

**CITY OF WEST PALM BEACH**  
**OFFICE OF THE CITY CLERK**  
**REGULAR CITY COMMISSION MEETING**  
**OCTOBER 9, 2007**

The City Commission of the City of West Palm Beach met in regular session on Monday, October 9, 2007 at 5:07 p.m., at City Hall, with the following persons present:

Mayor Lois J. Frankel, President of the Commission William Moss, Commissioner Molly Douglas, Commissioner Kimberly Mitchell, Commissioner Geraldine Muoio, Commissioner Isaac Robinson, Jr., City Administrator Edward Mitchell, City Attorney Claudia McKenna, Deputy City Clerk Jennifer McDonald and Deputy Clerk Lisa Hedge.

**INVOCATION / PLEDGE OF ALLEGIANCE:**

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

**PRESENTATION AND AWARDS OF MERIT:**

1. **Proclamation proclaiming the month of October 2007 as Arts and Humanities Month** – Cultural Affairs Advisor Joan Goldberg [a] made a presentation; [b] recognized the members of the Cultural Council; and [c] accepted the proclamation with thanks.

It was the consensus of the Commission to allow Commissioner Muoio to serve as Commission Liaison to the Cultural Council.

2. **Presentation and Resolution No. 386-07 – Community Events Coordinator Joseph Piazza made a presentation and responded to Commission questions. It was moved by Commissioner Muoio, seconded by Commissioner Moss, to adopt Resolution No. 386-07, authorizing the sale of alcoholic beverages at Opening Day of the West Palm Beach Greenmarket, Saturday, October 20, 2007; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.**

At this time it was the consensus of the Commission to have an update on the water contamination issue. Laboratory Supervisors Holly McGrath and Maria Ortiz, Utilities Maintenance Supervisor Donald McIntosh, and Utilities Dispatch Supervisor Charlene Whitely spoke about their efforts

toward solving the water contamination issue. Engineering Services Construction Supervisor Brian Moree made a presentation and responded to Commission questions. Assistant City Administrator Ken Rearden [a] recognized other staff members that worked on the water contamination issue; [b] made a presentation; [c] announced that after discussing it with the Palm Beach County Health Department, the City has decided to move the free chlorination period to October 30, 2007; and [d] responded to Commission questions. The Mayor thanked the Palm Beach County Health Department for their assistance during the water contamination issue. Director of Environmental Health and Engineering John O'Malley of the Palm Beach County Health Department read into the record a letter from Palm Beach County Health Department Director Jean Malecki. Jennifer Clancy of Clancy Environmental Consultants responded to Commission questions. Commissioner Mitchell suggested that a consultant be hired to perform a critical analysis of the City's water utilities. Finance Director Randy Sherman made a presentation and responded to Commission questions.

3. Presentation of the 2007 Award of Merit Plaque from The Water Reuse Association to the City of West Palm Beach for the City's East Central Regional Water Reclamation Facility – Assistant City Administrator Ken Rearden responded to Commission questions and accepted the plaque with thanks.
4. Presentation of a 12 minute video by Carlton Cartwright of The Children's Coalition, Inc. and the Northwood Youth Empowerment Center of their trip to Washington and Tallahassee – This item was continued.
5. Presentation and discussion of the Temporary Closure of Boyd Street at the CSX Railroad Tracks – Traffic Engineer Brian Collins made a presentation and responded to Commission questions.

[The Mayor left the meeting at 6:29 p.m. and returned at 6:32 p.m.]

Fire Chief Robert Ridgeway and Police Captain Allan Ortman responded to Commission questions. Public comments: Lance Littell, Richard Wade and Jessica Littell. It was moved by Commissioner Mitchell, seconded by Commissioner Douglas, to instruct staff to go forward with the temporary closure of Boyd Street at the CSX railroad tracks; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Mitchell, Moss, Muoio and Robinson. Motion therefore carried unanimously.

