

PLEDGE OF ALLEGIANCE:

PRESENTATION AND AWARDS OF MERIT (1 – 2):

1. Presentation and Resolution No. 93-10(F) amending the Fiscal Year 2009/2010 General Fund budget to recognize Parking Meter donation revenue for President's Day, February 15, 2010, and appropriating said funds for a donation to the The Lord's Place; and presentation of a donation check.

[Agenda Cover Memorandum No.: 17885](#)

2. Presentation of Resolution No. 102-10 approving the "Face of the City" design features presented to the City Commission for the proposed roundabout at the intersection of Market Street with York Street and Delphia Street.

[Agenda Cover Memorandum No.: 17886](#)

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

RECEIVED / FILED:

CONSENT CALENDAR (3 – 20):

3. **Minutes of the Regular City Commission Meeting held February 22, 2010.**

[Agenda Cover Memorandum No.: 17887](#)

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting held February 22, 2010.

4. **Minutes of the Regular City Commission Meeting held March 8, 2010.**

[Agenda Cover Memorandum No.: 17896](#)

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting held March 8, 2010.

5. **Resolution No. 123-10 authorizing the selection of the Quantum House and the Police Athletic and Activities League to receive parking meter donation money on Boat Show Sunday, March 28, 2010 and SunFest Sunday, May 2, 2010.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SELECTION OF THE FOLLOWING CHARITABLE ORGANIZATIONS TO RECEIVE PARKING METER DONATION MONEY IN 2010: ON BOAT SHOW SUNDAY, MARCH 28, 2010, TO THE QUANTUM HOUSE; AND ON SUNFEST SUNDAY, MAY 2, 2010, TO THE POLICE ATHLETIC AND ACTIVITIES LEAGUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17888](#)

Staff Recommended Motion:

Approve Resolution No. 123-10.

Background:

In FY 2008/2009, our generous citizens donated \$24,721 to charitable organizations which benefit the citizens of West Palm Beach through our Parking Meter Donation Days. The Quantum House and the Police Athletic and Activities League requested donations for 2010.

The Quantum House is a non-profit hospital hospitality house that provides "a caring place to call home" for families while they have a critically ill or injured child in Palm Beach County. Quantum House serves over 550 individuals each year facing uncertainty for their children.

The Police Athletic and Activities League provides education, health, culture, arts, fitness and athletic programs to the City of West Palm Beach youths. Their objectives are to teach great value and citizenry as well as a sense of belonging to something more than simply your neighborhood.

6. **Resolution No. 101-10 authorizing the Mayor to execute a special event license agreement for the Grassy Waters Preserve's Nonprofit 2nd Annual Wine and Dine on the Boardwalk Fund-raising Event to be held on March 31, 2010 from 5:30 p.m. to 9:00 p.m.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY AND LOXAHATCHEE PRESERVE NATURE CENTER, INCORPORATED, A FLORIDA NOT FOR PROFIT CORPORATION DOING BUSINESS AS GRASSY WATERS PRESERVE (HEREINAFTER REFERRED TO AS "GWP NONPROFIT") FOR THE PURPOSE OF CONDUCTING A FUND-RAISING EVENT "2ND ANNUAL WINE AND DINE ON THE BOARDWALK" AT GRASSY WATERS PRESERVE SOUTH CAMPUS WILDERNESS PAVILION ON MARCH 31, 2010 FROM 5:30 PM - 9:00 PM; AUTHORIZING THE ISSUANCE OF A PERMIT TO "GWP NONPROFIT" FOR THE CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES AT "2nd ANNUAL WINE AND DINE ON THE BOARDWALK"; WAIVING FEES FOR USE OF THE PREMISES AND FOR GRASSY WATER'S STAFF; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17889](#)

Staff Recommended Motion:

Approve Resolution No. 101-10.

Background:

"GWP Nonprofit" will produce the "2nd Annual Wine and Dine on the Boardwalk" on Wednesday, March 31, 2010 from 5:30 p.m. - 9:00 p.m. at Grassy Waters Preserve South Campus Wilderness Pavilion. The purpose of this event is to raise money in support of environmental educational programs at Grassy Waters Preserve. The event features ten (10) local restaurants preparing food for guests, all to be paired with wine. Ticket prices for the event are \$60 per person with the expectation of 300-400 participants. The event producer will also provide the City

of West Palm Beach with general liability insurance and liquor liability insurance both additionally insuring the City of West Palm Beach. In addition, the event producers have already made arrangements for police support for this event and transportation from the northside of GWP to the southside by Molly's Trolleys.

