

CITY OF WEST PALM BEACH
OFFICE OF THE CITY CLERK
REGULAR CITY COMMISSION MEETING
JULY 14, 2008

The City Commission of the City of West Palm Beach met in regular session on Monday, July 14, 2008 at 4:08 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, Commissioner William Moss, Commissioner Isaac Robinson, Jr., City Administrator Edward Mitchell, 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 Commissioner Muoio led the Pledge of Allegiance.

ADDITIONS/DELETIONS/REORGANIZATION OF AGENDA:

Commissioner Moss announced that he had received a request from the applicant to continue item #26.

REORDERED AGENDA:

PUBLIC HEARING:

26. Public Hearing and Second Reading of Ordinance No. 4142-08 – Assistant City Attorney Lisa Conforti, City Administrator Edward Mitchell and Police Captain Patrick Maney responded to Commission questions. The Mayor suggested that the impacted businesses be notified and met with to discuss this matter before it comes back to the Commission. It was moved by Commissioner Moss, seconded by Commissioner Mitchell, to continue Ordinance No. 4142-08. The motion died due to lack of a vote. City Attorney Claudia McKenna suggested that the motion be amended to a set Commission date. Commissioner Robinson suggested the Ordinance be continued to July 28, 2008.

After further discussion, the maker of the motion, with the concurrence of the seconder, amended his motion as follows: It was moved by Commissioner Moss, seconded by Commissioner Mitchell, to continue to August 11, 2008 Ordinance No. 4142-08 amending Chapter 22 (Businesses and Business Regulations), Article II (Certificate of Use), Division 2 (Employees of Certain Businesses and Drivers of Vehicles for Hire), and creating

Article X (Secondhand Goods Dealers) and XI (Secondary Metal Recyclers, Junk Merchants, and Junk Peddlers) to require registration, photographing and fingerprinting requirements as well as regulation relating to Secondhand Goods Dealers, Secondary Metal Recyclers, Junk Merchants, and Junk Peddlers operating in the City; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

CONSENT CALENDAR:

Commissioner Mitchell requested that item #18 be pulled from the Consent Calendar for discussion. It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to approve the following Consent Calendar:

1. Minutes of the Regular City Commission Meeting held June 2, 2008.
2. Approval of reappointments of Amelia Ostrosky, Bruce N. Lewis and Kenneth Druskin to the Downtown Development Authority Board. It is recommended that the Commission approves the Mayor's reappointments for a three-year term to expire July 1, 2011.
3. Resolution No. 245-08 amending and restating Special Event's permit and application fees for events on public and private property to include downtown merchants hosting special events to promote their businesses.
4. Resolution No. 249-08(F) amending the forfeiture fund to appropriate funds to continue the operations of the West Palm Beach Police Department's Public Safety Guide Program.
5. Resolution No. 211-08 authorizing the Mayor to execute an Interlocal Agreement between the City and Palm Beach County for increased marine law enforcement services through 2011.
6. Resolution No. 284-08 authorizing the assessment of City liens in the total amount of \$18,928.87 for unpaid water, sewer, and stormwater service for the month of March 2008.
7. Resolution No. 269-08 authorizing the assessment of City liens in the total amount of \$12,565.51 for unpaid lot clearing charges.
8. Resolution No. 270-08 authorizing the assessment of a City lien in the total amount of \$5,045.00 for unpaid demolition charges.

