

CITY OF WEST PALM BEACH
OFFICE OF THE CITY CLERK
REGULAR CITY COMMISSION MEETING
JANUARY 12, 2009

The City Commission of the City of West Palm Beach met in regular session on Monday, January 12, 2009 at 4:20 p.m., at City Hall, with the following persons present:

Mayor Lois J. Frankel, President of the Commission Geraldine Muoio, Commissioner Molly Douglas, Commissioner Kimberly Mitchell [arrived at 4:26 p.m.], Commissioner William Moss, Commissioner Isaac Robinson, Jr., City Administrator Edward Mitchell, Deputy City Administrator Dorritt Miller, City Attorney Claudia McKenna, City Clerk Blane Kauthen and Deputy Clerk Lisa Hedge [left at 5:00 p.m.].

INVOCATION / PLEDGE OF ALLEGIANCE:

The Mayor offered a moment of silence in honor of all the men and women serving overseas and the President of the Commission led the Pledge of Allegiance.

PRESENTATIONS AND AWARDS OF MERIT:

1. **Recognition of Fire Rescue Operations Lieutenant Nathaniel Lasseur for his courage and rescue efforts at a collapsed school building in Haiti** – Fire Chief Phillip Webb made a presentation and recognized Fire Rescue Operations Lieutenant Nathaniel Lasseur. Fire Rescue Operations Lieutenant Nathaniel Lasseur made a presentation and thanked the City for recognizing him.
- 2., 3. **Presentation of Resolution No. 15-09(F), 16-09(F) and 17-09(F)** –
- & 4. **Parking Systems Administrator Sue Olley made a presentation. Fire Chief Phillip Webb, Community Resources Manager Lela Jordan and Lauren Greenwald of ASPIRA made presentations and accepted the donations with thanks. It was moved by Commissioner Robinson, seconded by Commissioner Mitchell, to adopt Resolution No. 15-09(F) amending the Fiscal Year 2008/2009 Donation Fund budget to recognize Parking Meter donation revenue for Columbus Day, October 13, 2008, appropriating said funds for a donation to FIRESTORM; Resolution No. 16-09(F) amending the Fiscal Year 2008/2009 General Fund budget to recognize Parking Meter donation revenue for the Friday after Thanksgiving, November 28, 2008, and appropriating said funds for a donation to the Homeward Bound Program; and Resolution No. 17-09(F) amending the Fiscal Year 2008/2009 General Fund budget to recognize Parking Meter donation revenue for Veterans' Day, November**

12, 2008, and appropriating said funds for a donation to ASPIRA; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

5. Presentation and Announcement of the Inauguration Celebration Event – Neighborhood Liaison Jacqueline Smith made a presentation, and thanked and introduced the Inauguration Celebration Committee members and Alexander W. Dreyfoos, Jr. School of the Performing Arts student Brittany Bennett, who designed the artwork for the celebration.

CONSENT CALENDAR:

Commissioner Mitchell asked that item #16 be pulled from the Consent Calendar. The Mayor announced that without objection, item #18 would be pulled from the Consent Calendar. It was moved by Commissioner Douglas, seconded by Commissioner Moss, to approve the following Consent Calendar:

7. Minutes of the Regular City Commission Meeting held on December 1, 2008.
8. Minutes of the Regular City Commission Meeting held December 15, 2008.
9. Resolution No. 36-09 authorizing issuance of a permit to Leadership Palm Beach County for the sale, consumption and possession of beer, wine and non-alcoholic beverages at an event to be held at Grassy Waters Preserve on January 14, 2009.
10. Resolution No. 526-08 authorizing the execution of Amendment No. 1 to the Consulting Services Agreement with Mr. Albert J. Marinello.
11. Resolution No. 2-09 authorizing an Agreement between Palm Beach County and the City of West Palm Beach for a Recreation Assistance Program (RAP) Grant from the County for Kaleidoscope 2009.
12. Resolution No. 6-09(F) authorizing and directing the Mayor or her designee to appropriate Twenty Thousand Dollars (\$20,000) from contingency to support the Palm Beach County Department of Environmental Resource Management, Manatee Protection Plan.