7. **Resolution No. 106-10 authorizing a Special Event License Agreement between the City of West Palm Beach and Roxy's Pub to produce Corvettes on Clematis on April 17, 2010 from 10:00 a.m. to 6:00 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 ROXY'S PUB IN THE 300 AND 400 BLOCKS OF CLEMATIS; AUTHORIZING THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC AND NON-ALCOHOLIC BEVERAGES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17890](#)

Staff Recommended Motion:

Approve Resolution No. 106-10.

Background:

Roxy's Pub will host "Corvettes on Clematis" on Saturday, April 17, 2010 from 10:00 a.m. to 6:00 p.m. in the 300 and 400 blocks of Clematis Street. "Corvettes on Clematis" is a free event to showcase Corvettes with drink specials and live music. Expected attendance is 250. 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. Roxy's 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, 400 and 500 blocks of Clematis Street, Olive Avenue and Dixie Hwy 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.

8. **Resolution No. 117-10 authorizing the sale, possession and consumption of alcohol at the Waterfront Green Pavilion as part of the e4 Sustainability Summit to be held on Saturday, April 17, 2010 from 5:00 p.m. to 6:30 p.m.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SALE, POSSESSION AND CONSUMPTION OF ALCOHOL AT THE WATERFRONT GREEN PAVILION AS PART OF THE E4

SUSTAINABILITY SUMMIT TO BE HELD ON SATURDAY, APRIL 17, 2010, FROM 5:00 PM TO 6:30 PM.

[Agenda Cover Memorandum No.: 17891](#)

Staff Recommended Motion:

Approve Resolution No. 117-10.

Background:

A wine reception at the new Waterfront Green Pavilion is being planned as part of the second annual e4 Sustainability Summit. The cost of the reception will be offset by sponsor donations. The Summit brings citizens, businesses and government together to work on the sustainability issues of our City. The free e4 Sustainability Summit 2010 will provide the opportunity to participate in hands on programs that will show how to save money, save energy, save water and have 'green' homes and businesses! If you work, live or play in West Palm Beach, you are invited to join in for a day of engaging presentations and trainings to learn how to reduce the City's carbon footprint and advance the sustainability movement. The first 350 people to register on-line will receive a complimentary Energy and Water Conservation Kit, which includes sustainable products such as compact fluorescent bulbs, temperature gauges, kitchen and bathroom faucet aerators, water-saving garden hose sprayers and much more!

Fiscal Note:

No fiscal impact.

9. **Resolution No. 119-10 authorizing the assessment of City liens in the total amount of \$94,440.56 for unpaid water service, sewer service and storm water charges for the month of December 2009.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING AN ASSESSMENT OF CITY LIENS FOR UNPAID WATER SERVICE, SEWER SERVICE, AND STORMWATER SERVICE; PROVIDING THAT SAID LIENS SHALL BE PRIOR IN DIGNITY TO ALL OTHER LIENS AGAINST THE ASSESSED PROPERTIES, SAVE AND EXCEPT A LIEN FOR TAXES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17892](#)

Staff Recommended Motion:

Approve Resolution No. 119-10.

Background:

In accordance with the Code of Ordinances of the City of West Palm Beach, Florida, Sections 90-4 and 90-5, the City imposes liens on private real property for delinquent payments due for utility services. The liens to be assessed by Resolution No. 119-10 are for unpaid water, sewer and storm water service charges for the month of December 2009. The list of properties to be assessed and the associated charges totaling \$94,440.56 are attached to Resolution No. 119-10 as Exhibit A - Utility Lien List Dec 2009.

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

Fiscal Note:

No fiscal impact.

10. **Resolution No. 121-10 authorizing the assessment of City liens in the total amount of \$16,360.26 for unpaid board and secure charges.**

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

[Agenda Cover Memorandum No.: 17893](#)

Staff Recommended Motion:

Approve Resolution No. 121-10.

Background:

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

The list of properties to be assessed and the associated charges totaling \$16,360.26 are attached to Resolution No. 121-10 as Exhibit A - Board & Secure Lien List 2010A.

These liens are equal in dignity to that of taxes and if not paid, may be foreclosed.

Fiscal Note:

No fiscal impact.

