "Palm Beach Fashion Rocks" is a free event with a fashion show, live music, food vendors and drinks. Expected attendance is 500. The Downtown Development Authority will pay the City of West Palm Beach an \$1100 Special Event permit fee and a \$500 Special Event security deposit. In addition, the Downtown Development Authority 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 DDA 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.

8. **Resolution No. 73-10 authorizing the sale, possession and consumption of alcoholic beverages on March 17, 2010 following the Friends of the West Palm Beach Public Library Annual Business Meeting at the City of West Palm Beach Public Library.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SALE, POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT THE ANNUAL BUSINESS MEETING OF THE

**FRIENDS OF THE WEST PALM BEACH PUBLIC LIBRARY ON MARCH 17, 2010;
PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

[Agenda Cover Memorandum No.: 17867](#)

Staff Recommended Motion:

Approve Resolution No. 73-10.

Background:

The Friends of the West Palm Beach Public Library will be hosting an Annual Business Meeting on March 17, 2010 from 6:00 p.m. to 7:30 p.m. at the West Palm Beach Public Library. This Annual Business Meeting is for current members of the Friends of the West Palm Beach Public Library, as well as the Board of Directors. This Board of Directors will present an annual report and plans for the current year. The Annual Business Meeting will be followed by a social with light refreshments provided by Carefree Catering.

9. **Resolution No. 71-10 authorizing a Special Event License Agreement between the City of West Palm Beach and Roxy's Pub to produce "Roxy's St. Patrick's Day Party" on March 17, 2010 from 10:00 a.m. to 4:00 a.m.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND ROXY'S PUB TO HOST "ROXY'S ST. PATRICK'S DAY PARTY" ON WEDNESDAY, MARCH 17, 2010 IN THE 300 BLOCK OF CLEMATIS; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NONALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17868](#)

Staff Recommended Motion:

Approve Resolution No. 71-10.

Background:

Roxy's Pub will host "Roxy's St. Patrick's Day Party" on Wednesday, March 17, 2010 from 10:00 a.m. to 4:00 a.m. with amplified sound concluding at 1:00 a.m. in the 300 block of Clematis Street. "Roxy's St. Patrick's Day Party" is a free event with drink specials, games and live music. Expected attendance is 1000. Roxy's Pub will pay the City of West Palm Beach a \$100 Special Event permit fee and a \$500 Special Event security deposit. In addition, Roxy's Pub 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. Roxy's Pub will be responsible for obtaining a support letter from the Downtown Development Authority stating that the event has received 51% approval from downtown merchants in support and will be responsible for all clean

up services during and after event of the event site and one block radius. This will include the 200, 300 and 400 blocks of Clematis Street, Olive Avenue and Dixie Highway between Banyan Blvd and Datura Street. The City reserves the right to approve the company selected by Roxy's Pub to provide the clean up services at least fourteen (14) days prior to the Event.

10. **Resolution No. 87-10 authorizing a Special Event License Agreement between the City of West Palm Beach and CSM Holding's Inc. d/b/a O'Shea's Irish Pub to produce O'Shea's St. Patricks Day on March 17, 2010 from 10:00 a.m. to 4:00 a.m.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND CSM HOLDING'S INC. D/B/A OSHEA'S IRISH PUB TO CONDUCT "OSHEA'S ST. PATRICK'S DAY" ON MARCH 17, 2010 ON THE 500 BLOCK OF CLEMATIS STREET BETWEEN ROSEMARY AVENUE AND WEST OF BADCOCK'S PARKING LOT; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NON-ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17869](#)

Staff Recommended Motion:

Approve Resolution No. 87-10.

Background:

CSM Holding's Inc., d/b/a O'Shea's Irish Pub, Inc., will host "O'Shea's St. Patricks Day" on Wednesday, March 17, 2010 from 10:00 a.m. to 4:00 a.m. in the 500 block of Clematis Street. "O'Shea's St. Patricks Day" is a free event to celebrate St. Patricks Day with drink specials and live music. Outdoor, amplified sound must conclude at 1:00 a.m. and all speakers must face away from the 600 block of Clematis. Expected attendance is 1,000. O'Shea's will pay the City of West Palm Beach a \$1,100 Special Event permit fee and a \$500 Special Event security deposit. In addition, O'Shea's 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. O'Shea's will be responsible for obtaining a support letter from the Downtown Development Authority stating that the event has received 51% approval from downtown merchants in support and will be responsible for all clean up services during and after event of the event site and one block radius. This will include the 400, 500 and 600 blocks of Clematis Street and the police department plaza adjacent to Rosemary Avenue. The City reserves the right to approve the company selected by O'Shea's to provide the clean up services at least fourteen (14) days prior to the event.

