

CITY OF WEST PALM BEACH
OFFICE OF THE CITY CLERK
REGULAR CITY COMMISSION MEETING
MAY 19, 2008

The City Commission of the City of West Palm Beach met in regular session on Monday, May 19, 2008 at 4:09 p.m., at City Hall, with the following persons present:

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

CONSENT CALENDAR:

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

1. Minutes of the Regular City Commission Meeting held April 21, 2008.
2. Approval of the reappointment of Clifford Bridges to the Parks and Recreation Advisory Committee for a term of two years, which will expire March 20, 2010. Mr. Bridges has served over the maximum allowed number of terms (3) and it is required that the Commission confirms his reappointment.
3. Approval of reappointment for Bettie T. Dawson to the Education Advisory Committee for a term of two years, which will expire February 17, 2010. Ms. Dawson has served over the maximum allowed number of terms (3) and it is required that the Commission confirms her reappointment.
4. Resolution No. 202-08 authorizing the sale, possession and consumption of alcoholic beverages at the 2008 Sunday at the Meyer events.

5. Resolution No. 253-08 authorizing a Special Event License Agreement between the City of West Palm Beach and Full A Vibes Inc. to produce Summer Sizzle on May 26, 2008 from 2:00 p.m. to 10:00 p.m.
6. Resolution No. 215-08 authorizing the Mayor to execute an Easement in favor of Florida Power & Light for the Clematis Street Parking Garage Project.
7. Resolution No. 203-08 authorizing the assessment of City liens in the total amount of \$5,689.25 for unpaid board and secure charges.
8. Resolution No. 204-08 authorizing the assessment of City liens in the total amount of \$7,689.04 for unpaid lot clearing charges.
9. Resolution No. 205-08 authorizing the assessment of City liens in the total amount of \$7,301.53 for unpaid demolition charges.
10. Resolution No. 216-08 authorizing the Mayor to execute a Joint Participation and Funding Agreement with Mar-A-Lago, LLC for aviation consultant services pertaining to the evaluation of the impacts of the proposed expansion of the Palm Beach International Airport (PBI); and Resolution No. 232-08(F) providing appropriations.
11. Resolution No. 231-08 authorizes ratification of a change to the current Palm Beach County Police Benevolent Association (PBA) Collective Bargaining Agreement ("CBA") October 1, 2007 to September 30, 2008, through a Memorandum of Understanding (MOU) between The City of West Palm Beach and The Palm Beach County Police Benevolent Association, which changes Article 25, Section 3, Uniforms and Equipment, authorizing mileage reimbursement by certain members of the "CBA" for take home vehicles.
12. Resolution No. 219-08(F) amending the Water and Sewer Renewal and Replacement Fund budget for Fiscal Year 2007/2008 to provide additional funding for the Water Treatment Plant Improvement Project.
13. Resolution No. 221-08, authorizing the execution of Amendment No. 2 to the Contract between the City of West Palm Beach (City) and US Water Services Corporation (US Water) for Operational Assistance at the Water Treatment Plant (WTP) and Resolution No. 234-08(F) amending the Water and Sewer Operating Fund Budget for Fiscal Year 2007/2008.
14. Resolution No. 233-08(F) transferring \$429,588 from the HOPE 3 Program for financial assistance to eligible families who are participants of the City's Foreclosure Assistance Center.

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

PRESENTATION AND AWARDS OF MERIT:

15. Presentation of a trophy to Commissioner Robinson for First Place in the 2007 Mayor/Commissioners Putting Challenge – Head Golf Professional at the West Palm Beach Golf Course Rick Durham [a] made a presentation; and [b] presented the trophy to Commissioner Robinson, who accepted the trophy with thanks.
16. Presentation of Building Department Accreditation to Construction Services Director Neil Melick – Member of the International Accreditation Service Board of Directors John Barrios [a] made a presentation; and [b] presented Construction Services Director Neil Melick with a Certificate of Accreditation, who accepted the certificate with thanks. Public comments: Ralph Wall, Jr. and Joshua McDermott.

