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Mayor Keith A. James
Commission President Shalonda Warren (District 2)
Commissioner Cathleen Ward (District 1)
Commissioner Christy Fox (District 3)
Commissioner Joseph A. Peduzzi (District 4)
Commissioner Christina Lambert (District 5)

City Administrator Faye W. Johnson
City Attorney Kimberly Rothenburg
City Clerk Shaquita Edwards

**City of West Palm Beach
City Commission
Agenda
Monday, October 2, 2023
5:00 PM**

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three days prior to any proceeding, contact the City Clerk's Office, 401 Clematis Street, West Palm Beach, FL 33401, (561) 822-1210.

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

4. CIVILITY AND DECORUM

The City of West Palm Beach is committed to civility and decorum by its officials, employees and members of the public who attend this meeting. The City Code, Secs. 2-31(8), 2-31(18) and 2-31(22), provides in pertinent part:

- Officials shall be recognized by the Chair and shall not interrupt a speaker.
- Public comment shall be addressed to the City Commission as a whole and not to any individual on the dais or in the audience.
- Displays of anger, rudeness, ridicule, impatience, lack of respect and personal attacks are strictly prohibited.
- Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted.
- Offenders may be removed from the meeting.
- Any person desiring to address the Commission **shall** file a written request with the city clerk prior to consideration of the matter by the Commission or prior to the public comment portion of a meeting. The person wishing to speak **shall** complete a comment card for each agenda item the person wishes to address, which **shall** include the person's full name, address, and the numbered agenda item. The person will not be recognized if the comment card is not completed.

5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA

6. PRESENTATION

- 6.1. Related Philanthropic Foundation Check Presentation for the Mayor's Jumpstart Academy by Belissa Alvarez, Executive Director of Related Philanthropic Foundation.

Originating Department:
Mayor's Office

7. CONSENT CALENDAR

All items listed under the consent calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items.

- 7.1. Resolution No. 210-23(F) accepting and appropriating funds in the amount of \$43,000 from the West Palm Beach Library Foundation for the Mandel Public Library of West Palm Beach to fund an associate librarian; and

Resolution No. 211-23(F) amending the FTE budget for adding one (1) Associate Librarian.

Originating Department:
Library

Ordinance/Resolution:

RESOLUTION NO. 210-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GRANT PROGRAMS SPECIAL REVENUE FUND BUDGET TO PROVIDE APPROPRIATIONS FOR A CONTRIBUTION FROM THE WEST PALM BEACH LIBRARY FOUNDATION FOR HIRING AN ASSOCIATE LIBRARIAN AT THE MANDEL PUBLIC LIBRARY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 211-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE FULL TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE SPECIAL REVENUE FUND FY 2023/2024 ADOPTED BUDGET FOR THE LIBRARY DEPARTMENT, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

To assist in funding enhanced services at the Mandel Public Library of West Palm Beach, in Resolution No. 6-10, the Commission authorized the Mayor to execute an agreement between the City of West Palm Beach and

the West Palm Beach Library Foundation Inc. ("Foundation") allowing the Foundation to solicit donations for the Mandel Public Library of West Palm Beach.

The funding of a part-time Associate Librarian will allow for increased open hours of the Library's Technology & Innovation Center where patrons will have enhanced assistance using the Library's podcast booth, work with the 3-D printer, learn media digitation, and experience virtual reality. The additional support of this staff member will empower creativity for the West Palm Beach community in media arts and production.

Funding of \$43,000 will cover one (1) year of service.

- 7.2. Resolution No. 216-23(F) amending the Fiscal Year 2023/2024 Miscellaneous Trust Fund Budget to authorize appropriations of \$81,750 from the State Law Enforcement Forfeiture Receipts for donations, law enforcement equipment, law enforcement records technology, dispatch technology upgrades, and other costs incurred in or related to forfeiture proceedings.

Originating Department:

Police

Ordinance/Resolution:

RESOLUTION NO. 216-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE MISCELLANEOUS TRUST FUND BUDGET TO PROVIDE APPROPRIATIONS IN THE AMOUNT OF \$81,750 FROM THE STATE LAW ENFORCEMENT FORFEITURE RECEIPTS FOR DONATIONS, LAW ENFORCEMENT EQUIPMENT, LAW ENFORCEMENT RECORDS TECHNOLOGY, DISPATCH TECHNOLOGY UPGRADES, AND OTHER COSTS INCURRED IN OR RELATED TO FORFEITURE PROCEEDINGS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Pursuant to the Florida Contraband Forfeiture Act, when a law enforcement agency obtains title to the forfeited property, the agency shall use the funds to pay for court costs incurred in the forfeiture proceedings. After that, the remaining funds shall be used for school resource officers, crime prevention, safe neighborhood, drug abuse education and prevention programs, or for other law enforcement purposes, which include defraying the cost of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for use in law enforcement vehicles, and providing matching funds to obtain federal grants. These funds may be expended upon request by the Chief

of Police to the City Commission and upon appropriation to the Police Departments' miscellaneous trust fund as the municipality's governing body deems appropriate.

The West Palm Beach Police Department (WPBPD) requests approval for the following items to be funded with proceeds from the State Forfeiture Trust account:

1) **DONATION (\$10,000)**: Esperanza Community Center: The Esperanza Community Center is located at 3600 Broadway, Suite 20, West Palm Beach, Florida, in the historic Northwood community of West Palm Beach. The Esperanza Community Center was founded and is currently operated by Executive Director Maricela Torres. The Center's mission focuses on outreach and assistance to the migrant community. The Center is committed to providing crime prevention within the migrant community by providing educational workshops and educational opportunities, including, but not limited to, wage theft, housing abuse, landlord-tenant abuse, and drug and alcohol referrals. The total donation is \$10,000.