11. **Resolution No. 84-10(F) establishing appropriations within the Capital Projects Fund budget to provide for window repairs at the Seaboard Railway Station.**

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 CAPITAL PROJECTS FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE REPAIR OF WINDOWS AT THE SEABOARD RAILWAY STATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17870](#)

Staff Recommended Motion:

Approve Resolution No. 84-10(F).

Background:

The arch window on the East side of the station is leaking due to the frame being rotted away. A new aluminum window assembly will be field fitted to replace the existing window and still maintain the same outward appearance. It will not be possible to tell it is not a wood frame window. The aluminum frame will not rot or require repeated maintenance like the wood frame configuration. The cost for this repair has been placed at: \$4,365.

Fiscal Note:

Resolution No. 84-10(F) transfers \$4,365 from the building maintenance reserves for this project. Upon approval of this item, the balance in the building maintenance reserves will be approximately \$104,000.

12. **Resolution No. 90-10 **ADOPTED** waiving a condition of closing of the sale of the 45th Street Condominium Units to Palm Beach County.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, WAIVING A CONDITION OF CLOSING OF THE SALE OF THE 45TH STREET CONDOMINIUM UNITS TO PALM BEACH COUNTY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17871](#)

Staff Recommended Motion:

Approve Resolution No. 90-10.

Background:

In November, 2009, the City Commission approved an Interlocal Agreement between Palm Beach County and the City providing the terms and conditions of the sale to Palm Beach County of the City's thirteen units in the 1000 Forty-Fifth Condominium. One of the conditions of closing in the Agreement is that the County shall be in a position to simultaneously close on all seventeen units in the Condominium. The County has been unable to reach an agreement with one unit owner and on February 9, 2010 filed a Notice of Intent to File Eminent Domain Proceedings to acquire title to the one unit owned by that owner. The County intends to close on its purchase of the remaining sixteen units on or about March 24, 2010 and will acquire the final units either through eminent domain or a voluntary sale. The County has waived this condition of closing and has requested

that the City also waive the condition and proceed to close on the sale of the units.

Fiscal Note:

No fiscal impact

13. **Resolution No. 66-10 authorizing the Mayor to execute a Termination of Easement between the City and the School Board of Palm Beach County for Northboro Elementary School.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A TERMINATION OF EASEMENT TERMINATING AN EASEMENT GRANTED TO THE CITY BY THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17873](#)

Staff Recommended Motion:

Approve Resolution No. 66-10.

Background:

In 1990, the City abandoned an alley pursuant to Resolution No. 150-90 west of Spruce Avenue between 38th and 39th Street. As required by the abandonment, the School Board granted a Utility Easement over the alley which was recorded in Official Record Book 6834 at Page 81. With the renovation of Northboro Elementary, the easement is no longer required and the School Board has requested its termination. Resolution No. 66-10 will terminate any City interest in the utilities.

Fiscal Note:

No fiscal impact.

14. **Resolution No. 96-10(F) authorizing and directing the Mayor or her designee to appropriate Twenty Thousand Dollars (\$20,000) to support the Palm Beach County Department of Environmental Resources Management, Manatee Protection Plan for FY 2010.**

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 THE RECEIPT OF A PALM BEACH COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCE MANAGEMENT GRANT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17875](#)

Staff Recommended Motion:

Approve Resolution No. 96-10(F).

Background:

The Florida Governor's office identified and directed thirteen (13) counties, one being Palm Beach

County, to prepare a Manatee Protection Plan (MPP). In August 2007, the Palm Beach County Board of County Commissioners approved a MPP that provides increased hours of patrol and enforcement in estuarine waters of Palm Beach County to improve compliance with boater and manatee protection speed zones, and reduce the risks to manatees and members of the public.