9. Resolution No. 274-08 authorizing the assessment of City liens in the total amount of \$1,988.89 for unpaid board and secure charges.
10. Resolution No. 299-08 authorizing the conditional release of City liens encumbering certain real property owned by Bella Vie, LLC, located at 510 43rd Street, 512 43rd Street, 522 43rd Street and 516 44th Street.
11. Resolution No. 276-08 authorizing the Fire Chief to execute an addendum to the Open Road Policy and Memorandum of Understanding relating to the Traffic Incident Management Team with the Florida Department Transportation.
12. Resolution No. 307-08(F) providing appropriations for the Mercer Avenue Bridge Rehabilitation.
13. Resolution No. 290-08 authorizing the execution of an Agreement between the Town of Palm Beach and the City of West Palm Beach for the 2008 Town of Palm Beach water main improvements, in the amount of \$764,500; and Resolution No. 297-08(F) appropriating funds for the improvements.
14. Resolution No. 306-08 authorizing the Mayor to execute a Memorandum of Understanding between the City of West Palm Beach and Blue Cross and Blue Shield of Florida, Inc. for voluntary fully-insured BlueMedicare Employer Group Waiver Plan (EGWP) to the retirees (General and Police), with an effective date of July 1, 2008 through December 31, 2008.
15. Resolution No. 318-08(F) amending the Wetlands Mitigation Projects Fund Budget for Fiscal Year 2007/2008 to provide additional appropriations for the Lennar/Centex Mitigation Project.
16. Resolution No. 317-08 approving a First Amendment to the Grant Agreement with the Palm Beach Metropolitan Planning Organization (MPO) for the design, permitting and construction of water taxi docks downtown.
17. Resolution No. 298-08 authorizing the Mayor to execute an Agreement for Traffic Control and Enforcement between the City of West Palm Beach and Orchid Reserve Condominium Association.
19. Resolution No. 261-08 approving the Consolidated Plan One Year Action Plan and approving the use of funds for Fiscal Year 2008/2009.

20. Resolution No. 300-08(F) provides budget detail for a Rate Study of the building permitting functions of the Construction Services Department.
21. Resolution No. 294-08 requesting the abandonment of a 56 square feet of right-of-way at 1001 Tamarind Avenue.
22. Resolution No. 310-08 authorizing a Settlement Agreement reached in the workers' compensation claim of Cathie Human-Alescio.
23. Resolution No. 322-08 approving and authorizing the Mayor to execute a Mutual Aid Agreement between the City of West Palm Beach and various Palm Beach County Law Enforcement Agencies.
24. Resolution No. 319-08 authorizing the Mayor to execute an Easement Deed between the City and Seacoast Utility Authority for a utility easement at Fire Station No. 8.

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

CONSENT CALENDAR [CONTINUED]:

18. Resolution No. 296-08 – Housing and Community Development Director Emelda Johnson made a presentation and responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to adopt Resolution No. 296-08 authorizing the Department of Housing and Community Development to submit an application to the Federal National Mortgage Association (“Fannie Mae”) for Community Express Funding; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Nays: Commissioner Mitchell. Motion therefore carried with a vote of four in favor and one opposed.

RESOLUTIONS:

25. Resolution No. 311-08 – Finance Director Randy Sherman made a presentation and responded to Commission questions. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to adopt Resolution No. 311-08 authorizing the Mayor to sign the State Department of Revenue (DOR) Form DR 420 (Certification of Taxable Value) and other DOR forms in connection with certifying the City's operating millage rate at 7.6000 (not to exceed rate), which is 4.7% less than the rolled-back rate of 7.9726, and debt service millage rate at .3248 for

Fiscal Year 2008/2009, directing the delivery of such of the Palm Beach County Property Appraiser, and establishing the date for a public hearing; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

PUBLIC HEARING [CONTINUED]:

27. Public Hearing and First Reading of Ordinance No. 4147-08 – Commissioner Moss stated that he would abstain from discussing and voting on item #27 due to a conflict of interest. [Please refer to Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officials attached to and incorporated into the minutes].

[The Mayor passed the gavel to the President of the Commission and left the meeting at 5:44 p.m.]

Planner Kelly Freeman made a presentation and responded to Commission questions. City Attorney Claudia McKenna responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Robinson, to approve Ordinance No. 4147-08 a City-Initiated request to establish the Corporate Way Overlay District for the purposes of permitting professional and medical office uses as defined within the Zoning and Land Development Regulations within the Palm Beach Business Park. The approximately 27 acre park is located northeast of the 45th Street/Interstate 95 interchange, west of the South Florida Water Management District C-17 canal and includes all properties with a Corporate Way street address; thereupon Ordinance No. 4147-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Muoio and Robinson; Abstention: Commissioner Moss [please refer to Form 8B, "Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers" attached hereto]. Motion therefore carried unanimously.

28. Public Hearing and First Reading of Ordinance No. 4159-08 –

[The Mayor returned to the meeting at 5:50 p.m.]