2) **E CITATION (\$16,155)**: The WPBPD Records Department is responsible for the processing and submission of issued Uniform Traffic Citations to the Clerk of the Circuit Court & Comptroller Palm Beach County. The processing and submission is a labor-intensive process. The Records Department is seeking funds to update the records software to allow the processing and electronic transfer of issued citations to the Clerk of Court using the Central Square OneSolution Traffic Citation Accounting Transmission System (TCATS) Interface. The total cost of the upgraded software is \$16,155.

3) **FORFEITURE LITIGATION (\$25,000)**: To provide the necessary funding for recurring forfeiture litigation, court filing fees, and costs related to the forfeiture proceedings. The total litigation funds requested is \$25,000.

4) **CRIMINAL INVESTIGATIONS DIVISION EQUIPMENT (\$24,595)**: The Criminal Investigations Division (CID) operates and conducts criminal investigations in an office setting within the headquarters of the Police Department. Conducting effective and efficient criminal investigations requires sworn investigators to utilize workstations, including desks, chairs, file cabinets, and other office furnishings. CID operations also include in-person interviewing of witnesses, victims, and persons of interest in the CID work area. Additionally, CID frequently hosts meetings and operational planning sessions with other law enforcement agencies in the CID work area. All the listed functions require the CID work area to be properly furnished to fulfill the mission of the department. The current furnishings are original to the work area, having an approximate age of twenty-five (25) years. The total cost for new furnishing is \$24,595.

5) **POLICE DISPATCH MARKER TONE (\$6,000):** The Dispatch Center is the central nervous system of the Police Department, receiving, dispatching, and managing all police communications and operations. Dispatch Operations periodically require the updating of the operating systems. One feature the dispatch operating system currently does not include is an emergency marker tone. The feature is an audible tone that intermittently activates when emergency radio traffic is given to warn other users not to transmit due to a potentially dangerous situation. Dispatch will limit radio transmissions on a channel due to a potentially dangerous situation that requires the responding officers to have immediate access and ability to send a radio transmission. The addition of this feature notifies other radio users when the radio channel is closed, adding a crucial officer safety feature. The feature is offered by the current contracted vendor, Communications International, for \$500 per dispatch console. There are twelve (12) consoles that need to be upgraded with the listed officer safety feature. The total cost of the upgrade is \$6,000.

TOTAL REQUEST = \$81,750

The listed items are in compliance with the guidelines set forth in the U.S. Department of Justice and U.S. Department of the Treasury – Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies and FSS 932.7055 – Disposition of Items and Forfeited Property.

Fiscal Note:

Approval will recognize and appropriate State Law Enforcement Forfeiture Receipts for donations, law enforcement equipment, law enforcement records technology, dispatch technology upgrades, and other costs.

- 7.3. Resolution No. 223-23(F) amending the Fiscal Year 2023/24 Miscellaneous Trust Fund Budget to authorize appropriations of \$108,165 from Federal Law Enforcement Forfeiture Receipts for Law Enforcement investigative expenses.

Originating Department:

Police

Ordinance/Resolution:

RESOLUTION NO. 223-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF THE CITY FUNDS IN FISCAL YEAR 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE MISCELLANEOUS TRUST FUND BUDGET TO PROVIDE APPROPRIATIONS FROM THE FEDERAL LAW ENFORCEMENT FORFEITURE RECEIPTS FOR LAW ENFORCEMENT INVESTIGATIVE EXPENSES OF THE WEST PALM

BEACH POLICE DEPARTMENT; PROVIDING AN EFFECTIVE DATE;
AND FOR OTHER PURPOSES.

Background Information:

The Federal Law Enforcement Trust Fund expenditure of \$108,165 will be used to achieve law enforcement objectives in accordance with the statutes and guidelines that govern the Federal Equitable Sharing Program as set forth in the current edition of the Department of Justice's Guide to Equitable Sharing for State and Local Law Enforcement.

An excerpt from the current Guide to Equitable Sharing explains the permissibility of the proposed use: "Law enforcement, public safety, and detention facilities--costs associated with the purchase, lease, construction, expansion, improvement, or operation of law enforcement, public safety, or detention facilities used or managed by the recipient agency. Examples include the costs of leasing, operating, and furnishing an off-site undercover narcotics facility. Improvements should not be made on leased property or space, since the law enforcement agency will not benefit from the improvements upon the termination of the lease. Agencies must contact MLARS prior to using the Department of Justice equitable sharing funds for all improvement and expansion projects. For example, the construction of a new facility or minor renovations including drywall, electrical, HVAC replacements, and internal modifications to an existing facility. Expenditures such as lease payments or utilities do not require consultation."

The West Palm Beach Police Department continues to need additional space for investigative personnel. This request will cover the payments required for the leasing of space and continuing operational expenses: \$104,165 Lease Expenses; \$1,000 Electric; \$1,000 Contractual Services; and \$2,000 for maintenance, repairs, and service agreements, as required under the lease agreements.

Fiscal Note:

Approval of this item will provide appropriations for Law Enforcement investigative services.

- 7.4. Resolution No. 222-23 approving an agreement among CityPlace North I LLC, 515 Fern Owner LLC, the CRA, and the City for the conveyance of the CRA-owned property located at 900 6th Street to the Developers for the relocation of two (2) historic structures, the renovation of the structures, and the sale of the homes as workforce housing to qualified buyers.