It was the consensus of the Commission to add the discussion of the Fourth District Appellate Court's decision regarding the City Center Project as item #5a.

- 5a. Discussion of the Fourth District Appellate Court's decision regarding the City Center Project – City Attorney Claudia McKenna made a presentation and responded to Commission questions. Public comments: Raphael Clemente of the Downtown Development Authority, Mildred Gruner, Howard Pincus, Penny Murphy, Randy Bianchi, Anna Ziegler, Andrea Peppers, Paul Krasker, Dennis Grady of the Chamber of Commerce of the Palm beaches, Debra Neger, Alex Saylor, Tim Harris, Michael Bakst, Sean Jackson, John Revson, Rod Tinson, Gladys Van Otteren, Bill Jacobson, John Mike, Carolyn Wright, Willie DeGray, Linda Hennessee, Roy Assad of the Downtown Development Authority and Curt Thompson. The Mayor requested that a City Commission Workshop be held to discuss this matter further.

[The meeting recessed at 8:59 p.m. and  
reconvened at 9:11 p.m.]

#### COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

Deidre Newton spoke about the water contamination issue. Anne Lynch and Al Vazquez spoke about traffic and parking issues near Forest Hill High School.

At this time Commissioner Moss suggested that a task force be created to address the traffic and parking issues near Forest Hill High School. The Mayor requested that Commissioner Moss create the task force.

[The Mayor left the meeting at 9:19 p.m. and  
returned at 9:26 p.m.]

Michael Francis spoke about a code violation on his property. Curt Thompson [a] spoke about public safety with regards to the potential widening of Australian Avenue; [b] suggested guardrails and landscaping be placed along Australian Avenue; [c] iterated the need for storm drainage on Australian Avenue; and [d] suggested a traffic light be installed on Australian Avenue near a site where additional housing units will be built. Nicole Millar spoke about crime in the north end of the City. Alex Saylor spoke about [a] rules of order; and [b] a publication

that discussed local government in Volusia County. Michael Cleveland spoke about [a] the water contamination issue; [b] the relocation of homeless feeding downtown; and [c] the City Center Project. John Stroman spoke about blighted areas in the City.

**COMMENTS BY THE CITY COMMISSIONERS:**

Commissioner Mitchell [a] requested a public discussion of the Zoning In Progress issued for South Flagler Drive; [b] spoke about the need for software to red-flag extreme changes in water usage on utility bills; and [c] asked for information regarding the procedure for making public disclosures.

At this time Planning Director Charles Wu responded to Commission questions.

**ADDITIONS/DELETIONS/REORGANIZATION OF AGENDA:**

City Administrator Ed Mitchell announced that [a] item #41 would be continued; and [b] item #19 was pulled from the Consent Calendar for continuation. The Mayor stated that without objection the following items will be continued: item #41 the second appeal of the decision in Case No. 3215 S. Flagler Drive, denying an application for new construction in the Prospect Park/Southland Park Historic District and item #19 Resolution No. 388-07 approving and authorizing the Mayor to execute a Reimbursement Agreement with Palm Beach County for the installation of landscape improvements and additional architectural elements on the City's Fire Station #8, located along Northlake Boulevard; and Resolution No. 397-07(F) providing appropriations for the grant.

**CONSENT CALENDAR:**

Public comment: Alex Saylor suggested that the Consent Calendar not include items that have a significant financial impact on the City. Commissioner Robinson spoke on items #10 through #13.

[Commissioner Mitchell left the meeting at 10:05 p.m.]

