

CITY OF WEST PALM BEACH
OFFICE OF THE CITY CLERK
REGULAR CITY COMMISSION MEETING
OCTOBER 6, 2008

The City Commission of the City of West Palm Beach met in regular session on Monday, October 6, 2008 at 4:04 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, Deputy City Attorney Nancy Urcheck, City Clerk Blane Kauthen and Deputy Clerk Lisa Hedge [left at 5:00 p.m.].

INVOCATION / PLEDGE OF ALLEGIANCE:

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

ADDITIONS/DELETIONS/REORGANIZATION OF AGENDA:

City Administrator Edward Mitchell announced that item #26 would be continued for four weeks.

**REORDERED AGENDA:
PUBLIC HEARING:**

26. Public Hearing and Second Reading of Ordinance No. 4112-08 – The Mayor announced that without objection, Ordinance No. 4112-08 enlarging the boundaries of the downtown area for purposes of regulating the conduct of business by peddlers and mobile food vendors on public streets and sidewalks, would be continued for four weeks.

RATIFICATION:

1. The Mayor's selection and appointment of Interim Fire Chief Phillip Webb to the position of Fire Chief – The Mayor made a presentation. Public comment: Vice President of the West Palm Beach Association of Firefighters Doug Greene. Interim Fire Chief Phillip Webb [a] thanked everyone who nominated him for the position of Fire Chief; [b] thanked the Mayor for trusting him to take on this responsibility; and [c] made a presentation.

The Commission commended Mr. Webb and the Fire Department. It was moved by Commissioner Mitchell, seconded by Commissioner Muoio, to ratify the appointment of Interim Fire Chief Phillip Webb to the position of Fire Chief; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

CONSENT CALENDAR:

It was moved by Commissioner Douglas, seconded by Commissioner Moss, to approve the following Consent Calendar:

2. Minutes of the Regular City Commission Meeting held on September 8, 2008.
3. Minutes for the Special City Commission Meeting (RFP of MWH) held on September 15, 2008.
4. Minutes for the Special City Commission Meeting (Public Hearing & First Reading of Budget) held on September 15, 2008.
5. Approval of the reappointment for Dr. Charles E. White to the Education Advisory Committee for a term of two years, which will expire on June 7, 2010. Dr. White has served over the maximum allowed number of terms (3) and it is required that the Commission confirms his reappointment.
6. Resolution No. 402-08 authorizing a Settlement Agreement reached in the worker's compensation claims of Zeitler McGill.
7. Resolution No. 368-08 authorizing a Special Event License Agreement between the City of West Palm Beach and Moonfest 2004, Inc. to produce Moonfest 2008 on October 25, 2008 from 4:00 p.m. to 1:00 a.m.
8. Resolution No. 401-08 accepting the Quantum Foundation Grant for West Palm Beach Fire Rescue "Emergency Survival Kits" to assist displaced persons in city neighborhoods to survive in the aftermath of a natural or man-made disaster event; and Resolution No. 407-08(F) providing appropriations for this grant.
9. Resolution No. 361-08 authorizing the Mayor to execute a Signal Easement from the City of West Palm Beach to Palm Beach County at 49th Street and Broadway (SR 5).

10. Resolution No. 408-08 authorizing the assessment of City liens in the total amount of \$34,842.60 for unpaid water, sewer and stormwater service charges for the month of June 2008.
11. Resolution No. 429-08(F) providing appropriations to close the 1998 Public Service Tax Bond Fund.
12. Resolution No. 428-08 conditionally waiving a City lien and authorizing and directing the Mayor to execute a conditional release of lien encumbering certain real property owned by William R. Weakley and Kenneth R Martin, located at 3618 Spruce Avenue.
13. Resolution No. 439-08 authorizing the retention of insurance coverage for Fiscal Year 2008/2009 recommended by the City's property/casualty insurance broker Arthur J. Gallagher Company with established minimum limits.
14. Resolution No. 434-08 and Resolution No. 444-08(F) authorizing the Police Chief and the Financial Officer for the West Palm Beach Police Department to execute an Agreement between the Internal Revenue Service, Criminal Investigation and West Palm Beach Police Department for the purpose of receiving reimbursable costs incurred by the West Palm Beach Police Department in providing resources to certain joint operations/task forces for the Fiscal Year 2008/2009.
15. Resolution No. 443-08 authorizing the Mayor to execute a Memorandum of Understanding between the Palm Beach County Sheriff's Office and the City of West Palm Beach to provide continued coordinated law enforcement efforts in connection with the Gramercy Village Weed and Seed Project during the period of October 1, 2008 through September 30, 2009.
16. Resolution No. 445-08, approving the form of Agreements and authorizing the Mayor to execute Grant and Loan Agreements between the City and sub-recipients for the use of Federal and State entitlement funds.