Originating Department:

Community Redevelopment Agency

Ordinance/Resolution:

RESOLUTION NO. 222-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

APPROVING AN AGREEMENT AMONG 515 FERN OWNER LLC, CITYPLACE NORTH I, LLC, THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AND THE CITY OF WEST PALM BEACH FOR THE CONVEYANCE OF 900 6TH STREET FOR THE RELOCATION OF TWO (2) ELIGIBLE HISTORIC STRUCTURES FROM 520 EVERNIA STREET AND 610 EVERNIA STREET; AND THE RESTORATION AND RESALE OF THE HOMES AS WORKFORCE HOUSING; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Last year, the Related Companies approached the CRA with a proposal to relocate two (2) structures currently located at 520 and 610 Evernia Street to the CRA owned site located at 900 6th Street within the Northwest neighborhood. The two (2) structures are listed as properties eligible for historic designation per the Downtown Master Plan (DMP). This listing requires any Developer who wishes to utilize incentives of height or Floor Area Ratio for a project to either incorporate or relocate the eligible structure.

The relocation of the structures was needed to allow the proper redevelopment of the 520 Evernia Street site with a proposed 25-story office building and the future redevelopment of the 610 Evernia Street site. On December 21, 2022, Related Companies obtained approval from the Historic Preservation Board to relocate the eligible structures to the 900 6th Street site.

Related Companies is entering into an agreement with the CRA for the relocation of the two (2) structures to the 900 6th Street CRA owned property. The agreement proposes:

1. Conveyance of 900 6th Street by the CRA and the re-platting of the property into two (2) parcels.
2. Relocation of the two (2) Structures to the new parcels.
3. Historic restoration of the Structures and renovation as residential homes.
4. Designation of the Structures as "historic".
5. Sale of Transferable Development Rights ("TDRs") from the parcels.
6. Resale of each of the Structures/historic homes to a Qualified Buyer.

The City is joining the CRA and the developers on the agreement for the limited purpose of:

- Agreeing that when a certificate of appropriateness is received by the City, consideration of such application will be placed on the next Commission agenda, pursuant to the submission schedule;
- Agreeing that the Developers may commence and continue development of the 515 Fern and 610 Evernia projects, but to the

extent any development approvals for those projects require performance of an obligation under the agreement, such condition will not be satisfied until satisfied under the agreement;

- Providing that City's first respondents, City and CRA employees, and well as Northwest neighborhood residents and business owners will receive a "first look" to purchase the workforce housing.

The two (2) structures will be sold to households with a maximum income of 140% of the area median income as established by the Florida Housing Finance Corporation and published by the City. A "First look" option will be offered to City's first respondents, City and CRA employees and Northwest residents and business owners.

A companion item to this Resolution is being presented for approval to the CRA Board (Resolution No. 23-25).

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact. Closing cost covered by Developer.

- 7.5. Resolution No. 254-23 approving an amendment to the Interlocal Funding Agreement between the West Palm Beach Community Redevelopment Agency and the City of West Palm Beach for funding Phase 2 of the consulting services for the City's Banyan Parking Garage Redevelopment Project, not to exceed \$77,580.

Originating Department:

Community Redevelopment Agency

Ordinance/Resolution:

RESOLUTION NO. 254-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH APPROVING THE FIRST AMENDMENT TO THE FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE FUNDING OF CONSULTING SERVICES FOR THE REDEVELOPMENT OF THE BANYAN GARAGE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The Banyan Garage is located at 200 Banyan Boulevard and services approximately 400 public parking spots and storage for community events.

Amendment No. 18 to the Strategic Finance Plan for the Downtown/City Center CRA District identifies the redevelopment of the Banyan Garage as a project goal for the Downtown core area.

On April 26, 2021, staff presented to the CRA Board a proposal to begin the necessary steps to investigate the redevelopment of the Banyan Garage (Garage). The Garage was built over thirty (30) years ago and is a candidate site for redevelopment.

After conducting a procurement for real estate consulting, three (3) firms were identified to assist the City with strategic real estate redevelopment initiatives in order to provide guidance to staff and the City Commission. Concourse Group was selected for this Garage project.

Concourse Group's scope of work for the garage project is broken into three (3) phases should the City Commission choose to move forward. Phase 1 was the due diligence phase, which includes options on the types of projects that can be pursued.

By Resolution No. 37-23 and Resolution No. 23-4, the City Commission and the CRA Board, respectively, approved and entered into an Interlocal Funding Agreement regarding the funding of the Banyan Garage consulting services, dated February 7, 2023 (the "Funding Interlocal"), pursuant to which the CRA agreed to fund Phase 1 of the consulting scope of work, not to exceed \$75,600.

Concourse Group completed Phase 1 and presented the findings to the City Commission at a work session on June 13th. After the work session and review of the information and feedback from the private sector, staff is recommending to move forward with Phase 2, which would include the drafting of a formal public solicitation for redeveloping the garage and assessing up to six (6) proposals that will then be shared with the Board for consideration.

A portion of the scope for Phase 2 by Concourse will include input into the formal public solicitation. In the information required to be submitted by Developers, will include items directed by the City Commission at the work session including a parking plan, while the Banyan Garage is offline; financial ability to executed the project; experience showing past successes in similar projects and general concepts of what will be included in a new garage structure; along with the replacement of 390 spaces. The formal public solicitation will be shared with the Mayor, City Commissioners, and City Administration prior to public advertisement.

The CRA has allocated \$77,580 for Phase 2 of this project.

Resolution No. 254-23 approves the First Amendment to the Funding Interlocal providing CRA funding of Phase 2 of the consulting services for the Banyan Garage project, in an amount not to exceed \$77,580.