On January 28, 2008 City Commission approved Resolution No. 36-08 authorizing the Mayor to execute an Interlocal Agreement with Palm Beach County for the increased marine law enforcement services during manatee season in the jurisdiction in which the City has authority to enforce the law (the "Interlocal Agreement"). Under the terms of the Interlocal Agreement, the marine law enforcement services provided by the City of West Palm Beach Police Department (the "WPBPD") are intended to be in addition to the level of marine law enforcement services already provided by the City, and occurring during Manatee Season.

On July 14, 2008 City Commission approved Resolution No. 211-08 authorizing the Mayor to execute a new Interlocal Agreement between the City and Palm Beach County to extend the marine law enforcement services by WPBPD through April 30, 2011 and increasing the per hour rate of reimbursement from \$82.00 per hour to \$82.50 per hour, which includes the cost of salaries, fringe benefits, and all other services and expense incurred by the Contractor in the fulfillment of this Agreement; and allowing for the rate for services rendered to be adjusted annually at 3%.

On January 12, 2009 City Commission approved Resolution No. 6-09(F) authorizing the Mayor to appropriate Twenty Thousand Dollars (\$20,000) for the continuation of the MPP supported by a commitment letter from Palm Beach County Department of Environmental Resources Management (November 18, 2008).

On October 15, 2009 The Palm Beach County Manatee Protection Plan Board provided a commitment letter awarding the City of West Palm Beach Police Department Twenty Thousand Dollars (\$20,000) for marine law enforcement services to be completed between November 15, 2009 and March 31, 2010.

Fiscal Note:

Resolution No. 96-10(F) provides appropriations for the receipt of \$20,000 grant as described above.

- 15. Resolution No. 99-10 relating to ratification of a successor collective bargaining agreement between the City of West Palm Beach and the Professional Managers and Supervisors Association ("PMSA") Certified Unit No. 1073, for the period October 1, 2009 - September 30, 2010.**

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

Agenda Cover Memorandum No.: 17874

Staff Recommended Motion:

Approve Resolution No. 99-10.

Background:

Attached for your approval is Resolution No. 99-10 ratifying the Collective Bargaining Agreement (CBA) with the Professional Managers and Supervisors Association (“PMSA”) Certified Unit No. 1073. The parties have reached a one-year (1) agreement for the period beginning October 1, 2009 through September 30, 2010. The PMSA ratified the attached Collective Bargaining Agreement on March 3, 2010 by a vote of 39 for ratification and 0 against ratification. A summary of the changes is shown below.

1. Leaves of Absence (Article 18)

Authorizes employees who have attained fifteen (15) years of continuous service with the City to be compensated at the rate of 75% of accumulated sick leave, up to a maximum of nine-hundred-sixty (960) hours at the employee's base hourly rate of pay at the time of termination, resignation or retirement.

PMSA employees must opt-in no later than April 2, 2010 to be eligible for this benefit, which sunsets (no longer available) after April 30, 2010.

2. Discipline and Due Process (Article 25)

Language clean up. Clarifies Code of Conduct violations.

3. Compensation (Article 27)

Section 1. Compensation. A. Suspends all Across the Board (ATB) increases.

Section 1. Compensation and Classification Structure. B. Suspends the requirement for the City to conduct a Compensation and Classification Structure (PEPIE) Adjustment for all employees.

Section 1. Merit Pay. D. Suspends all Merit Pay increases.

Section 2. Longevity Pay. A. Freezes current members who are receiving longevity. Suspends longevity for employees with less than 10 or 20 years of service as of September 30, 2009. New hires ineligible for longevity.

Section 5. (New Language) Freezes current employees receiving stipends or incentives, eliminates the benefit for new hires and requires current employees who are enrolled in a certification program to complete the training program by March 31, 2010 in order to be eligible for a stipend or certification benefit.

Section 6. (New Language) Upon ratification provides for the stopping of merit, lump sum and longevity payments to all employees, reverts the employees salary to the base salary which members were receiving as of September 30, 2009, and provides for no repayment of

overpayments by the City since October 1, 2009.

4. Other Employee Benefits (Article 28) Provides for two (2) discretionary days to be used by bargaining members; pro-rates the discretionary days for new employees.