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

RESOLUTIONS:

17. Presentation of Resolution No. 432-08 – Traffic Engineer Brian Collins made a presentation and responded to Commission questions. Commissioner Moss thanked Mr. Collins for his

dedication to this project over the years. City Comprehensive Planner Denise Malone responded to Commission questions. Public comments: Raphael Clemente of the Downtown Development Authority and John Lindgren. It was moved by Commissioner Moss, seconded by Commissioner Mitchell, to adopt Resolution No. 432-08 approving the "Face of the City" design features for the reduction in travel lanes on Parker Avenue between Summit Boulevard and Southern Boulevard; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

18. Resolution No. 426-08 – Staff Attorney Joshua Koehler made a presentation and responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to adopt Resolution No. 426-08 supporting the passage of Amendment 6 to the Florida Constitution, entitled "Assessment of Working Waterfront Property Based on Current Use," which will appear on the ballot on November 4, 2008; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.
19. Resolution No. 427-08 – Staff Attorney Joshua Koehler made a presentation and responded to Commission questions. Public comment: Clive Cuthbertson. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to adopt Resolution No. 427-08 opposing the passage of Amendment 2 to the Florida Constitution, entitled the "Florida Marriage Protection Amendment," which will appear on the ballot on November 4, 2008; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

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

-SWEARING IN OF WITNESSES

The City Clerk swore in all those persons having an interest in item #29.

-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY*

Commissioner Douglas stated that she [a] had had no ex-parte communication regarding item #29; and [b] would base her decision on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had no ex-parte communication regarding item #29; and [b] would base his decision on the evidence and testimony to be presented.

Commissioner Muoio stated that she [a] had had no ex-parte communication regarding item #29; 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 #29; and [b] would base his decision on the evidence and testimony to be presented.

Commissioner Mitchell stated that she [a] had had ex-parte communications with the applicants, representatives and staff regarding item #29; and [b] would base her decision on the evidence and testimony to be presented.

**REORDERED AGENDA:
PUBLIC HEARING [CONTINUED]:**

20. Public Hearing and Second Reading of Ordinance No. 4176-08 – It was moved by Commissioner Robinson, seconded by Commissioner Douglas, to adopt Ordinance No. 4176-08. Motion died due to lack of a vote.

After further discussion, the maker of the motion, along with the seconder, amended his motion as follows: It was moved by Commissioner Robinson, seconded by Commissioner Douglas, to adopt Ordinance No. 4176-08, [approving a text amendment to the Fern Street Corridor Overlay reducing the minimum size required for the public open space. This motion is based upon the application, the staff report, the recommendation of the Downtown Action Committee, and the finding that the amendment standards of Section 94-32(a) of the Zoning and Land Development Regulations have been met], a request by Gregory S. Kino, Esq. on behalf of American Heritage, LLC for a text amendment to the Fern Street Corridor Overlay reducing the minimum size required for the public open space; thereupon Ordinance No. 4176-08 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.

21. Resolution No. 437-08 and Resolution No. 438-08 – It was moved by Commissioner Robinson, seconded by Commissioner Douglas, to adopt Resolution No. 437-08 approving a Park Dedication Agreement among American Heritage LLC, Meridian NCP, LLC and the City establishing the terms by

which American Heritage's site plan for the Central Park Plaza under the Fern Street Overlay will vest, including a 16-story building and conversion of the Meridian Building to a hotel, and dedicating public open space to the City; and Resolution No. 438-08 approving a Park Maintenance Agreement with Meridian NCP, LLC establishing the terms by which the public open space dedicated to the City will be used and maintained; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

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

29. Public Hearing and First Reading of Ordinance No. 4188-08 – Historic Preservation Planner Friederike Mittner made a presentation. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to approve Ordinance No. 4188-08 [designating the Southern Bell Telephone and Telegraph Building, located at 326 Fern Street, as an Individually Designated Historic Site on the West Palm Beach Register of Historic Places. Based upon the recommendation of the Historic Preservation Board, the factual testimony presented, the application submitted, the staff report, and the findings that the designation meets the criteria set forth in Section 94-48 of the Zoning and Land Development Regulations], designating the Southern Bell Telephone and Telegraph Building, also known as the Meridian Building, located at 326 Fern Street, on the Local Register of Historic Places; thereupon Ordinance No. 4188-08 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.

Attorney Greg Kino, on behalf of the Meridian Building, thanked staff for their assistance with this matter.