13. Resolution No. 4-09 authorizing the approval of Amendment No. 1 to an Agreement between the City and the Department of Environmental Protection (DEP), DEP Agreement No. LP6740 providing for a no-cost time extension to the City for the Broadmoor Stormwater Project, to complete the grant-related construction of the project.
14. Resolution No. 8-09(F) creating the Community Development Block Grant Disaster Recovery Initiative Fund budget and providing appropriations for the Community Development Block Grant Disaster Recovery Initiative Program.
15. Resolution No. 10-09 authorizing the Mayor to execute a Release of Unity of Title and to execute an Agreement between the School Board of Palm Beach County and the City of West Palm Beach regarding the expansion of the Palm Beach Lakes High School campus.
17. Resolution No. 14-09 authorizing the execution of Change Order No. 4 in the amount of \$250,466.24 to the contract with West Construction, Inc., for Fire Station No. 7.

and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

CONSENT CALENDAR [CONTINUED]:

16. Resolution No. 546-08 and Resolution No. 11-09(F) – Director of Housing and Community Development Emelda Johnson made a presentation and responded to Commission questions. Deputy City Administrator Dorritt Miller responded to Commission questions. Commissioner Mitchell asked to see the dollar amount the City is currently paying the agency and to receive assurance that the amount matches what the City will pay the employees directly. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to adopt Resolution No. 546-08 creating a job classification of Foreclosure Assistance Counselor within the City’s Salary Plan; and Resolution No. 11-09(F) amending the personnel detail of the Housing and Community Development Department; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

**REORDERED AGENDA:
PUBLIC HEARING:**

19. Public Hearing and Second Reading of Ordinance No. 4190-08 – Assistant Chief of Police Dennis Crispo responded to Commission questions. It was moved by Commissioner Moss, seconded by Commissioner Douglas, to adopt Ordinance No. 4190-08 authorizing the use of unmanned cameras at traffic signals in the City to promote traffic and intersection safety, and amending Chapter 86 (Traffic), Article III (Operation of Vehicles), to create Division 5 (City Intersection Safety) to create a traffic signal camera enforcement program; thereupon Ordinance No. 4190-08 was read into the record by title; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

CONSENT CALENDAR [CONTINUED]:

18. Resolution No. 30-09 – City Attorney Claudia McKenna made a presentation. Public comments: Jordan Hunt of Food Not Bombs and Attorney Barry Silver, representing Food Not Bombs. It was moved by Commissioner Douglas, seconded by Commissioner Moss, to adopt Resolution No. 30-09 authorizing the settlement of the lawsuit filed in the matter of Food Not Bombs v. the City of West Palm Beach, Case No. 07-81210-CIV-MIDDLEBROOKS/JOHNSON with Plaintiff, Food Not Bombs; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

PUBLIC HEARING:

20. Public Hearing and First Reading of Ordinance No. 4196-09 – It was moved by Commissioner Douglas, seconded by Commissioner Moss, to approve Ordinance No. 4196-09 repealing Ordinance No. 4069-07; and repealing Section 58-85(j) of the Code of Ordinances of the City of West Palm Beach; thereupon Ordinance No. 4196-09 was read into the record by title; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

**REORDERED AGENDA:
PRESENTATIONS AND AWARDS OF MERIT:**

6. Presentation of Resolution No. 1-09 – Marketing and Community Events Manager Mary Pinak [a] announced that Kaleidoscope will be held on Sunday, January 25, 2009 from 10:00 a.m. to 5:00 p.m.; [b] made a presentation; and [c] responded to Commission questions. Okeeheelee Middle School Principal Dr. David Samore, Kenyetta Haywood of the School District of Palm Beach County and Palm Beach County Public Information Officer Lisa De La Rionda made presentations. It was moved by Commissioner Moss, seconded by Commissioner Douglas, to adopt Resolution No. 1-09 authorizing the closure of Flagler Drive, Fern Street, Evernia Street, Datura Street, North and South Clematis Streets and Narcissus Avenue for Kaleidoscope 2009, and authorizing the sale, possession and consumption of alcoholic beverages; and presentation of a donation check; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

**REORDERED AGENDA:
PUBLIC HEARING:**

21. Public Hearing and First Reading of Ordinance No. 4197-09 – Staff Attorney Joshua Koehler made a presentation and responded to Commission questions. It was moved by Commissioner Mitchell, seconded by Commissioner Muoio, to approve Ordinance No. 4197-09 amending the business tax rate schedule for astrologers and fortune-tellers; thereupon Ordinance No. 4197-09 was read into the record by title; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

**REORDERED AGENDA:
PUBLIC HEARING - QUASI-JUDICIAL:**

23. Public Hearing and Second Reading of Ordinance No. 4195-08 – It was moved by Commissioner Moss, seconded by Commissioner Douglas, to continue Ordinance No. 4195-09 regarding a request by Kieran Kilday, of Kilday & Associates, Inc., on behalf of Trinity 1515, LLC, for a rezoning from Multifamily High Density (MF32) Residential to Residential Planned Development (RPD) to construct The Modern, a 24-story residential condominium building containing 84 units and amenities at 1515 South Flagler Drive and 220 & 222 Arkona Court, on approximately 2.46 acres. The request seeks the

approval of six (6) waivers; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

[The Mayor left the meeting at 5:17 p.m.]