5. Retirement (Article 29) (New Language; resolves impasse) City agrees that PMSA may implement a Defined Benefit (DB) plan and that any associated costs and/or risks of implementation and operation of the plan will be borne solely by PMSA as the plan sponsor.

6. Duration of Agreement (Article 32)

Provides for a one (1) year contract for the period beginning October 1, 2009 to September 30, 2010.

16. **Resolution No. 109-10 authorizing the retention of property insurance coverage for policy year March 1, 2010 to February 28, 2011 recommended by the City's property/casualty insurance broker, Arthur J. Gallagher Company, with established minimum limits.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING APPLICATION FOR AND EXECUTION OF ALL NECESSARY CONTRACTS FOR PROPERTY INSURANCE COVERAGE FOR THE PERIOD MARCH 1, 2010-FEBRUARY 28, 2011, AS RECOMMENDED BY THE CITY'S PROPERTY/CASUALTY INSURANCE BROKER, ARTHUR J. GALLAGHER & COMPANY; AUTHORIZING PAYMENT OF ALL INSURANCE PREMIUMS; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17879](#)

Staff Recommended Motion:

Approve Resolution No. 109-10.

Background:

The City is in the process of obtaining property insurance for policy year 2010/2011. Arthur J. Gallagher Company, the property/casualty insurance broker of record, has solicited quotes, analyzed the responses and prepared an insurance proposal. The insurance proposal outlines the proposed carriers, quoted premiums and coverage limits as well as any recommended self insured retention. The procurement Code requires that contracts for insurance are approved by the City Commission. Property insurance coverage will be bound effective March 1, 2010 contingent upon Commission approval. Resolution No. 109-10 grants the Finance Director the authority to execute the application for property insurance.

Fiscal Note:

The total cost for general government property /casualty coverage is \$1,078,921, a 7.88% decrease from the prior policy year. Property/casualty coverage for the water system is \$149,806, a 5.63% decrease. Property/casualty coverage for the ECR is \$295,353, a 5% decrease.

17. Resolution No. 122-10 authorizing the Donation of Space in the West Palm Beach Public Library for a U.S. Census Questionnaire Assistance 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 THE WEST PALM BEACH PUBLIC LIBRARY 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.: 17884](#)

Staff Recommended Motion:

Approve Resolution No. 122-10.

Background:

The U.S. Census Bureau has asked to set up a Questionnaire Assistance Center in the Library's Urban Living Room from March 19, 2010 to April 19, 2010. A Census Bureau employee will be on site no more than three hours per day and 15 hours per week to assist citizens with completing their census forms. Citizens who did not receive census forms will be directed to the site of the Questionnaire Assistance Centers. In the event that the U.S. Census Bureau desires to set up additional centers in any other City owned property, the resolution authorizes the Mayor to execute such additional agreements required by the Census Bureau.

18. Resolution No. 115-10 authorizing an Interlocal Agreement with Palm Beach County for expenditure of County's Neighborhood Stabilization Funds through mortgage financing of qualified homebuyers for the City's infill housing project.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND DIRECTING THE MAYOR TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH FOR EXPENDITURE OF PALM BEACH COUNTY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP) ALLOCATION WITHIN THE CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17881](#)

Staff Recommended Motion:

Approve Resolution No. 115-10.

Background:

On September 29, 2008, the U.S. Department of Housing and Urban Development (HUD) published a "Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternate Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees under the Housing and Economic Recovery Act (HERA), 2008" ,

which provided federal funds to address home foreclosures and abandonment of vacant properties including the acquisition and redevelopment of vacant, abandoned and foreclosed upon properties in local communities. The City of West Palm Beach and Palm Beach County were awarded separate allocations of NSP funds by HUD to address the objectives of HERA. The Coleman Park, Pleasant City, Greater Northwest, and Pinewood neighborhoods were designated as “areas of greatest need” by the City in its NSP application, and both the City and the County agree that a cooperative effort by both parties is necessary to arrest the decline in these neighborhoods within the City.