**REORDERED AGENDA:
PUBLIC HEARING [CONTINUED]:**

27. Public Hearing and First Reading of Ordinance No. 4185-08 – Traffic Engineer Brian Collins responded to Commission questions. Public Comment: President of the Board of One City Plaza Katherine Waldron. It was moved by Commissioner Mitchell, seconded by Commissioner Moss, to approve Ordinance No. 4185-08 amending Chapter 86 of the Code, Traffic, Article III, Operation of Vehicles, Division 3, Direction of Movement of Traffic, Section 86-166, One-way Streets and Alleys, to convert South Olive Avenue between Okeechobee

Boulevard and Lakeview Avenue to a one-way for northbound traffic; thereupon Ordinance No. 4185-08 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 Commissioner Moss thanked Ms. Waldron for the time she dedicated to this issue.

**REORDERED AGENDA:
PUBLIC HEARING [CONTINUED]:**

22. Public Hearing and Second Reading of Ordinance No. 4186-08 – Commissioner Mitchell asked that the interest earnings rate and the current rate percentage in the Fiscal Note be reduced. Director of Finance Randy Sherman [a] agreed to allow the rates to be reassessed by the actuary; and [b] responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Moss, to adopt Ordinance No. 4186-08 establishing the Other Post Employment Benefits Trust; thereupon Ordinance No. 4186-08 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.
23. Public Hearing and Second Reading of Ordinance No. 4177-08 – It was moved by Commissioner Mitchell, seconded by Commissioner Muoio, to adopt Ordinance No. 4177-08 approving an extension of the Zoning in Progress for the Downtown Master Plan area; thereupon Ordinance No. 4177-08 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.
24. Public Hearing and Second Reading of Ordinance No. 4172-08 – It was moved by Commissioner Moss, seconded by Commissioner Douglas, to adopt Ordinance No. 4172-08 amending the Small Business Ordinance; thereupon Ordinance No. 4172-08 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.
25. Public Hearing and Second Reading of Ordinance No. 4178-08 – Assistant City Administrator Eduardo Balbis made a presentation. The Mayor announced that without objection, this item would be postponed until after item #30 is discussed.

**REORDERED AGENDA:
PUBLIC HEARING – QUASI-JUDICIAL [CONTINUED]:**

-SWEARING IN OF WITNESSES

The Mayor announced that since there would be no other testimony for item #30, it is unnecessary for witnesses to be sworn in.

-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY*

Commissioner Douglas stated that she [a] had had no ex-parte communications regarding items #30 and #31; and [b] would base her decisions on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had no ex-parte communications regarding items #30 and #31; and [b] would base his decisions on the evidence and testimony to be presented.

Commissioner Muoio stated that she [a] had had no additional ex-parte communication regarding item #30; [b] had had ex-parte communication with the applicant regarding item #31; and [c] would base her decisions on the evidence and testimony to be presented.

Commissioner Robinson stated that he [a] had had no ex-parte communication regarding item #30; [b] had had ex-parte communication with the applicant regarding item #31; and [c] would base his decisions on the evidence and testimony to be presented.

Commissioner Mitchell stated that she [a] had had no ex-parte communications regarding items #30 and #31; and [b] would base her decisions on the evidence and testimony to be presented.

30. Public Hearing and Second Reading of Ordinance No. 4171-08 – It was moved by Commissioner Douglas, seconded by Commissioner Moss, to adopt Ordinance No. 4171-08 [a request by Janet Murphy on behalf of the owner, Clematis 319, LLC, to designate the Comeau Building, located at 319 Clematis Street between Dixie Highway and Olive Avenue, as an Individually Designated Historic Site on the West Palm Beach Register of Historic Places. This motion is based upon the factual testimony presented, the application submitted and the staff report, which constitute competent, substantial evidence, along with the finding that the designation meets the criteria set forth in Zoning and Land Development Regulations Section 94-48], for the designation of the Comeau Building, 319 Clematis Street, on the

West Palm Beach Register of Historic Places; thereupon Ordinance No. 4171-08 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.

**REORDERED AGENDA:
PUBLIC HEARING [CONTINUED]:**

25. Public Hearing and Second Reading of Ordinance No. 4178-08 [continued] – Assistant City Administrator Eduardo Balbis continued his presentation and responded to Commission questions. City Administrator Edward Mitchell responded to Commission questions. Public comment: Vincent Mercandetti. It was moved by Commissioner Muoio, seconded by Commissioner Moss, to approve Ordinance No. 4178-08 containing revisions to the City commercial collections franchise regulations; thereupon Ordinance No. 4178-08 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.

28. Public Hearing and First Reading of Ordinance No. 4184-08 – It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to approve Ordinance No. 4184-08 amending Chapter 2, Article III, Section 2-61 of the Code of Ordinances by adding a new Section 4 to allow for appointing board members with equivalent qualifications; thereupon Ordinance No. 4184-08 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 [CONTINUED]:

-SWEARING IN OF WITNESSES

The City Clerk swore in all those persons having an interest in item #31.