PUBLIC HEARING - QUASI-JUDICIAL:

-SWEARING IN OF WITNESSES

The City Clerk swore in all those persons having an interest in items #22 and #24.

-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY*

Commissioner Mitchell stated that she [a] had had no ex-parte communications regarding items #22 and #24; and [b] would base her decisions on the evidence and testimony to be presented.

Commissioner Robinson stated that he [a] had had no ex-parte communications regarding items #22 and #24; and [b] would base his decisions on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had ex-parte communication with the staff at St. Mary's Hospital regarding item #22; [b] had had no ex-parte communication regarding item #24; and [c] would base his decisions on the evidence and testimony to be presented.

Commissioner Douglas stated that she [a] had had no ex-parte communications regarding items #22 and #24; and [b] would base her decisions on the evidence and testimony to be presented.

Commissioner Muoio stated that she [a] had had no ex-parte communications regarding items #22 and #24; and [b] would base her decisions on the evidence and testimony to be presented.

At this time City Attorney Claudia McKenna noted that item #25 is also quasi-judicial.

Commissioner Mitchell stated that she [a] had had no ex-parte communication regarding item #25; and [b] would base her decision on the evidence and testimony to be presented.

Commissioner Robinson stated that he [a] had had no ex-parte communication regarding item #25; and [b] would base his decision on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had no ex-parte communication regarding item #25; and [b] would base his decision on the evidence and testimony to be presented.

Commissioner Douglas stated that she [a] had had no ex-parte communication regarding item #25 but did attend the Historic Preservation Board Meeting during which this case was heard; and [b] would base her decision on the evidence and testimony to be presented.

22. Public Hearing and Second Reading of Ordinance No. 4194-08 – Commissioner Moss disclosed that he serves as a volunteer on the governing board of St. Mary’s Hospital. It was moved by Commissioner Robinson, seconded by Commissioner Mitchell, to adopt Ordinance No. 4194-08 a request by Raymond Royce, Esq., of Holland & Knight LLP, on behalf of Tenet St. Mary’s, Inc., for a Major Planned Development Amendment to the St. Mary’s Medical Center Community Service Planned Development to allow for a corrective boundary change. The approximately 90.40-acre property is located at 901 45th Street; thereupon Ordinance No. 4194-08 was read into the record by title; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

24. Public Hearing of Resolution No. 9-09 – Senior Planner John Roach made a presentation and responded to Commission questions. Assistant City Administrator Eduardo Balbis responded to Commission questions. Commissioner Mitchell disclosed that she serves on the underwriting team for Palm Beach County, but that neither her firm nor she would benefit from voting on this issue. It was moved by Commissioner Douglas, seconded by Commissioner Moss, to adopt Resolution No. 9-09 a request by Jean Dolan, of JPR Planning Services, Inc., on behalf of the Palm Beach County Water Utilities Department, for a Class A Special Use Permit to construct a Reclaimed Water Facility on the southern portion of the East Central Regional Water Reclamation Facility’s property, located at 4325 North Haverhill Road; and thereafter it was voted as follows: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

OTHER BUSINESS: (THIS ITEM IS QUASI-JUDICIAL)

At this time Commissioner Muoio stated that she [a] had had no ex-parte communication regarding item #25; and [b] would base her decision on the evidence and testimony to be presented.

The City Clerk swore in all those persons having an interest in item #25.

25. Appeal of the Historic Preservation Board's decision in Case No. 08-61 – Historic Preservation Planner Friederike Mitner made a presentation and responded to Commission questions.

[The Mayor returned to the meeting at 5:35 p.m.]

Rafael Rodriguez made a presentation on behalf of the applicant and responded to Commission questions.

[The Mayor left the meeting at 5:49 p.m. and returned at 5:53 p.m.]