Assuming the City Commission selects a Developer at the conclusion of Phase 2, Phase 3 would include assisting staff in the negotiation of a development agreement. The City has requested that the redevelopment project for the garage be formed in a manner that utilizes private sector financing and expertise. Because a Public Private Partnership (P3) model may be desired for the garage project, it is critical to have a consulting firm familiar with P3s work with the City each step of the way to ensure a proper project, process, and long-term agreement are conducted to maintain the interest of the City. Should the City Commission desire to move onto Phase 3, the CRA will return with an additional interlocal agreement and funding allocation.

The CRA companion item is Resolution No. 23-33, which approves the First Amendment to the Funding Interlocal.

Commission District 3: Commissioner Christy Fox.

- 7.6. Resolution No. 226-23 approves a Conditional Settlement Agreement totaling \$40,000 in the matter of Michelle Poe v. City of West Palm Beach, et al.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 226-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT TOTALING \$40,000 IN THE MATTER OF MICHELLE POE V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Michelle Poe brought a claim for damages by way of a complaint in the Fifteenth Judicial Circuit in Michelle Poe v. City of West Palm Beach for an accident that occurred on December 11, 2019. The City has reached a settlement agreement with Michelle Poe and her attorney to resolve the matter for a total of \$40,000. The Plaintiff has signed a general release that releases the City from all claims arising from this incident, which ends all of the claims for damages, including all attorneys' fees and costs, against the City of West Palm Beach.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims over \$30,000 shall require the approval of the City Commission by formal resolution. Resolution No. 226-23 approves the Conditional Settlement Agreement.

Fiscal Note:

Risk Budget.

- 7.7. Resolution No. 237-23 authorizing the assessment of City liens in the total amount of \$23,661.54 for unpaid water service, sewer service, and storm water charges for the month of July 2023.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 237-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING AN ASSESSMENT OF CITY LIENS FOR UNPAID WATER SERVICE, SEWER SERVICE AND STORMWATER SERVICE CHARGES FOR THE MONTH OF JULY 2023; PROVIDING THAT SAID LIENS SHALL BE PRIOR IN DIGNITY TO ALL OTHER LIENS AGAINST THE ASSESSED PROPERTIES, SAVE AND EXCEPT A LIEN FOR TAXES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

In accordance with the Code of Ordinances of the City of West Palm Beach, Florida, 2003, Sections 90-4 and 90-5, the City imposes liens on private real property for delinquent payments due for utility services.

The liens to be assessed by Resolution No. 237-23 are for unpaid water service, sewer service, and stormwater service charges for the month of July 2023. The list of properties to be assessed and the associated charges totaling \$23,661.54 are provided in Resolution No. 237-23 as EXHIBIT A - Utility Lien List - July 2023. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

- 7.8. Resolution No. 260-23 waiving a potential conflict of interest related to hiring Akerman LLP as outside counsel.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 260-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, WAIVING A POTENTIAL CONFLICT OF INTEREST PURSUANT TO SECTION 2-222 OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH RELATED TO HIRING AKERMAN LLP; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The City of West Palm Beach has requested Akerman LLP (the “firm”) as Outside Counsel to handle a fee dispute involving F. Malcolm Cunningham, P.A.

The firm is a relatively large law firm, which represents a broad base of clients on a variety of legal matters.

The firm requests that the City waive any potential conflicts, which may arise in its representation of other clients in unrelated legal matters and has asserted that they are able to provide competent and diligent representation to both the City and their other clients.

The firm agrees that during the period of this engagement, it will not represent other clients in matters adverse to the City, which are substantially related to the specific matter or matters for which the City has engaged the firm’s service.

Chapter 2 (Administration), Section 2-222 (Qualifications, Term), of the Code of Ordinances of the City of West Palm Beach (the “Code”) allows the City Commission to waive a potential conflict of interest in unrelated matters or transactions, which will not adversely affect the counsel’s representation of the City.

The City of West Palm Beach desires to waive the potential conflict of interest between the City of West Palm Beach and the firm, but only to the extent that during the period of this engagement, the firm may represent other clients adverse to the City in matters that are not substantially related to the specific matter or matters for which the City has engaged the firm’s services.

Fiscal Note:

No fiscal impact.

- 7.9. Resolution No. 243-23 authorizing the submittal of an application to the U. S. Department of Transportation for a Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Program in the amount of \$1,500,000 for development of a technology-driven railway assessment for community and key safety.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 243-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE U.S. DEPARTMENT OF TRANSPORTATION FOR A STRENGTHENING

MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART) GRANTS PROGRAM REQUESTING \$1,500,000.00 IN FUNDING FOR THE DEVELOPMENT OF A CITY OF WEST PALM BEACH TECHNOLOGY-DRIVEN RAILWAY ASSESSMENT FOR COMMUNITY AND KEY SAFETY (WPB TRACKS) PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Sec. 25005 of the Bipartisan Infrastructure Law (BIL) establishes the Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program to “conduct demonstration projects focused on advanced smart city or community technologies and systems in a variety of communities to improve transportation efficiency and safety.” The program is appropriated at \$100M annually for fiscal years 2022–2026.

WPB TRACKS, the West Palm Beach Technology-Driven Railway Assessment for Community and Key Safety project, is an innovative initiative aimed at enhancing rail safety through advanced technology and data-driven solutions at railway crossings in West Palm Beach. Its primary goals encompass continuous real-time monitoring of railroad track activities, comprehensive studies of user interactions with railway infrastructure, identification of recurring behavior patterns for targeted safety measures, data-driven engineering solutions for infrastructure improvements, and proactive safety management and policy development.