11. **Resolution No. 79-10(F) provides appropriations for the issuance of Public Service Tax Refunding Bonds, Series 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 UTILITY TAX SERIES 1997 DEBT SERVICE FUND, THE UTILITY TAX SERIES 1998 DEBT SERVICE FUND, THE GENERAL FUND, AND THE PARKING OPERATING FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR THE REFUNDING OF THE UTILITY TAX BONDS SERIES 1997 AND 1998 AND

TO CLOSE THE UTILITY TAX SERIES 1997 DEBT SERVICE FUND ; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17894](#)

Staff Recommended Motion:

Approve Resolution No. 79-10(F).

Background:

City Commission approved Resolution No. 33-10 on January 11, 2010 authorizing the issuance of Public Service Tax Refunding Bonds, Series 2010 for the purpose of refunding the Public Service Tax Refunding Bonds, Series 1997 and Public Service Tax Bonds, Series 1998. The City issued \$11,170,000 in Public Service Tax refunding bonds to refinance both a 1997 and a 1998 Public Service Tax bonds. The issue was rated A1 by Moody's, A+ by S&P and AA by Fitch. Net Present Value Savings equaled \$603,846 or 4.1% of the bonds that were refinanced. The underwriter was RBC Capital. Squire, Sanders was bond counsel and Dunlap & Associates was the financial advisor.

Fiscal Note:

Resolution No. 79-10(F) provides appropriations for this bond issuance. Overall, the General Fund was able to decrease its transfer to the debt service fund \$315,608; which will be credited to the Community Redevelopment Agency (CRA) and the Parking System.

12. **Resolution No. 77-10(F) 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.: 17898](#)

Staff Recommended Motion:

Approve Resolution No. 77-10(F).

Background:

The U.S. Constitution (Article I, 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 Census 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 Questionnaire Assistance Centers (anticipated at Coleman Park, Vickers House North and South, City Library and other City locations as determined by the Census Bureau in late March). The total amount budgeted for Census Marketing and Promotion is \$100,000 (which equates to approximately \$1 per person in West Palm Beach). However, due to current economic times and in keeping with the vital importance of the Census 2010 effort, expenditures will not exceed \$50,000 for these efforts. Items anticipated to be purchased include: gift cards from Publix and Winn Dixie in \$5 or \$10 amounts totaling approximately \$40,000 to be provided to West Palm Beach residents returning the Census questionnaire at the Census Questionnaire Assistance Centers, and promotional items with the City and/or Census 2010 logo totaling no more than \$10,000. The remaining \$50,000 of the \$100,000 budgeted will be returned to the City's general fund.

Fiscal Note:

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

13. Resolution No. 127-10(F) providing appropriations for the issuance of the 2010 Utility Revenue Refunding Bonds.

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 WATER & SEWER DEBT SERVICE FUND AND THE WATER & SEWER OPERATING FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR THE ISSUANCE OF THE UTILITY REVENUE REFUNDING BONDS, SERIES 2010; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17899](#)

Staff Recommended Motion:

Approve Resolution No. 127-10(F).

Background:

The City Utility System issued \$15,140,000 in refunding bonds to refinance the 1998 Utility Revenue bonds, authorized by Resolution No. 34-10. The issue was rated A1 by Moody's, A+ by Fitch and AA- by S&P. Net Present Value Savings equaled \$634,937 or 4.3% of the bonds that were refinanced. The City has a policy that the savings must be, at a minimum, 3%. The underwriter was Estrada Hinjosa. Squire, Sanders was bond counsel and Dunlap & Associates was the financial advisor.

Fiscal Note:

Resolution No. 127-10(F) provides appropriations for the issuance of the 2010 Utility Revenue Refunding Bonds.

14. **Resolution No. 92-10 authorizing the execution of an Agreement between the Town of Palm Beach and the City of West Palm Beach for the 2010 Town of Palm Beach Water Main Improvements project, in the amount of \$654,500.00; and Resolution No. 110-10(F), appropriating funds for the Improvements.**

RESOLUTION NO. 92-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE TOWN OF PALM BEACH AND THE CITY OF WEST PALM BEACH FOR THE 2010 TOWN OF PALM BEACH WATER MAIN IMPROVEMENTS PROJECT, IN THE AMOUNT OF \$654,500.00, PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 110-10(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 WATER & SEWER TOWN OF PALM BEACH RENEWAL & REPLACEMENT FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE WATER MAIN IMPROVEMENTS IN THE TOWN OF PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17900](#)

Staff Recommended Motion:

Approve Resolution No. 92-10 and Resolution No. 110-10(F).