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

6. Minutes of the Regular City Commission Meeting held September 10, 2007 and Minutes of the Special City Commission Meeting held September 11, 2007.
7. Minutes of the Special City Commission Meeting held September 18, 2007.
8. The disinterment of the cremains of Gheorghe Rabor from Woodlawn Cemetery North, Block 9 Lot 1.
9. Resolution No. 378-07 authorizing approval of a settlement in the matter of Brian Williams v. the City of West Palm Beach, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida, Case No. 2006 008532XXXXMB.
10. Resolution No. 338-07 accepting a grant from the Department of Justice, Office of Justice Programs, Justice Assistance Grant (JAG) Program in the amount of \$118,338 and approving and authorizing the Mayor to execute the Grant Award.
11. Resolution No. 343-07 accepting a grant from the Palm Beach County Sheriff's Office in the amount of \$14,800.00 for chemical protective suits for tactical operations and dive equipment for the Police Department.
12. Resolution No. 383-07 authorizing the Mayor to execute a Mutual Aid Agreement between the City of West Palm Beach and the Palm Beach County Sheriff's Office.
13. Resolution No. 369-07 authorizing the Mayor to accept One Hundred and Seventy-Five Thousand Dollars (\$175,000.00) from the Federal "Weed and Seed" Program administered by the Office of Justice Programs, U.S. Department of Justice; and Resolution No. 380-07(F) recognizing receipt of the grant.
14. Resolution No. 346-07 authorizing the Mayor to execute the Interlocal Agreement for Acoustical Testing of Joint Wastewater Effluent Force Main between the City of West Palm Beach and the Town of Palm Beach, providing for cost sharing in the acoustical emission study of wastewater transmission pipeline shared by both parties, and Resolution No. 381-07(F) recognizing the contribution from the Town of Palm Beach.
15. Resolution No. 382-07(F) authorizing additional funding in the amount of \$25,000 for the relocation or replacement of underground utilities associated with the water mains along Ocean Boulevard SR A1A between South of Lake Worth Bridge and Boynton Beach Boulevard.

16. Resolution No. 371-07 authorizing the waiver of performance and payment bond requirements pursuant to Florida Statutes 255.05 for D.S. Eakins Construction Corp. for Amendment No. 1 to the Annual Contract for Utility Construction Services.
17. Resolution No. 398-07(F) amending the Water and Sewer Renewal and Replacement Fund budget for Fiscal Year 2007/2008 to provide funding for the replacement of the existing 4" water main on 20th Street within the Merry Place project limits.
18. Resolution No. 402-07(F) amending the Wetlands Mitigation Projects Fund budget for Fiscal Year 2007/2008 to provide additional appropriations for the Lennar/Centex Mitigation Project.
20. Resolution No. 390-07 authorization the Mayor to execute an Agreement with artist, Roberto Delgado in the amount of \$25,000.00 for the Pleasant City Multi-Cultural Center Facade Enhancement Project; and Resolution No. 391-07 authorizing the Mayor to execute an Agreement with Palm Beach County for a reimbursable matching grant in the amount of \$25,000.00 for the Pleasant City Multi-Cultural Center Facade Enhancement Project; and Resolution No. 392-07(F) providing appropriations for the project.
21. Resolution No. 365-07 approving an Ad Valorem Tax Exemption for historic rehabilitation for the property located at 526 30th Street.
22. Resolution No. 366-07 approving an Ad Valorem Tax Exemption for the property located at 743 Biscayne Drive.
23. Resolution No. 367-07 approving an Ad Valorem Tax Exemption for the property located at 540 Clematis Street.
24. Resolution No. 368-07 approving an Ad Valorem Tax Exemption for the property located at 326 Valencia Road.
25. Resolution No. 396-07 correcting Resolution No. 230-07 granting an Ad Valorem Tax Exemption for the property located at 836 Claremore Drive, by correcting a scrivener's error in the legal description of the property.
26. Resolution No. 401-07(F) provides appropriations for the transfer of the Small Business Division from the Housing & Community Development Department to the Mayor's Office.