The expected outcome of WPB TRACKS is a substantial improvement in rail safety within West Palm Beach, achieved by reducing incidents and near-miss events at at-grade crossings. This initiative aligns with the City's Vision Zero objective of reducing preventable injuries and fatalities on its roads. The project will unfold over two (2) years, with Phase 1 (months 1-12) focusing on data collection, analysis, visioning, and the development of a Community Safety Awareness Plan. Phase 2 (months 13 - 24) will center on policy development for enforcement and education.

WPB TRACKS will have a significant impact on downtown areas as it prioritizes high-traffic crossings for immediate safety enhancements. Community involvement is a core component, with the project actively seeking feedback and establishing partnerships to ensure community needs are addressed. Opportunities for community participation will include workshops, outreach events, public meetings, and the encouragement of letters of program support.

The project benefits from the collaboration of several key partners, including the Florida Department of Transportation (FDOT), Federal Railway Administration (FRA), Florida East Coast Railway (FEC), South Florida TriRail (SFRT), Brightline, City of West Palm Beach Community Redevelopment Agency (WPB CRA), City of West Palm Beach Downtown Development Authority (DDA), and WPBGo. Updates and information

about WPB TRACKS will be communicated through official City channels, community engagement efforts, the City website, and a dedicated project website, WPBTracks.com, following approval.

Resolution No. 243-23 authorizes the submittal of the grant application. There are no grant matches for this project; however, a portion of the funding will be allocated for education, and West Palm Beach Police overtime enforcement, along with the creation of a digital marketing campaign to reach communities.

Project Cost:\$1,500,000.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact due to no match requirement. \$1,500,000 in funding requested.

- 7.10. Resolution No. 257-23 authorizing the City's participation in the Medicaid Managed Care Organization Supplemental Payment Program and approving an agreement with the Agency for Health Care Administration for Public Emergency Medical Transport for FY 2023.

Originating Department:

Fire

Ordinance/Resolution:

RESOLUTION NO. 257-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REAUTHORIZING PARTICIPATION IN THE MEDICAID MANAGED CARE ORGANIZATION SUPPLEMENTAL PAYMENT PROGRAM BY THE CITY OF WEST PALM BEACH AND APPROVING THAT PUBLIC EMERGENCY MEDICAL TRANSPORTATION LETTER OF AGREEMENT FOR THE INTERGOVERNMENTAL TRANSFER OF FUNDS TO THE AGENCY FOR HEALTH CARE ADMINISTRATION FOR THE APPROXIMATE AMOUNT OF \$510,371.68 FOR ANTICIPATED REIMBURSEMENT OF APPROXIMATELY \$1,214,014.46 FOR A NET INCREASE IN REVENUE OF APPROXIMATELY \$703,642.78; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

This is the fifth year of this revenue source to supplement the current Medicaid reimbursements for medical transports. The current rate is approximately \$190 per transport. By Resolution No. 244-22, the City Commission previously approved the City's participation in the Medicaid Managed Care Organization Supplemental Payment Program. In FY22, the program reimbursed approximately \$176 more per transport over the

rate. The projected FY24 revenue of \$703,642.78 is based on call volume projections.

Additional Information:

Medicaid payment rates do not recognize the actual costs incurred by EMS providers for the provision of EMS services. As a result, municipalities and counties have been required to use alternative funding sources to supplant the costs incurred through other funding mechanisms, such as the allocation of taxes and fees. Despite the establishment of the Public Emergency Medical Transport Medicaid Fee for Service Program in 2016, the medically managed care reimbursement levels remained at inadequate levels.

In a previous legislative session, the Florida Fire Chief's Association championed a legislative effort that led to the approval of new funding. This effort established a Medicaid managed care supplemental payment, while preserving the existing Public Emergency Medical Transport Medicaid Fee for Service Program. The new Medicaid Managed Care Payment Program increases Medicaid federal funding available to government-owned Fire and EMS communities.

The most recent legislative session increased the Federal share from \$54 million to \$75 million, which also increased the per-transport reimbursement by an additional \$119. The Federal government requires a cost share, and the State of Florida is requiring Palm Beach County and City governments interested in participating in the program to pay in advance.

When the Medicaid insurance providers pay approximately \$190 per transport, they will also pay an additional estimated \$295 per transport, as a result of this program, as well as reimburse the City's cost share per transport.

The Agency for Health Care Administration [AHCA] implemented and monitored this program by determining the City's cost share and reconciling payments made by the Medicaid insurance providers. As done in FY 2023, participating providers must execute a Letter of Agreement with the AHCA agreeing to intergovernmental transfers of funds to AHCA for FY 2024.

Upon finalization of the distribution model, the listed transfer amount in the Letter of Agreement is subject to minor changes by AHCA. Due to the likelihood of minor adjustments to the listed amount, Resolution No. 257-23 approves a transfer amount of up to 10% above or below the currently listed amount of \$510,371.68.

By Resolution No. 257-23, the City Commission reauthorizes participation and approves the the Letter of Agreement for the approximate amount of \$510,371.68.

Fiscal Note:

Estimated additional revenue in FY2024 of \$703,642.78.

- 7.11. Resolution No. 252-23 relating to the Flagler Station project, located at 991 Banyan Boulevard, approving a Property Improvement and Maintenance Agreement among the project Developer, HTG Banyan, LLC, the CRA and the City.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 252-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, CONSENTING TO THE INSTALLATION OF IMPROVEMENTS WITHIN THE PUBLIC RIGHTS-OF-WAY ADJACENT TO BANYAN BOULEVARD AND TAMARIND AVENUE; APPROVING A PROPERTY IMPROVEMENT & MAINTENANCE AGREEMENT AMONG HTG BANYAN, LLC, THE CITY OF WEST PALM BEACH, AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY, REGARDING THE ADJACENT CRA PROPERTY, STREETSCAPE IMPROVEMENTS AND MAINTENANCE RESPONSIBILITIES FOR SAID IMPROVEMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The ownership group, HTG Banyan, LLC, has developed an affordable housing residential project, known as “Flagler Station” located at 991 Banyan Boulevard, West Palm Beach, Florida in accordance with City Site Plan Approval Processes under Case No. 19-09 (Z1912009) dated July 13, 2020.