Background:

In June 16, 1999, the City of West Palm Beach ("City") and the Town of Palm Beach ("Town") entered into a Water Franchise Agreement ("Franchise Agreement"), which identified all the existing water mains serving the Town and owned by the City that require improvements. The Franchise Agreement requires the City and the Town to review incomplete projects identified therein on an annually basis and to consider replacement of additional water mains as may be identified by the City. The Franchise Agreement also requires five percent (5%) of the gross water sales in the Town to be deposited into the Town's Renewal & Replacement (R&R) Fund on a monthly basis. This Fund is to be used to make water main improvements in the Town. Presently the balance in the Fund is \$3,025,512.00 and annual deposits into this Fund are approximately \$625,000.00

The City and the Town, after reviewing the upcoming improvement projects identified by the Town and reviewing the incomplete projects identified in the Franchise Agreement, have agreed on certain water main improvements, to be undertaken during the period of April 5 to November 24, 2010 ("2010 Town of Palm Beach Water Main Improvements"). The improvements includes

replacement of existing water main on Pendleton Avenue, Root Trail, Tangier Avenue and Worth Avenue, within the dedicated rights-of-ways in the Town, as described in detail in Attachment "A" to the Agreement for 2010 Town of Palm Beach Water Main Improvements Project ("Agreement").

The parties agree that it is in their best interest to have the Town hire its own contractors and directly manage the improvements, with review and oversight by the City. The City has reviewed the Town's construction estimate for the Improvements in the amount of \$654,500, which includes a 10% contingency and found that to be reasonable. The estimated construction amount for the proposed Improvements may be adjusted in case of approved change order, in accordance with the provisions of the Franchise Agreement. The Agreement for the 2010 Town of Palm Beach Water Main Improvements is expected to be approved by the Town Council on April 13, 2010. Accordingly, Staff requests the approval of the Resolutions to authorize the City to pay the estimated construction cost of \$654,500.00, from the Town's R & R Fund for the proposed Improvements.

Fiscal Note:

Resolution No. 110-10(F) transfers \$654,500 from reserves within the Water & Sewer Town of Palm Beach R&R Fund for this project. Upon approval of this item, the balance in reserves will be approximately \$2.4 million.

15. **Resolution No. 130-10 supporting passage of Senate Bill 102 and House Bill 3, repealing the State of Florida's prohibition against adoption based on sexual orientation.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, SUPPORTING PASSAGE OF SENATE BILL 102 AND HOUSE BILL 3, REPEALING THE STATE OF FLORIDA'S PROHIBITION AGAINST ADOPTION BASED ON SEXUAL ORIENTATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17901](#)

Staff Recommended Motion:

Approve Resolution No. 130-10.

Background:

The "Florida Adoption Act" provides that "[n]o person eligible to adopt... may adopt if that person is a homosexual." Senate Bill 102 and House Bill 3 would repeal the State of Florida's 33-year-old prohibition against adoption by an otherwise eligible parent based solely on sexual orientation.

The City Commission wishes to promote stable and permanent homes for adoptive children within the City of West Palm Beach and throughout the State of Florida. As articulated by one Juvenile Court judge applying the "best interest of the child" standard, "[q]ualities indicative of good parenting include attentiveness, involvement in a child's educational development, the ability to soothe, offer comfort, advice and a secure base for a child, the provision of resources and maintaining a warm, harmonious environment. The most important factor in ensuring a well adjusted child is the quality of parenting."

Resolution No. 130-10 supports passage of Senate Bill 102 and House Bill 3 and will be sent to all seventeen members of the Palm Beach County Legislative Delegation in Tallahassee.

16. **Resolution No. 131-10 allowing the fire service assessment funds to be used for fire services, facilities and programs in Fiscal Year 2009/10; and Resolution No. 135-10(F) providing appropriations.**

RESOLUTION NO. 131-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING RESOLUTION NO. 263-09 RELATING TO THE IMPOSITION OF FIRE SERVICE SPECIAL ASSESSMENT FOR FISCAL YEAR 2009/10; ALLOWING THE USE OF THE ASSESSMENT FUNDS FOR FIRE SERVICES, FACILITIES AND PROGRAMS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 135-10(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 AND THE FIRE SERVICE ASSESSMENT FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR ASSESSMENT FUNDS TO BE USED FOR FIRE SERVICES OPERATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17902](#)

Staff Recommended Motion:

Approve Resolution No. 131-10 and Resolution No. 135-10(F).

Background:

By Ordinance No. 4141-08, the City Commission authorized the imposition of an annual recurring fire service assessment against real property within the City, and established the procedure for imposing the assessment, which requires an annual resolution establishing the amount and use of the assessment.