31. Public Hearing and Second Reading of Ordinance No. 4162-08 – Principal Planner Eric Schnider made a presentation and responded to Commission questions. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to adopt Ordinance No. 4162-08, [a Major Planned Development Amendment to the Oakton Commons Commercial Planned Development. This motion is based upon the factual testimony presented, the application submitted and the staff report, along

with the finding that the Major Amendment Standards of Section 94-32 of the Zoning and Land Development Regulations have been met], a request by Brian Terry, of Land Design South, on behalf of Oakton Commons, LLC, and Schickedanz Oakton Building Group, LLLP, for a Major Amendment to the Oakton Commons Commercial Planned Development (CPD) to amend the design guidelines and the master plan to accommodate the changes for the residential "Oakton Preserve" portion of the CPD; thereupon Ordinance No. 4162-08 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.

Resolution No. 326-08 – It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to adopt Resolution No. 326-08, [a Major Subdivision to create the Oakton Commons CPD Plat. This motion is based upon the factual testimony presented, the application submitted and the staff report, which constitute competent, substantial evidence, along with the finding that the General Design Standards for Subdivisions in Sec. 94-342 of the Zoning and Land Development Regulations have been met], regarding a request by Brian Terry, of Land Design South, on behalf of Oakton Commons, LLC, Schickedanz Oakton Building Group, LLLP, and the City of West Palm Beach for a Major Subdivision to plat the approximately 44.07 acre Oakton Commons Commercial Planned Development (CPD); and Resolution No. 327-08 [a Major Subdivision to create Oakton Preserve Plat. This motion is based upon the factual testimony presented, the application submitted and the staff report, which constitute competent, substantial evidence, along with the finding that the General Design Standards for Subdivisions in Sec. 94-342 of the Zoning and Land Development Regulations have been met], a request by Brian Terry, of Land Design South, on behalf of Schickedanz Oakton Building Group, LLP for a Major Subdivision to plat the approximately 23.44 acre Tract R of the Oakton Commons CPD plat; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

COMMENTS BY THE PUBLIC:

Construction Services Office Supervisor Diane Fulcher asked that citizens also be involved in the 822-2222 program; and [b] provided an example of how the program worked for her. David London [a] stated that the fire door in his building was sealed shut; [b] suggested that such incidents be included in police reports; and [c] suggested that the CityCenter gym include rebounder exercise equipment and a health library.

COMMENTS BY THE COMMISSIONERS:

Commissioner Mitchell did not make any comments.

Commissioner Robinson [a] noted that voter registration ended in Florida on October 6, 2008; [b] announced that early voting runs from October 20th through November 1, 2008; [c] stated that early voting in the area will take place at the Supervisor of Elections Office and at Riviera Beach's City Hall; and [d] announced that the National League of Cities will honor the City as one of eight named "Playful Cities" at the National League of Cities Annual Conference in Orlando on November 15 and 16, 2008. City Administrator Edward Mitchell responded to Commission questions regarding local early voting sites.

Commissioner Muoio [a] stated that she attended a Palm Beach County Commission Meeting, during which the five year road plan was discussed; [b] announced that the County voted to continue with the Roebuck Road extension; [c] stated that an event was held on Sunday, October 5, 2008, during which about forty people in kayaks and canoes paddled the preserve to find out where the Roebuck Road extension will be built; [d] noted that on Saturday, October 4, 2008 she attended a Candlelight Memorial Service event remembering the victims of the "Storm of '28" held by the Toward a More Perfect Union organization; and [e] noted that she attended the Grassy Waters Foundation Fundraiser on Friday, October 3, 2008.

At this time Commissioner Robinson announced that the County cancelled its plan to build two additional lanes on Australian Avenue due to budget restrictions, but that this matter will resurface in the future.

Commissioner Moss [a] asked Commissioner Muoio for further clarification of where the Roebuck Road extension will be built; [b] congratulated Florida State University for their win against the University of Miami in football over the previous weekend; and [c] thanked the Mayor for meeting with the President of the South End Neighborhood Association regarding the closing of a troublesome motel along South Dixie Highway.

Commissioner Douglas [a] thanked the City Departments and staff for participating in the National Heart Association's Heart Walk events; [b] noted that the Northwood Hills Neighborhood Association recently held their neighborhood meeting; [c] noted that the CRA Advisory Board met recently; [d] stated that more

people have been attending the Northwood Road meetings and participating in their activities; [e] noted that she attended a meeting regarding the revitalization of a private home in the Northwood area; and [f] commended the Community Justice Service Center.

COMMENTS BY THE MAYOR:

The Mayor asked when the ceremony honoring Chief Barnes will be held. Deputy City Administrator Dorritt Miller responded that the ceremony will be held on October 14, 2008.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 6:31 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.**