27. Resolution No. 393-07 authorizing the execution of a successor collective bargaining agreement between the City of West Palm Beach and the Professional Managers and Supervisors Association (“PMSA”), Certified Unit No. 1073, for the period October 1, 2007 - September 30, 2008; and Resolution No. 394-07 amending the City's Salary Plan.
28. Resolution No. 413-07(F) amending the full-time equivalent personnel detail of the Mayor’s Department within the General Fund for the addition of one (1) Economic Development Manager position and Resolution No. 412-07(F) amending the Fiscal Year 2007/2008 General Fund budget to appropriate administrative funding from the CRA for said position.
29. Resolution No. 410-07 suspending Mandatory Water Restriction Surcharges during the period of the City's free chlorination of the water distribution system.

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

**REORDERED AGENDA:  
PUBLIC HEARING:**

39. Public Hearing and First Reading for Ordinance No. 4078-07 – Historic Preservation Planner Friederike Mittner made a presentation. Public comment: Jose Rodriguez and Nancy Pullum. It was moved by Commissioner Moss, seconded by Commissioner Muoio (The Mayor misspoke stating the seconder was Commissioner Mitchell), to adopt Ordinance No. 4078-07 designating the Vedado-Hillcrest Neighborhood as a historic district on the West Palm Beach Register of Historic Places; thereupon Ordinance No. 4078-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.

At this time Commissioner Moss asked that Historic Preservation Planner Friederike Mittner expedite the process of getting the Vedado-Hillcrest Neighborhood registered as a historic district on the national level.

**PUBLIC HEARING:**

30. Public Hearing and Second Reading of Ordinance No. 4072-07 – It was moved by Commissioner Moss, seconded by Commissioner Muoio, to adopt Ordinance No. 4072-07 a request by the Community Redevelopment Agency (“CRA”) for text

amendments to Chapter 94 of the City's Code of Ordinances ("Zoning and Land Development Regulations") regarding the Northwood Mixed Use District ("NMUD"). The proposed changes pertain to landscaping, parking, building height and placement, permitted uses, architectural standards, window glazing, signs and the extension of the Residential Incentive Program ("RIP"). The NMUD is generally located between the north-side of 25th Street, to the west side of N. Dixie Highway, to the north side of 23rd Street and east of the Florida East Coast ("FEC") railroad tracks; thereupon Ordinance No. 4072-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.

31. Public Hearing and Second Reading of Ordinance No. 4080-07 – It was moved by Commissioner Moss, seconded by Commissioner Douglas, to adopt Ordinance No. 4080-07 amending Chapter 2, Article VII of the Code of Ordinances by amending Divisions 4 and 5, relating to disclosure and lobbying respectively; thereupon Ordinance No. 4080-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.
32. Public Hearing and Second Reading of Ordinance No. 4087-07 – It was moved by Commissioner Moss, seconded by Commissioner Douglas, to adopt Ordinance No. 4087-07 amending Chapter 2 (Administration) of the Code of Ordinances of the City of West Palm Beach to change the meeting time of Regular and Special City Commission Meetings; thereupon Ordinance No. 4087-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.
33. Public Hearing and Second Reading of Ordinance No. 4061-07 – It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to adopt Ordinance No. 4061-07 regarding the clarification of the Fern Street Corridor Overlay; thereupon Ordinance No. 4061-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.
34. Public Hearing and Second Reading of Ordinance No. 4060-07 and Ordinance 4066-07 – It was the consensus of the Commission to continue Ordinance No. 4060-07 a City initiated text amendment to create Section 94-450 "Vacant Lot and Construction Site Maintenance;" and Ordinance 4066-07 a City

initiated text amendment to amend Sections 18-209, 94-102, 94-302 and 94-442 relating to the provision of landscaping on vacant sites, the timeline for downtown demolition, including landscaping, and the regulation of temporary construction fences.