For fiscal year 2009/10, the City Commission adopted Resolution No. 253-09. Section 6 of said Resolution established that the funds collected in fiscal year 2009/10 would be used for capital improvements, including fire station construction and fire/rescue vehicles. The Resolution further provides that in the event there is any fund balance remaining at the end of the fiscal year, such balance shall be carried forward and used only to fund fire services, facilities, and programs.

Due to the current budget situation, the City is not proceeding at this time with some of the anticipated capital projects and is not constructing fire stations. Pursuant to Resolution No. 263-09, fire service assessment funds not utilized for capital improvements by September 30, 2010, may be appropriated for fire service operations. The City believes that it would be in the best interest of public safety to re-appropriate the current assessment funds toward any shortfalls in funding for fire services, facilities and programs in this fiscal year, rather than waiting. The City

does not wish to amend the assessment method, rate or roll, but merely the use established for the funds by the annual resolution.

Resolution No. 131-10 amends Resolution No. 263-09 and would allow the fire service assessment funds collected in FY 2009/10 to be utilized for fire services, facilities and programs. Such funds, however, by decision of the Florida Supreme Court, may not be used to fund emergency medical services.

Fiscal Note:

Resolution No. 135-10(F) transfers \$2 million from the Fire Service Assessment Fund to the Fire Rescue Department's operating budget within the General Fund.

17. **Resolution No. 129-10 approving and authorizing the Mayor to execute amendments to the Townhouses at Henrietta CHDO Project Documents between the City and New Urban Community Development Corporation, Inc. to provide for additional funding and to extend the term of the documents; and Resolution No. 137-10(F) to provide appropriations.**

RESOLUTION NO. 129-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENTS TO THE TOWNHOUSES AT HENRIETTA CHDO PROJECT DOCUMENTS BETWEEN THE CITY AND NEW URBAN COMMUNITY DEVELOPMENT CORPORATION, INC. TO PROVIDE ADDITIONAL FUNDING AND EXTEND THE TERM OF THE AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 137-10(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 HOME GRANT FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE TOWNHOUSES AT HENRIETTA PROJECT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17903](#)

Staff Recommended Motion:

Approve Resolution No. 129-10 and Resolution No. 137-10(F).

Background:

At its meeting on July 19, 2004, the City Commission approved Resolution No. 365-04(F), allocating \$250,000 in HOME funds for the Townhouses at Henrietta Project to be developed by New Urban Community Development Corporation, Inc. ("NUCDC"), a locally certified Community Housing Development Organization (CHDO). The Project is designed to provide affordable, non-luxury rental housing for lower-income households. It includes a "home buyer incubator" program to assist participant families with credit, income and/or savings problems in achieving home ownership. The units will be HOME-assisted units, which means that all units

must be rented to approved tenants whose individual or household income does not exceed eighty percent (80%) of the West Palm Beach metropolitan statistical area median income as determined by the U.S. Department of Housing and Urban Development. On December 6, 2004, the City Commission approved Resolution No. 487-04 authorizing the execution of the Project Documents between the City and NUCDC.

On November 11, 2005, the City Commission approved Resolution No. 396-05(F), authorizing the allocation of an additional \$110,000 in HOME funds to cover a funding gap resulting from significant increases in construction costs due to previous year's hurricanes. On November 6, 2006, the City Commission approved Resolution No. 475-06 authorizing an additional \$257,853 in HOME funds to increase the scope of the Project from ten to eleven units and maintain its affordability. That Resolution also allocated an additional \$35,000 in HOME funds for CHDO operating costs bringing the total allocation for operating costs to \$50,383.

A ground breaking ceremony was held on April 23, 2007. Full construction drawings were completed and submitted for building plan review on August 22, 2007. On August 17, 2007, D.E Stephenson Contractors from Fort Lauderdale was selected to build the project. However, their bid of \$1,917,581, which was the lowest responsive bid, exceeded the estimated construction cost of \$1,441,110 anticipated for project construction. This resulted in the need for additional funds to complete the project. At its meeting of August 25, 2008, the City Commission approved Resolution No. 335-08 authorizing the allocation of \$350,000 from the City's State Housing Initiatives Partnership (SHIP) annual allocation to assist in meeting the revised development cost and complete the project.