PUBLIC HEARING:

17. Public Hearing and Second Reading of Ordinance No. 4138-08 – Public comments: Patricia High and Bill Jacobson. Planning Director Charles Wu and City Urban Designer Ana Maria Aponte responded to Commission questions. It was moved by Commissioner Muoio, seconded by Commissioner Moss, to adopt Ordinance No. 4138-08 directing staff to extend all development approvals, which were set to expire between March 17, 2008 and December 31, 2008, for a period of one (1) year; thereupon Ordinance No. 4138-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson. Motion therefore carried unanimously.
18. Public Hearing and Second Reading of Ordinance No. 4140-08 – It was moved by Commissioner Robinson, seconded by Commissioner Douglas, to adopt Ordinance No. 4140-08 declaring surplus and authorizing the sale of two small parcels, the granting of a permanent easement and a temporary construction easement to the Florida Department of Transportation (FDOT) for use of the land for the widening of Okeechobee at Okeechobee Boulevard and Australian Avenue; thereupon Ordinance No. 4140-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson. Motion therefore carried unanimously.

The Mayor announced that item #19 would be discussed after 5:00 p.m.

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

-SWEARING IN OF WITNESSES

The Deputy City Clerk swore in all those persons having an interest in item #20.

-DISCLOSURE OF EX-PARTE COMMUNICATIONS, IF ANY*

Commissioner Robinson stated that he [a] had had ex-parte communications with the developer and staff regarding item #20; [b] had had ex-parte communications with the developer, staff and the community regarding item #21; and [c] would base his decisions on the evidence and testimony to be presented.

At this time Commissioner Douglas asked for an explanation of the policy of disclosing ex-parte communications. City Attorney Claudia McKenna responded to Commissioner Douglas' questions. Commissioner Robinson stated that he had viewed the Planning Board Meeting during which the case regarding item #21 was discussed.

Commissioner Douglas stated that she [a] read the Planning Board report regarding item #21; [b] had had ex-parte communications with an attorney, two Planning Board members and residents regarding item #21; [c] had read the Planning and Zoning Board report regarding item #20; [d] had had no additional ex-parte communication regarding item #20; and [e] would base her decisions on the evidence and testimony to be presented.

Commissioner Moss stated that he [a] had had no ex-parte communication regarding item #20; [b] had had ex-parte communications with residents, the applicant and staff regarding item #21; and [c] would base his decisions on the evidence and testimony to be presented.

Commissioner Muoio stated that she [a] had had ex-parte communications with the petitioner and staff regarding items #20; [b] had had ex-parte communications with the petitioner, staff and members of the public regarding item #21; and [c] would base her decisions on the evidence and testimony to be presented.

20. Public Hearing and First Reading of Ordinance No. 4134-08 – Senior Planner John Roach [a] made a presentation; and [b] announced that the fifth whereas clause in Ordinance No. 4135-08 needed to be amended. It was moved by Commissioner Robinson, seconded by Commissioner Douglas, to approve Ordinance No. 4134-08 with the necessary corrections. The 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 approve Ordinance No. 4134-08, amended to include the necessary corrections, based upon findings of fact, and that the zoning application complies with Section 94-32 of the Rezoning Standards, a request by Timothy Stillings, of Kimley-Horn and Associates, Inc., on behalf of Dayton Hudson Corp./Target Corp., for a rezoning of approximately 0.79 acres, located along Palm Beach Lakes Boulevard, approximately 450 feet west of Congress Avenue, from General Commercial (GC) to Commercial Planned Development (CPD); thereupon Ordinance No. 4134-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson. Motion therefore carried unanimously.