City Attorney Claudia McKenna and Planning Director Charles Wu responded to Commission questions. Public comments: the applicants Jamilette Hallac and Jeffrey Hallac. It was moved by Commissioner Moss, seconded by Commissioner Douglas, to grant a partial demolition allowing the applicants to take down the west wall and have them work with staff in order to submit the appropriate plans to show the structure, and deny the appeal of the Historic Preservation Board's decision in Case No. 08-61, denying the request for demolition of a contributing accessory structure and plans for new construction of an accessory structure within the El Cid Historic District, located at 285 Barcelona Road; and thereafter it was voted as follows: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.

PUBLIC COMMENTS:

Michael Cleveland [a] expressed his concern regarding speeding in the Roosevelt Middle School zone; and [b] spoke on item #17. Rod Tinson spoke about [a] Palm Beach Post's article regarding property purchase; and [b] his contributions to the Northwood area. David Romaine [a] announced that the next Northwood Art and Wine Promenade event will be held on January 30, 2009; and [b] encouraged everyone to participate in the upcoming Northwood Business District events.

At this time the Mayor commended a Jamaican restaurant in the Northwood Business District for their excellent food.

COMMENTS BY THE COMMISSIONERS:

Commissioner Mitchell [a] stated that St. Mary's Hospital should be recognized for their contribution to the community; [b] suggested inviting the heads of St. Mary's Hospital and Good Samaritan Hospital to discuss their needs and contributions; [c] noted that she had had conversations with CARP, Inc. regarding expanding their homeless assessment center; and [d] asked that the City coordinate with CARP, Inc. The Mayor stated that she will ask Community Resources Manager Lela Jordan to meet with CARP, Inc.

Commissioner Robinson [a] asked for an update on the status of the park proposed for the Coleman Park Neighborhood on the corner of Lincoln Road and Tamarind Avenue; [b] expressed his opinion that a \$10 reduction of public utilities bills is not realistic for people in need; and [c] asked that staff research whether a 10% discount on public utilities bills for people in need would be feasible. The Mayor agreed to allow staff to reevaluate the public utilities bill reduction program.

Commissioner Muoio [a] congratulated the Downtown Neighborhood Association on their recently held awards breakfast, which honored Police Lieutenant Randall Maale and Assistant Chief of Police Guillermo Perez for their dedication to downtown security; [b] congratulated the Leadership of Palm Beach County Community-Wide Ethics Initiative for creating an ethics oath for elected officials in Palm Beach County to sign and for planning to create an ethics commission; [c] spoke about the Northwood Art and Wine Promenade event held on Friday, January 9, 2009; and [d] noted that she attended the Dr. Martin Luther King, Jr. Coordinating Committee Kick-Off Reception event.

Commissioner Moss [a] noted that he attended the Swearing in Ceremony of US Representative Ron Klein; [b] inquired as to when the Agreement for South Olive Elementary School's flashing light will be brought before the City Commission; [c] asked whether it is possible to temporarily use the WCI lot as a community garden; and [d] inquired as to whether any of the South End Business Association's list of improvements have been completed. City Administrator Edward Mitchell responded to Commissioner Moss' questions regarding the South Olive Elementary School and the South End Business Association's improvements. City Attorney Claudia McKenna responded to Commissioner Moss' question regarding the WCI lot.

Commissioner Douglas [a] stated that she was fascinated by the Code Enforcement Property Hearing she recently attended; [b] expressed her opinion that an assessment center for the homeless should be acted upon by the City; [c] noted that she attended the West Palm Beach Community Impact Awards; [d] thanked Assistant Chief of Police Guillermo Perez for the reduction in crime downtown and in the north end of the City; [e] announced that a new Don Ramon's restaurant recently opened; [f] announced that the grand opening of a new road for the Palm Beach Zoo and the South Florida Science Museum was held in the morning of January 12, 2009; [g] announced that the Max Planck Society Science Tunnel exhibition will open on January 16, 2009; and [h] encouraged everyone to visit the Palm Beach Zoo's new baby jaguar.

At this time Commissioner Moss [a] announced that the State Telecommunication Organization and City staff are making efforts to further broadcast WPBTV Channel 18; and [b] suggested that the City's lobbyists also work on this effort.

COMMENTS BY THE MAYOR:

The Mayor announced that the State of the City Address will be held on Wednesday January 14, 2009 at the Palm Beach County Convention Center.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 6:56 p.m.

ATTEST:

APPROVED:

CITY CLERK

PRESIDING OFFICER

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***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.**