Resolution No. 129-10 authorizes an additional allocation of \$10,906.67 in HOME funds to replace private funding which has been reprogrammed to resurface the alley immediately to the north of the project site as requested by the City's Engineering Services Department. It further authorizes the modification of the current Project Documents to provide for the additional funding and extends the term of the Project Agreement to June 30, 2010, and the term of the Promissory Note to June 30, 2025.

Fiscal Note:

Resolution No. 137-10(F) provides appropriations of \$10,907 within the HOME Grant Fund.

- 18. Resolution No. 120-10 authorizing the execution of the Consent to Easement Agreement, between the City of West Palm Beach and the Army Corps of Engineers, and any related Sovereign Submerged Lands Easement Agreement between the City and FDEP, in connection with the proposed relocation of the City's 24-inch Water Main within the Intracoastal Waterway.**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF THE CONSENT TO EASEMENT AGREEMENT, BETWEEN THE CITY OF WEST PALM BEACH ("CITY") AND THE ARMY CORPS OF ENGINEERS, AND ANY RELATED SOVEREIGN SUBMERGED LANDS EASEMENT AGREEMENT BETWEEN THE CITY AND FDEP, IN CONNECTION WITH THE PROPOSED RELOCATION OF THE CITY'S 24-INCH

WATER MAIN WITHIN THE INTRACOASTAL WATERWAY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17904](#)

Staff Recommended Motion:

Approve Resolution No. 120-10.

Background:

The Flagler Memorial Bridge, which extends from Olive Avenue in the City of West Palm Beach ("City") across the Intracoastal Waterway ("ICW") to Cocoanut Row in the Town of Palm Beach ("Town") is obsolete and is on an accelerated schedule for replacement by Florida Department of Transportation. The City's existing 24-inch water main ("WM"), which supplies water to the Town is in conflict with the proposed bridge alignment and requires relocation prior to the start of the bridge construction.

The selected route for the WM relocation extends from Providencia Park in the City to Bradley Park in the Town. Permission from the Corps of Engineers for use of a portion of its right-of-way in the ICW is required prior to the relocation of the proposed WM. Accordingly, the Army Corps of Engineers has requested the City to execute the Consent to Easement to Use the Corps of Engineers Right-Of-Way ("Consent to Easement Agreement"), Consent No. DACW17-9-10-0025, prior to the commencement of relocation of the City's WM. Similarly, the City's execution of the Army Corps' Consent to Easement Agreement will trigger the Florida Department of Environmental Protection's (FDEP) requirement for a Sovereign Submerged Lands Easement Agreement with the State of Florida, prior to commencement of the WM relocation.

The City's proposed WM crossing requires the consent of both the Army Corps of Engineers and FDEP. Therefore, Resolution No. 120-10 seeks to authorize the City to execute the following documents: (1) the Consent to Easement Agreement with the U.S. Army Corps of Engineers; and (2) the Sovereign Submerged Lands Easement Agreements with FDEP (to be executed at a subsequent time). Approval of this Resolution will allow for timely relocation of the WM and continued provision of water services to the Town.

- 19. Resolution No. 104-10(F) providing budget appropriations due to personnel vacancies. Resolution No. 105-10(F) amending the personnel detail for the elimination of sixteen (16) vacant, budgeted positions; the reclassification of two (2) full-time budgeted positions; and the addition of one (1) full-time budgeted position.**

RESOLUTION NO. 104-10(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 ARTICLE IV, SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND AND VARIOUS OTHER FUNDS BUDGETS TO PROVIDE APPROPRIATIONS FOR THE CHANGES IN PERSONNEL DUE TO VACANCIES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 105-10(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE VARIOUS FUNDS BUDGETS TO AMEND THE FULL TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE ENGINEERING, FINANCE, HUMAN RESOURCE, PLANNING, POLICE, PUBLIC WORKS, SUPPORT SERVICES, AND PARKS & RECREATION DEPARTMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
[Agenda Cover Memorandum No.: 17905](#)

Staff Recommended Motion:

Approve Resolution No. 104-10(F) and Resolution No. 105-10(F).

Background:

Department Directors, City Administration, and Human Resources met to discuss the potential elimination of full-time vacant, budget positions and reclassification of other full-time positions to reduce FY 2009/2010 expenditures. The sixteen (16) positions proposed for elimination include two (2) in the Engineering Services Department, two (2) in the Finance Department, one (1) in Human Resources Department, two (2) in the Planning and Zoning Department, two (2) in the Police Department, four (4) in the Public Works Department, and three (3) in the Support Services Department. The two (2) full-time positions proposed for reclassification include one (1) in Parks and Recreation Department and one (1) in the Police Department. Of the sixteen (16) positions proposed for elimination, eleven (11) are in the General Fund, two (2) are in the Storm Water Operating Fund, two (2) are in the Management Information Systems (MIS) Fund, and one (1) is in the Fleet Maintenance Fund. One (1) position is proposed to be added to the Parks and Recreations Department to manage the waterfront pavilion and activities .