Assistant City Attorney Lisa Conforti made a presentation and responded to Commission questions. Police Captain Patrick Maney and Police Chief Delsa Bush responded to Commission questions. It was moved by Commissioner Mitchell, seconded by Commissioner Moss, to approve Ordinance 4159-08 creating Chapter 54 (Offenses), Article XII (Sexual Offender and Sexual Predator Residence Prohibition) and establishing regulations governing and regulating sexual offenders and sexual predators

residing in the City; thereupon Ordinance No. 4159-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

29. Public Hearing and First Reading of Ordinance No. 4160-08 – Assistant City Attorney Lisa Conforti made a presentation and responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Robinson, to approve Ordinance No. 4160-08, amended to include dog waste, amending Chapter 74 (Solid Waste), Article I (In General), and Article IV (Enforcement) of the City Code to declare the dumping of litter and/or refuse in the City to be a public nuisance, establishing requirements to further control public nuisances relating to solid waste, littering and prescribing penalties and remedies for noncompliance; thereupon Ordinance No. 4160-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

At this time the Mayor announced that, contrary to what the agenda states, only items #31 and #32 are Public Hearing - Quasi-Judicial.

30. Public Hearing and First Reading of Ordinance No. 4158-08 – It was moved by Commissioner Moss, seconded by Commissioner Douglas, to approve Ordinance No. 4158-08 addressing seven (7) scrivener's errors in Ordinance No. 4095-07 which was passed by the City Commission on May 5, 2008; thereupon Ordinance No. 4158-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

PUBLIC HEARING - QUASI-JUDICIAL:

-SWEARING IN OF WITNESSES

The City Clerk swore in all those persons having an interest in items #31 and #32.

-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY*

Commissioner Robinson stated that he [a] had had ex-parte communications with developers and persons of interest regarding items #31 and #32; and [b] would base his decisions on the evidence and testimony to be presented.

Commissioner Douglas stated that she [a] had had ex-parte communication regarding item #31; [b] had had no ex-parte communication regarding item #32; and [c] would base her decisions on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had ex-parte communication regarding item #31; [b] had had no ex-parte communication regarding item #32; [c] has a business relationship with Clear Channel Communications, Inc., but he does not have a conflict of interest; and [d] would base his decisions on the evidence and testimony to be presented.

Commissioner Muoio stated that she [a] had had ex-parte communication regarding item #31; [b] had had no ex-parte communication regarding item #32; and [c] would base her decisions on the evidence and testimony to be presented.

31. Public Hearing and First Reading of Ordinance No. 4148-08 – Senior Planner John Roach made a presentation.

At this time Commissioner Mitchell stated that she [a] had had no ex-parte communications regarding items #31 and #32; and [b] would base her decisions on the evidence and testimony to be presented.

Lynn Harris of Carlton Fields, PA, representing the applicant, responded to Commission questions. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to approve Ordinance No. 4148-08, finding that the applicant complies with Sections 94-32 and 94-36 as presented by staff and based upon findings of fact, a request by Joseph Verdone and Lynda Harris of Carlton Fields, on behalf of Flagler Landing, L.P., for a Major Amendment to the Flagler Landing Residential Planned Development (RPD) to add an additional five (5) boat slips to an existing dock; thereupon Ordinance No. 4148-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

32. Public Hearing and First Reading of Ordinance No. 4146-08 – Planner Kelly Freeman made a presentation. It was moved by Commissioner Robinson, seconded by Commissioner Mitchell, to approve Ordinance No. 4146-08, a request by Dominick Agustino, of Landmark Construction, on behalf of Clear Channel Broadcasting, for a Major Amendment to the Congress Crossings Commercial Planned Development (CPD) to permit the installation of fencing, not to exceed eight (8) feet in height,

within the required front setback on properties containing radio stations; thereupon Ordinance No. 4146-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