The project features specialized elements, including landscaping, trees, irrigation systems, and specialty pavers, benches, and bicycle racks to be installed within the public right-of-way adjacent to the Project, along both Banyan Boulevard and Tamarind Avenue, per applicable plans approved by the City.

The City and CRA desire to enter into a Property Improvement & Maintenance Agreement with the Owner and setting forth the responsibilities of each party with respect to the CRA property, the installation of streetscape improvements, and the maintenance responsibilities for same.

The owner agrees to assume all maintenance obligations for the improvements installed for the Project, along with any landscape and

hardscape improvements currently existing and installed in the right-of way.

Companion Resolution No. 23-31 is being presented to the CRA Board for approval.

8. RESOLUTIONS

- 8.1. Resolution No. 251-23 accepting the contribution of the historic preservation bonus assessment related to the approval of the Northwood Square project; and

Resolution No. 256-23(F) recognizes the proceeds and provides appropriations for historic preservation programs and projects.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 251-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH APPROVING A BUILDING HEIGHT BONUS AGREEMENT FOR NORTHWOOD SQUARE AMONG IMMOCORP VENTURES, LLC, THE CITY OF WEST PALM BEACH, AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 256-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND BUDGET TO PROVIDE APPROPRIATIONS FOR HISTORIC PRESERVATION PROGRAMS AND PROJECTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 251-23 and Resolution No. 256-23(F).

Background Information:

In 2018, the City Commission approved Ordinance No. 4772-18 that implemented the visioning results for the Northwood Mixed Use District (NMUD). The amendments established a Historic Preservation Fund to help with the preservation of historic resources within NMUD consistent with the Historic Preservation Element of the City's Comprehensive Plan.

The adopted Zoning and Land Development Regulations gave Developers the option to increase their building height by electing to participate in

different bonus options depending on their location in the core sub-district, transition sub-district, or edge sub-district. The options include the historic preservation height bonus assessment, which required one of the options to pay in to the Northwood preservation Fund.

On September 22, 2020, the CRA entered into a property development and lease agreement with Immocorp Ventures LLC for the development of the Northwood Square development at the CRA-owned property known as the Anchor site.

The Northwood Square development, currently under the final stages of site plan approval, elected to utilize the historic preservation height bonus assessment to increase its building height from six (6) stories to eight (8) stories and desires to complete its contribution and proceed with the approval of its building permits.

Considering the specific assessment amount had not been established by the City Commission at the time the project submitted for site plan approval, the City, the CRA, and the project Developer have agreed to a total contribution of \$65,000 to the Historic Preservation Fund for the project to comply with the intent of the incentive.

The CRA will contribute the agreed \$65,000 contribution to the NMUD historic preservation fund on behalf of the Developer. The CRA contribution supports the goals established by Amendment No. 19 of the CRA's Strategic Finance Plan for the Northwood/Pleasant City District, which identifies the Anchor Site/Northwood Square project as a targeted project to spur redevelopment in the neighborhood, with a goal of working with the Developer to ensure completion of the project.

The contribution shall be credited by the City to the NMUD historic preservation fund. The contribution shall be allocated to the restoration of the historic building to be relocated from 320 Lakeview Avenue to 446 Northwood Road. In the event such relocation cannot occur, such funds shall be used by the City for programs of projects that maintain or improve historic structures in the Northwood Road Historic District, and the use of such funds shall be determined by the City Commission.

Resolution No. 256-23(F) recognizes the proceeds and provides appropriations for historic preservation programs and projects.

Companion Resolution No. 23-32 is being presented to the CRA Board for approval.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

Approval will recognize and provide appropriations for historic preservation projects and programs.

9. PUBLIC HEARING

- 9.1. Public Hearing and Second Reading of Ordinance No. 5066-23 proposing a ballot question, which if passed, amends Section 2.01 of the City Charter increasing a candidate's residency requirement from six (6) months to twelve (12) months.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5066-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CHARTER OF THE CITY OF WEST PALM BEACH, SUBJECT TO VOTER APPROVAL, AT SECTION 2.01 "CITY COMMISSION; DISTRICT BOUNDARIES ESTABLISHED FOR RESIDENCY TO QUALIFY FOR CANDIDACY; REAPPOINTMENT" TO INCREASE THE CANDIDATE RESIDENCY REQUIREMENT OF CONTINUOUSLY RESIDING IN THE CITY FROM SIX MONTHS TO TWELVE MONTHS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5066-23 on second reading.

Background Information:

The City Commission of the City of West Palm Beach is authorized to amend its charter pursuant to Section 166.031, Florida Statutes.

Currently, Section 2.01 of the Charter requires that a candidate for the office of the Mayor continuously reside in the City during the six-month period immediately prior to the date of election and that a candidate for the office of City Commissioner continuously reside in the district from which the candidate seeks to qualify for election during the six-month period immediately prior to the date of election. The proposed charter change would increase the six-month residency period to a twelve-month residency period. Any change to the City's Charter requires a vote of electors of the City. The proposed ballot question is as follows:

BALLOT QUESTION:

INCREASE THE RESIDENCY PERIOD REQUIRED FOR ELECTED OFFICIALS TO RUN FOR OFFICE FROM SIX MONTHS TO TWELVE MONTHS

The charter requires a candidate running for Mayor to continuously reside in the City and candidates running for City Commission to continuously reside in their respective district for the six-month period immediately prior to the date of election. Should the six-month period be increased to a twelve-month period?