Fiscal Note:

Resolution No. 104-10(F) provides appropriations by decreasing the budget within the various departments for the eliminated vacancies, increasing General Fund operating contingency by \$689,873 and increasing the Storm Water Operating Fund contingency by \$80,555. Upon approval of this item, the balance in the General Fund contingency will be approximately \$3.1 million, and the Storm Water Operating Fund contingency will be \$280,555.

20. **Resolution No. 100-10 authorizing the execution of the Settlement Agreement by and among Pepsi Americas, Inc., the City of Riviera Beach Special Utility District and the City of West Palm Beach, in the amount of \$23,500.00, as settlement for Pepsi's significant noncompliance with its Wastewater Industrial Discharge Permit and the Wastewater Industrial Pretreatment Program ("IPP") Ordinance.**

RESOLUTION NO. 100-10: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF THE SETTLEMENT AGREEMENT BY AND AMONG PEPSI AMERICAS, INC., THE CITY OF RIVIERA BEACH SPECIAL UTILITY DISTRICT AND THE CITY OF WEST PALM BEACH, IN THE AMOUNT OF \$23,500.00, AS SETTLEMENT FOR PEPSI'S SIGNIFICANT NONCOMPLIANCE WITH ITS WASTEWATER INDUSTRIAL DISCHARGE PERMIT AND THE WASTEWATER INDUSTRIAL PRETREATMENT

PROGRAM ("IPP") ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

[Agenda Cover Memorandum No.: 17897](#)

Staff Recommended Motion:

Approve Resolution No. 100-10.

Background:

The City of West Palm Beach ("WPB") and the City of Riviera Beach Special Utility District ("Utility District") through a Wastewater Pretreatment Agreement, dated November 7, 2001, authorized WPB to enforce the provisions of the Utility District's IPP Ordinance and to collect fees, fines and penalties that may be imposed against industrial users within the City of Riviera Beach's services area. Pepsi Americas, Inc., ("Pepsi") is an industrial user, who operates a bottling facility in Riviera Beach and is authorized to discharge its industrial wastewater into the Utility District's wastewater system and into the East Central Regional Wastewater Treatment Facilities, in accordance with its Wastewater Industrial Discharge Permit ("Discharge Permit") and the IPP Ordinance. Sometime in 2006, WPB, as agent for the Utility District commenced an enforcement action against Pepsi, alleging that Pepsi was in significant noncompliance with certain discharge limits associated with BOD, COD and pH discharge levels in its wastewater. In support of WPB's enforcement action, the Utility District claimed that its sewer collection and transmission systems were damaged as a result of this significant noncompliance. Pursuant to the IPP Ordinance, WPB as agent for the Utility District imposed certain administrative fines and penalties against Pepsi, which fines and penalties were contested by Pepsi.

Since the commencement of the enforcement action, Pepsi has taken several steps to bring itself into compliance. Pepsi has constructed, installed and will continue to operate, and maintain a continuous pH monitoring system to regulate its pH discharge and shall maintain the pH of its wastewater within the range permitted. Further, in accordance with the "Self-Monitoring" provision of the IPP Ordinance, Pepsi, through a contract with an independent outside laboratory, monitors its BOD discharge concentrations monthly and submits those results to the City. Accordingly, the parties desire to enter into a Settlement Agreement ("Agreement") to resolve all issues relating to the significant noncompliance, including all disputes relating to the fines and penalties imposed. Under the terms of the Agreement, Pepsi shall pay the sum of \$23,500.00, to WPB to cover the City's actual costs associated with enforcement activities, including sampling and monitoring expenses incurred. Further, Pepsi shall pay the sum of \$110,000.00, to the Utility District, as full settlement and satisfaction for the damages to its sewer collection and transmission systems. Furthermore, BOD discharge in excess of surcharge limits established in the Pepsi's Discharge Permit is subject to surcharge in accordance with the IPP Ordinance. Both Pepsi and the Utility District have approved the subject Agreement. Pepsi is currently in compliance with its Discharge Permit and the IPP Ordinance. Therefore, staff recommends approval of the Settlement Agreement.