33. Public Hearing and First Reading of Ordinance No. 4154-08 – City Urban Designer Ana Maria Aponte made a presentation and responded to Commission questions. City Attorney Claudia McKenna responded to Commission questions. It was moved by Commissioner Moss, seconded by Commissioner Douglas, to approve Ordinance No. 4154-08, finding that it complies with the City’s zoning and land development regulations, approving a major Amendment to the CityPlace Development of Regional Impact (DRI) to allow hotel uses on the parcel number 7 (Opera Place) of the DRI identified as the Babcock project; thereupon Ordinance No. 4154-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.
34. Discussion of Resolution No. 133-08 – City Urban Designer Ana Maria Aponte [a] responded to Commission questions; and [b] made a presentation of Resolution No. 133-08 regarding a Level III Site Plan Approval of the Opera Place project which will include a 250 room hotel, 350 residential units, 317,633 square feet of office space, 57,710 square feet of retail space and 1,538 parking spaces, with a total area of 1,073,846 square feet. The project is located between Lakeview Avenue and Iris Street, Quadrille Boulevard and Dixie Highway. City Attorney Claudia McKenna and Planning Director Charles Wu responded to Commission questions. Greg Kino, representing the applicant, [a] made a presentation; [b] responded to Commission questions; and [c] introduced Vice President of Design and Construction Primitivo Conde of BAP Development, Inc., Architect Eduardo Lamas of Bermello, Ajamil & Partners, Inc., Carol Thompson of Thompson Consulting, Inc. and Transportation Engineer Joaquin Vargas of Traf Tech Engineering, Inc. Mr. Lamas, Ms. Thompson and Mr. Vargas made presentations and responded to Commission questions. It was the consensus of the Commission to request that the applicant discuss the new proposal with Planning Staff before returning with the final proposal at the July 28, 2008 City Commission Meeting. Public comments: Scott Backman, Trent Ebersole and Mark Coleman, all on behalf of the City Palms project.

PRESENTATION:

35. Presentation of Resolution No. 312-08 – Cultural Liaison Joan Goldberg made a presentation and responded to Commission questions. Public comment: Michael Cleveland. It was moved by Commissioner Douglas, seconded by Commissioner Moss, to adopt Resolution No. 312-08 authorizing and approving the "Face of the City" for the design of the eastern facade of the Pleasant City Multi-Cultural Center; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Nays: Commissioner Mitchell. Motion therefore carried with a vote of four in favor and one opposed.

PUBLIC COMMENTS:

Janie Peters stated that impacted residents were not notified of a project on Division Street. Michael Cleveland [a] asked that the District 1 Commissioner recognize Richard Williams, who volunteered to assist children crossing railroad tracks while school is in session; [b] spoke about mortgage assistance and water bill assistance programs; [c] spoke about a newspaper article regarding the Pleasant City/Merry Place developments; and [d] spoke about the effect of assessment fees on the impoverished. Chair of the Beautification Advisory Committee Stephen Sunday spoke about [a] item #29; and [b] the tree canopy program. Martin Waterman [a] spoke about the illegibility of Site Plan No. 8 for the Leisure Resorts project; [b] suggested that impacted residents be notified of projects that will be brought before the Commission; [c] spoke about the history of the Leisure Resorts project; and [d] suggested that a hotel be built on the current City Hall site.

COMMENTS BY THE CITY COMMISSIONERS:

Commissioner Moss [a] noted that he met with Traffic Engineer Brian Collins to discuss making the intersection of Narcissus Avenue and Datura Street a four-way stop; and [b] asked whether lenders are responsible for the upkeep of foreclosed properties. It was the consensus of the Commission that the intersection of Narcissus Avenue and Datura Street would be discussed at the July 21, 2008 Mayor/Commission Work Session. City Attorney Claudia McKenna responded to Commissioner Moss' question regarding foreclosed properties.

Commissioner Robinson [a] stated that the Palm Beach County League of Cities members are encouraging their colleagues to attend at least one of the league's meetings; [b] announced that the next Palm Beach County League of Cities meeting will be held on July 23, 2008 at the North Palm Beach Country Club; [c]

stated that the Florida League of Cities is implementing a Youth Conference Advisory Board; and [d] announced that thirty students from West Palm Beach will be taken to Orlando to attend the conference. The Mayor [a] thanked Commissioner Moss for paving the way for Commissioner Robinson to become a member of the Board of Directors of the Florida League of Cities; and [b] thanked Commissioner Robinson for serving as Second Vice President of the Palm Beach County League of Cities' Board of Directors.

COMMENTS BY THE MAYOR:

The Mayor gave condolences to the family of community activist Jim Gallagher, who had recently passed away.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 8:23 p.m.

APPROVED:

PRESIDING OFFICER

ATTEST:

CITY CLERK

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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.**