Public Hearing and First Reading of Ordinance No. 4135-08 – It was moved by Commissioner Robinson, seconded by Commissioner Douglas, to approve Ordinance No. 4135-08, amended to include staff's changes to the fifth whereas clause, based upon findings of fact, and that the zoning application complies with Section 94-32 of the Rezoning Standards, a companion request for a Major Amendment to the Target Commercial Planned Development (CPD), located at 1760 Palm Beach Lakes Boulevard, to expand the boundaries of the CPD to include an approximately 0.79 acre parcel, located along Palm Beach Lakes Boulevard, approximately 450 feet west of Congress Avenue; thereupon Ordinance No. 4135-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson. Motion therefore carried unanimously.

REORDERED AGENDA:

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

Bahareh Sodatmand of Suncoast High School [a] introduced her fellow classmates who were present; [b] spoke about the importance of properly recycling electronic products; [c] urged the City to enact policies for electronic recycling and wiser energy use; and [d] presented the Mayor with environmental

posters. Nickara Smith of Suncoast High School spoke about measures to protect the environment. Commissioner Douglas announced that the web site for Suncoast High School is <http://studentsavetheplanet.com>.

**REORDERED AGENDA:
PUBLIC HEARING:**

19. Public Hearing and First Reading of Ordinance No. 4139-08 – Historic Preservation Planner Friederike Mittner [a] made a presentation; [b] stated that six properties owners were present at the meeting opposing the designation; and [c] responded to Commission questions. Public Comments: Betty Grove, Jennifer Langenstein, Margaret Cooper, Claire Valier, Rojas Sanchez, Nancy Pullum, Rebecca Young, on behalf of the Historic Preservation Board, Randy Bianchi, Joyce Raymond, Dorothy Engels-Gulden, Nancy Sloane, Lila Young, Lory Volk, and Jerry Larotonda. Planning Director Charles Wu and City Attorney Claudia McKenna responded to Commission questions. It was the consensus of the Commission to remove from the list the six property owners who opposed the designation. It was moved by Commissioner Moss, seconded by Commissioner Douglas, to approve Ordinance No. 4139-08, amending the list of homes to 22, to redesignate the El Cid Historic District on the West Palm Beach Local Register of Historic Places to recognize the change in status of 28 structures from non-contributing to contributing. The El Cid Historic District is generally bounded by Flamingo Drive on the north, Dyer Road on the south, South Flagler Drive on the east, and South Dixie Highway on the west; thereupon Ordinance No. 4139-08 was read into the record by title; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss and Muoio; Nays: Commissioner Robinson. Motion therefore carried with a vote of three in favor and one opposed.

PUBLIC HEARING - QUASI-JUDICIAL [CONTINUED]:

-SWEARING IN OF WITNESSES

The Deputy City Clerk swore in all those persons having an interest in item #21.

21. Public Hearing and First Reading of Ordinance No. 4137-08 – Principal Planner Eric Schneider [a] made a presentation; [b] stated that Deputy Planning and Director Angella Jones-Vann passed out proposed changes to the Ordinance to the Commission; and [c] responded to Commission questions. Ron Kolins of Greenberg Traurig, PA, on behalf of Trinity 1515 LLC, [a] introduced three of the applicant's principals: Mr.

Abramson, Mr. Gray and Mr. Grillo; [b] introduced architect Kermit White; [c] entered a copy of the slide show presentation into the record; [d] entered a copy of a list of residents in favor of the project into the record; [e] made a presentation; and [f] responded to commission questions.

[The Mayor left the meeting at 7:23 p.m. and returned at 7:26 p.m.]