Fiscal Note:

Under the terms of the Agreement, Pepsi pays West Palm Beach the sum of \$23,500.00, to cover the City's actual costs associated with enforcement activities, including sampling and monitoring expenses incurred.

OTHER BUSINESS:

- 21. Appeal of the Historic Preservation Board decision in Case No. 09-51A, approving a Certificate of Appropriateness Application at 2420 Medina Way, within the El Cid Historic District, contingent upon a condition regarding window materials.**
[Agenda Cover Memorandum No.: 17895](#)

Staff Recommended Motion:

Uphold the decision of the Historic Preservation Board with the following motion:

Deny the appeal, and approve the Certificate of Appropriateness with the condition that the proposed windows shall be an aluminum, aluminum-clad or wood product to be administratively approved by staff prior to building permit. This motion is based upon the factual testimony presented, the application submitted and the staff report, along with the finding that the condition meets the criteria set forth in the Secretary of the Interior's Standards as listed in the Zoning and Land Development Regulations Section 94-49(3).

Background:

Following HPB's approval of alterations/additions to 2420 Medina Way, a contributing property within the El Cid Historic District, on December 22, 2009, the applicant, Alan Chrzanowski, D&A Builders, with the consent of the owner of 2420 Medina Way, William Eubanks, submitted a revision to a building permit. The plans for permit were modified significantly from what was approved by the Historic Preservation Board.

Per Section 94-49(c)(7) of the Land Development and Zoning Regulations, "Any change in the proposed work following the issuance of a certificate of appropriateness shall be reviewed by the division. If the proposed change does not materially affect the historic character or the proposed change is in accordance with the board's decision, the division may administratively approve the change. If the proposed change is not in accordance with the board's decision, a new certificate of appropriateness application for such change must be submitted for review."

Accordingly, the applicant submitted a Certificate of Appropriateness Application for changes to the previously HPB-approved work, which included a modification of the proposed second-story balcony on the rear (west) to an enclosed sunroom, and a modification of the window and door products from wood, (mahogany) impact-resistant multi-light windows and doors to Anderson vinyl-clad multi-light windows.

On February 23, 2010, staff presented a Certificate of Appropriateness Application to the Historic Preservation Board with a recommendation of APPROVAL contingent upon the following condition: the proposed windows shall be an aluminum, aluminum-clad or wood product to be administratively approved by staff prior to building permit. The Historic Preservation Board voted unanimously (7-0) to APPROVE the application with the condition recommended by staff for the aluminum, aluminum-clad or wood product. This vote was based upon the testimony presented and the lack of competent, substantial evidence of record demonstrating that a vinyl-clad product complies with Standard 6 of the Secretary of Interior's Standards for Rehabilitation, as well as the

additional compatibility criteria set forth in the Historic Preservation Ordinance (Ordinance No. 3554-02).

Traditional wood windows are important architectural features in any historic building. They show craftsmanship and detail that cannot be achieved by replacement products. Standard 6 of the Secretary of Interior's Standards requires that "where the severity of deterioration requires the replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and where possible, materials." Given the need for hurricane protection, the City of West Palm Beach Historic Preservation Program has allowed aluminum and aluminum clad products in the historic districts that match the size, style and profile dimensions of traditional wood windows. However, the Historic Preservation Division Staff and Board have consistently denied vinyl and vinyl-clad products as a replacement material. While vinyl products have been in use since the mid-1980s, the quality and performance of such products have been a concern. More significantly, the manufacture of polyvinyl chloride (PVC) is one of the most toxic production processes there is. Dioxin is formed when PVC is manufactured and when it is burned. Dioxin is a carcinogen and among the most toxic chemicals known. While the windows are not toxic while they are being used, they are toxic to produce and toxic to dispose of. The use of vinyl as a replacement material is not compatible in the context of traditional building materials of historic districts.

The applicant's request to appeal the Board's condition of approval was timely received on February 25, 2010. Pursuant to Sec. 94-50 of the Code of Ordinances, Historic Preservation Board decisions may be appealed to the City Commission. The appeal hearing shall be held within 60 days of the written request to appeal.

The City Commission's review is de novo, allowing the Commission to make a decision based on the evidence submitted to the Commission at this hearing. The City Commission is required to apply the Secretary of the Interior's standards for rehabilitation. The applicable standard, Sec. 94-49(c)(3)(f), reads as follows:

"f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence."

The residence is located in City Commission District No. 3, Commissioner Kimberly Mitchell.

Fiscal Note:

No fiscal impact.

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.