Yes

No

Adoption of Ordinance No. 5066-23 would permit the City to include the proposed question on the ballot to be considered during the March 19, 2024, municipal election.

Fiscal Note:

No fiscal impact.

- 9.2. Public Hearing and Second Reading of Ordinance No. 5067-23 proposing a ballot question to amend Section 3.01 of the City Charter to prohibit the Mayor's potential outside employment and limit business relationships.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5067-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CHARTER OF THE CITY OF WEST PALM BEACH, SUBJECT TO VOTER APPROVAL, AT SECTION 3.01 "MAYOR" TO PROHIBIT POTENTIAL OUTSIDE EMPLOYMENT AND LIMIT BUSINESS RELATIONSHIPS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5067-23 on second reading.

Background Information:

The City Commission of the City of West Palm Beach is authorized to amend its charter pursuant to section 166.031, Florida Statutes.

Section 3.01 requires the Mayor to maintain an office in City Hall and devote full time to the duties of that office. However, the charter does not otherwise limit outside employment or financial interests. The proposed amendment would prohibit the Mayor from engaging in outside employment and limit business relationships to only those that would not impair, or could be reasonably expected to impair, the Mayor's independence in judgment or performance of City duties or otherwise violate applicable ethics code regulations. To amend the charter, a vote of the electors is required. The proposed ballot question is as follows:

BALLOT QUESTION:

PROHIBITING MAYOR'S OUTSIDE EMPLOYMENT AND LIMITING BUSINESS RELATIONSHIPS

The charter requires the Mayor to devote full time to city duties but does not otherwise limit outside employment or business relationships. Should the charter be amended to prohibit the Mayor from having outside employment and limit holding a financial interest in any business entity to interests that will not impair the Mayor's independent judgment or conflict with the performance of city duties?

Yes

No

Adoption of Ordinance No. 5067-23 would permit the City to include the question on the March 19, 2024 ballot and, if approved by the electors, would amend Section 3.01 of the City Charter.

Fiscal Note:

No fiscal impact.

- 9.3. Public Hearing and Second Reading of Ordinance No. 5068-23 amending the City's Elections Code to require submission of documentation evidencing a candidate's proof of residency at the time of qualifying for office.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5068-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 30, (ELECTIONS) OF THE CODE OF ORDINANCES, SECTION 30-1, (DATES FOR CANDIDATES TO QUALIFY FOR CITY OFFICES; PROCEDURE FOR QUALIFICATION) TO ADD PROOF OF RESIDENCY REQUIREMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5068-23 on second reading.

Background Information:

Section 2.01 of the City of West Palm Beach Charter provides that "the city commission by ordinance may provide for evidence acceptable to establish domicile or legal residence." The City Commission adopted its Elections

Code (Chapter 30) to provide dates for candidates to qualify for City office and a procedure for qualification. However, the Elections Code does not include provisions that provide for evidence acceptable to establish proof of residency as permitted by Section 2.01 of the City Charter.

The proposed changes will require a candidate for office to provide an affidavit that includes the candidate's current address and an affirmation that the candidate has continuously resided or will have resided in the City/district for at least six (6) months prior to election day and submit document(s) that demonstrate that the candidate has or will meet the residency requirements prior to election day. Acceptable documents include:

1. Florida voter's registration card;
2. Florida driver's license; or
3. Florida identification card; and at least one of the following documents: recorded deed or other title instrument, property tax receipt, homestead exemption, lease agreement, Florida vehicle registration, or a utility bill.

Fiscal Note:

No fiscal impact.

- 9.4. Public Hearing and Second Reading of Ordinance No. 5069-23 restating and amending the City's policy establishing expenditure of public funds for donations, contributions, and fundraising events to increase expenditures for events from \$500 per event to \$1,000 per event.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5069-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE NO. 3253-99, WHICH AMENDED THE POLICY ESTABLISHING AUTHORITY FOR THE EXPENDITURE OF PUBLIC FUNDS FOR DONATIONS, CONTRIBUTIONS, AND FUNDRAISING EVENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5069-23 on second reading.

Background Information:

The Commission has the authority to adopt the proposed ordinance pursuant home rule powers granted by the Florida Constitution as codified in Chapter 166 of the Florida Statutes.

On August 24, 1998, the City adopted Ordinance No. 3172-98, which established a policy authorizing the Mayor to execute grants pertaining to donations, contributions, and fundraising events without the approval of the City Commission.

On September 7, 1999, the Commission adopted Ordinance No. 3253-99, restating the policy and amending it to allow small expenditures for certain events. The Commission declared contributions for events satisfied a public purpose where the contribution was made by the City as requested by the Mayor or a City Commissioner for certain events not in excess of \$500 per event.

The small expenditures amount established by Ordinance No. 3253-99 has not been increased for 24 years despite the cumulative price increase of the dollar of 83.49% from the year 1999 to today. Adoption of Ordinance No. 5069-23 would increase the possible expenditure from up to \$500 to up to \$1,000 per event.

Fiscal Note:

Funds are accessible in the FY24 budget.

- 9.5. Public Hearing and Second Reading of Ordinance No. 5070-23 amending provisions of Chapter 62 of the City's Code of Ordinances pertaining to the civil service and other related personnel provisions.