35. Public Hearing and First Reading of Ordinance No. 4081-07 – Principal Planner Eric Schneider made a presentation. It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to approve Ordinance No. 4081-07 a request by Christopher P. Barry, of Jon E. Schmidt and Associates, for a text amendment to Chapter 94 of the City’s Code of Ordinances (Zoning and Land Development Regulations) regarding the parking requirements for Warehousing Facilities for Families and Small Businesses. The amendment will apply City-wide; thereupon Ordinance No. 4081-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.
36. Public Hearing and First Reading of Ordinance No. 4082-07 – Planner Kelly Freeman made a presentation and responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to approve Ordinance No. 4082-07 a request by Emily O’Mahoney, of Gentile, Holloway, O’Mahoney and Associates, on behalf of Charles Development, LLC, for a text amendment to Chapter 94 (Zoning and Land Development Regulations) of the City’s Code of Ordinances to amend Article VII (Special Districts), Section 94-215 (Currie Corridor Mixed Use District) to permit and regulate rooftop terraces within the Currie Corridor Mixed Use District; thereupon Ordinance No. 4082-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.

[The Mayor passed the gavel to the President of the Commission and left the meeting at 10:30 p.m.]

37. Public Hearing and First Reading of Ordinance No. 4008-07 – It was moved by Commissioner Muoio, seconded by Commissioner Douglas, to approve Ordinance No. 4008-07 amending Chapter 30, Section 30-1 of the City's Code of Ordinances to change the date for candidates to qualify for city offices and Section 30-2 to change the date for the alternative method of qualifying for City offices; thereupon Ordinance No. 4008-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.

**PUBLIC HEARING – QUASI-JUDICIAL:**

**-SWEARING IN OF WITNESSES**

The Deputy City Clerk swore in all those persons having an interest in item #38 and #40.

**-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY\***

Commissioner Douglas stated that she [a] had had no ex-parte communications regarding items #38 and #40; 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 #38 and #40; and [b] would base her decisions on the evidence and testimony to be presented.

Commissioner Robinson stated that he [a] had had ex-parte communication with the developer regarding item #38; [b] had had no ex-parte communication regarding item #40; and [c] would base his decisions on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had ex-parte communication with developer on regarding item #38; [b] had had no ex-parte communication regarding item #40; and [b] would base his decisions on the evidence and testimony to be presented.

38. Public Hearing and First Reading of Ordinance No. 4077-07 – Planner Kelly Freeman made a presentation and responded to Commission questions. At this time Commissioner Muoio corrected her disclosure of ex-parte communications by stating that she [a] had had ex-parte communication regarding item #38; and [b] would base her decision on the evidence and testimony to be presented. The applicant Brian Terry of Land Design South, Inc. responded to Commission questions. It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to approve Ordinance No. 4077-07 a request by Brian Terry, of Land Design South, on behalf of Home Dynamics Charleston, LLC, for a Major Amendment to the Charleston Commons Residential Planned Development (RPD) to modify the adopted site plan and increase the unit count from 90 to 116; thereupon Ordinance No. 4077-07 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson; Absent: Commissioner Mitchell. Motion therefore carried unanimously.

40. Appeal of Historic Preservation Board decision in Case No. 07-65 – Historic Preservation Planner Friederike Mittner and the applicant Rosemary Diehl made a presentation and responded to Commission questions. Public comments: Sue Weeg and Wyatt Grimsley. It was moved by Commissioner Douglas, seconded by Commissioner Muoio, to not uphold the Historic Preservation Board’s decision in Case No. 07-65 denying the replacement of an asphalt shingle roof with a 5 V-crimp metal roof at 957 29th Street, within the Northwood Hills Historic District; and thereafter it was voted as follows: Ayes Commissioners Douglas, Moss and Muoio; Nays: Commissioner Robinson; Absent: Commissioner Mitchell. Motion therefore carried with a vote of three in favor and one opposed.

At this time Commissioner Douglas announced that the Ray Gore Memorial Fundraiser will be held at the Palm Beach Sailing Club on October 20, 2007.

**ADJOURNMENT:**

There being no further business to come before the Commission, the meeting was adjourned at 10:54 p.m.

**APPROVED:**

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**PRESIDING OFFICER**

**ATTEST:**

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**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.