The County and City have agreed to the County also expending a portion of its NSP funding allocation in these City neighborhoods. The County agrees to utilize a portion of its NSP funds to offer mortgages to qualified buyers of the infill housing constructed or rehabilitated by the City within the “areas of greatest need”. The City has and continues to utilize its NSP funds to acquire abandoned and foreclosed vacated properties in its areas of greatest need upon which it will construct and rehab infill housing for sale to qualified low and moderate income buyers, pursuant to its Plan (as amended).

Resolution No. 115-10 authorizes an Interlocal Agreement with the County to provide for this collaborative and cooperative use of NSP funds.

Fiscal Note:

No fiscal impact.

- 19. Resolution No. 76-10 consenting to the renewal of the Interlocal Agreement between the five member entities of the East Central Regional Wastewater Treatment Facility, dated September 9, 1992, for an additional term of thirty (30) years.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, CONSENTING TO THE RENEWAL OF THE EAST CENTRAL REGIONAL WASTEWATER TREATMENT FACILITY INTERLOCAL AGREEMENT FOR A TERM OF THIRTY YEARS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17880 REVISED](#)

Staff Recommended Motion:

Approve Resolution No. 76-10.

Background:

The existing thirty year Interlocal Agreement between the five member entities of the East Central Regional Wastewater Treatment Facility (Cities of Lake Worth, Riviera Beach and West Palm Beach, the Town of Palm Beach and Palm Beach County) expires on September 9, 2022. The ECR Board is presently considering a substantial amount of capital improvements that may require the ECR Board to issue long term revenue bonds to finance the cost of those improvements. In order to accomplish any future long term financing, the members of the ECR Board desire to renew the existing Interlocal Agreement for an additional period of thirty (30) years beginning with the expiration of the existing Interlocal Agreement. The new expiration of

the Agreement would be September 9, 2052. If this renewal is not authorized, any future revenue bond financing would be limited to a twelve year period significantly increasing the annual debt service costs. Palm Beach County and the Town of Palm Beach have already passed a similar resolution.

Fiscal Note:

There is no financial impact to the City at this time.

RESOLUTIONS:

20. **Resolution No. 111-10 DENIED** authorizing an Amendment to the Palm Beach Boat Show License Agreement.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE PALM BEACH BOAT SHOW LICENSE AGREEMENT BETWEEN THE CITY AND YACHTING PROMOTIONS, INC., D/B/A SHOW MANAGEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES..

[Agenda Cover Memorandum No.: 17882](#)

Staff Recommended Motion:

Consider Resolution No. 111-10.

Background:

The License Agreement with Yachting Promotions, Inc., d/b/a Show Management, for the Palm Boat Show provides that Show Management shall pay to the City an annual waterfront contribution fee. The contribution is \$80,000 per year for years 2008 through 2012 and \$120,000 per year for years 2013 through 2017. Show Management has asked the City to waive the contribution for 2010 and reduce the contribution for future years to \$40,000 because of their current economic circumstances. A copy of the written request is attached. City Administration did not approve the request. Subsequently, Show Management changed the request to a reduction of the contributions in 2010 and 2011 from \$80,000 to \$40,000. Resolution No. 111-10 reflects the request for reductions in 2010 and 2011. Show Management is requesting that the City Commission approve the request.

Fiscal Note:

The CRA authorized \$1,000,000 of additional bond proceeds towards the waterfront project. In return, the payments from Show Management are paid to the CRA. The waterfront contribution is used by the CRA to pay the debt service on the bonds issued for the improvements. This will impact the CRA budget by \$40,000 for each of the two years requested to be reduced, a total reduction of \$80,000.

PUBLIC HEARING (21 – 22):

21. **Public Hearing and Second Reading of Ordinance No. 4261-10 ADOPTED** 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), 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.: 17872](#)

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 feet 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 **APPROVED** 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.: 17883](#)

Staff Recommended Motion:

Approve Ordinance No. 4252-09 on First Reading and schedule a Public Hearing and Second

Reading for March 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 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 \$3 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:

Approval of Ordinance No. 4252-09 will have a fiscal impact to the General Fund of approximately \$310,000 for FY 2010 and an additional credit for adjustments to FY 2009 of \$230,000. The total impact will be approximately \$540,000.

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

COMMENTS BY THE CITY COMMISSIONERS:

COMMENTS BY THE MAYOR:

ADJOURNMENT:

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.