Public Comments: Howard Reed, Patrick Whitehead, Claudia Holguin, Mary Anne (Mimi) Humphrey, Bill Diamond, representing the Mayor of the Town of Palm Beach Jack McDonald and Britt Deviney, on behalf of the Mango Promenade Neighborhood. Commissioners Douglas, Moss, Muoio and Robinson expressed their opinions that the project is too large for the area and suggested that the citizens work with the developer on a project that meets both their needs. Mr. Kolins proposed to continue the matter for two weeks to discuss it further at the next meeting. Commissioner Moss suggested tabling the item. The Mayor [a] suggested sending the item back to the Planning Board; [b] offered the Commission Chambers for a Workshop to discuss the project further; and [c] suggested continuing the item for one month to allow the applicant to redesign the project and meet with citizens to determine whether they accept or oppose the project. Director of Planning Charles Wu agreed the item should be continued for one month to allow the developer to make changes for Planning Staff to evaluate. It was moved by Commissioner Muoio, seconded by Commissioner Robinson, to continue to the June 16, 2008 meeting Ordinance No. 4137-08 regarding a request by Ron Kolins of Greenberg Traurig, PA, 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 30-story residential condominium building containing 84 units and associated amenities at 1515 South Flagler Drive, on approximately 2.05 acres. The request seeks the approval of six (6) waivers; and thereafter it was voted as follows: Ayes: Commissioners Douglas, Moss, Muoio and Robinson. Motion therefore carried unanimously.

At this time the Mayor [a] read the remaining names on the public comment cards of those persons who did not publicly speak; [b] noted whether they were for or against the project; and [c] submitted the cards for the record.

**COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS
[CONTINUED]:**

Patricia High spoke about a letter she submitted to the City Clerk and read it into the record. Lory Volk spoke about the El Cid redistricting.

COMMENTS BY THE CITY COMMISSIONERS:

Commissioner Robinson [a] noted that he visited the City's golf course; [b] commended Superintendent Joe Sellers for improvements made to the golf course; and [c] inquired about cleaning up the canal north of 36th Street.

Commissioner Douglas [a] announced that Pleasant City Elementary School was the only school in the district that had 100% of the fourth grade class pass the writing skills portion of the FCAT; and [b] spoke about the proposed rate increase and change of services in the Construction Services Department.

Commissioner Moss [a] requested an update on the City Green Task Force findings; [b] encouraged everyone to trim trees under the Amnesty Program; [c] noted that during the previous week a tourism summit was held to work on the industry; [d] suggested appointing a Tourism Advisory Committee; [e] asked for an update regarding the Economic Development Committee; and [f] read into the record an excerpt from the Florida League of Cities Innovation Showcase regarding the City's eight "green" projects. City Administrator Ed Mitchell responded to Commissioner Moss' question regarding the City Green Task Force. It was the consensus of the Commission to bring the idea of creating a Tourism Advisory Committee to City Volunteer Jack Frost.

Commissioner Muoio [a] congratulated the St. Mary's Medical Center for recently celebrating their 70th Anniversary; and [b] congratulated Jack Frost for being named the Community Leader of the Year by the Chamber of Commerce of the Palm Beaches.

COMMENTS BY THE MAYOR:

The Mayor [a] announced that the Sunday at the Meyer events start Sunday, May 25, 2008 from 4:30 p.m. to 7:30 p.m. and will be held every fourth Sunday thereafter through October 2008; [b] noted that the Providencia Award Ceremony honoring organizations that bring tourists to Palm Beach County was held on Saturday, May 17, 2008; [c] congratulated the Raymond F. Kravis Center for the Performing Arts for being the Providencia Award recipient and the Chamber of Commerce of the Palm Beaches for winning an award for the Marathon of the Palm

Beaches event; [d] announced that a triathlon event was held for children at Gaines Park on Sunday, May 18, 2008; [e] spoke about an International Council for Local Environmental Initiatives (ICLEI) conference she attended that focused on sustainability efforts of local government; [f] suggested holding a City Commission Workshop to introduce sustainability issues to a wider group of people; [g] noted that the City Green Task Force is working to determine the City's carbon footprint so that goals to lower it may be set; [h] stated that the City worked together diligently to ensure that there would not be a water shortage as there was the previous year; and [i] stated that a modified proposal will be brought forward regarding the rate increase and change of services for the Construction Services Department.

At this time Commissioner Moss congratulated the Mayor for celebrating her birthday the previous weekend.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 9:08 p.m.

APPROVED:

PRESIDING OFFICER

ATTEST:

CITY CLERK

lmh

***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.**