Originating Department:

Human Resources

Ordinance/Resolution:

ORDINANCE NO. 5070-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, AT CHAPTER 62, PERSONNEL AND RETIREMENT, ARTICLE II (PERSONNEL POLICIES), DIVISION 2 (COMPENSATION AND LEAVE POLICIES), SECTION 62-51 (CLASSIFICATION AND COMPENSATION OF EMPLOYEES); AMENDING AND RESTATING ARTICLE IV (CIVIL SERVICE), DIVISION 2 (CIVIL SERVICE BOARD) AND DIVISION 3 (CLASSIFICATION) TO REVISE AND CLARIFY PROVISIONS REGARDING THE CLASSIFICATION OF EMPLOYEES AND THE CIVIL SERVICE BOARD; PROVIDING A CODIFICATION CLAUSE; PROVIDING A CONFLICTS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5070-23 at second reading.

Background Information:

Civil Service and related personnel provisions of Chapter 62 of the City's Code of Ordinances have not been updated since 1979. The proposed

revisions align the powers and duties of the Civil Service Board and update related personnel administration ordinance provisions to be compatible with the City's current strong Mayor form of governance.

Ordinance Revisions include:

- Clarification that if a Civil Service Board rule or regulation is in conflict with a collective bargaining agreement the collective bargaining agreement prevails.
- Clarification that the Civil Service Board cannot render decisions or adopt rules or regulations, which are in conflict with any city administrative policy, ordinance, resolution, or charter provision.
- Amends Article II (Personnel Policies) and Article IV (Civil Service) of Chapter 62 of the City's Code of Ordinances to reflect current practice that the City Commission, by resolution upon recommendation of the Mayor, adopts an annual salary plan, which governs how positions across the City are classified and which positions are governed by the rules and/or regulations of the Civil Service Board.
- Amends the process by which civil service position promotions and vacancies are filled and requires that it be consistent with current hiring and promotional processes and administrative policies of the City.
- Amends the process by which employees in civil service positions may appeal their demotion, suspension, reduction in pay or discharge such that it is consistent with current processes and administrative policies of the City.

Fiscal Note:

No fiscal impact.

- 9.6. Public Hearing and First Reading of Ordinance No. 5064-23 granting an Access and Utility Easement to Cellco Partnership D/B/A Verizon Wireless across City property lying South of 47th Place North.

Originating Department:

Engineering

Ordinance/Resolution:

ORDINANCE NO. 5064-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AN ACCESS AND UTILITY EASEMENT TO CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS ACROSS CITY PROPERTY

LOCATED SOUTH OF 47TH PLACE NORTH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5064-23.

Background Information:

The City currently owns property, which lies South of 47th Place North and just North of the East Coast Regional Wastewater Treatment Plant (ECR). Within our property is a 160-foot FPL transmission easement in which FPL has leased a portion to Verizon for communication purposes.

Verizon seeks an easement across the City property from 47th Place North to install communication facilities and to access their equipment within the FPL easement. The Utility and Access Easement will allow Verizon to access and maintain their communication facilities. As consideration for the easement, Verizon will pay the City the sum of \$3,000.00 per year, which will increase 5% each year.

Commission District 4: Commissioner Joseph Peduzzi.

Fiscal Note:

Revenue: \$3,000 per year, increased by 5% annually.

- 9.7. Public Hearing of Resolution No. 244-23 declaring certain properties on the City's and CRA's real property inventory list to be suitable for affordable housing purposes as required by Florida Statute 166.045.

Originating Department:

Housing and Community Development

Ordinance/Resolution:

RESOLUTION NO. 244-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DECLARING THAT CERTAIN CITY AND COMMUNITY REDEVELOPMENT AGENCY OWNED PROPERTIES ARE SUITABLE FOR AFFORDABLE HOUSING AS REQUIRED BY FLORIDA STATUTE 166.0451; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 244-23.

Background Information:

The Department of Housing and Community Development is responsible for overall asset management of real property owned by the City of West Palm Beach.

As required by Florida Statute 166.0451, the City must prepare an inventory list of all real property, which the City or any dependent special

district within its boundaries hold fee simple title and which are appropriate for use of affordable housing. Dependent special districts within West Palm Beach include the West Palm Beach Community Redevelopment Agency (CRA). The City must make the inventory list publicly available on its website to encourage the development of affordable housing.

City and CRA staff reviewed the list of publicly owned lands to determine the best use of the parcels taking into consideration whether they are needed for public purposes and/or economic development, site characteristics, and environmental factors. In addition, staff assessed the history of each property to determine whether the parcels are subject to deed restrictions or other circumstances or conditions, which may prohibit, restrict, or otherwise affect the disposition of the properties.

As a result of this review, the Department of Housing and Community Development and the West Palm Beach Community Redevelopment Agency have completed the inventory list provided as Exhibit A. The inventory list includes the address, legal description and/or parcel control number and assessed property value; specifies whether the property is vacant or improved; identifies the commission district where the parcel is located; and provides staff's recommendation for use and/or disposition.

City and CRA staff recommend approval of Resolution No. 244-23 declaring the properties in the inventory list to be suitable for affordable housing purposes.

Commission District 1: Commissioner Cathleen Ward.

Commission District 3: Commissioner Christy Fox.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

10. PUBLIC HEARING - QUASI-JUDICIAL

Disclosure of ex-parte communications, if any*

Swearing-in of witnesses.

- 10.1. Public Hearing and Second Reading of Ordinance No. 5061-23: A request by Harvey E. Oyer, III of Shutts & Bowen, LLP, on behalf of Temple Israel of West Palm Beach, Inc., for a rezoning of the ±1.828-acre property at 1901 North Flagler Drive, generally located at the southwest corner of Pine Street and North Flagler Drive, from Currie Mixed Use District – Core II Sub-district to Currie Mixed Use District – Core I Sub-district.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5061-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, BY REZONING APPROXIMATELY 1.828 ACRES AT 1901 NORTH FLAGLER DRIVE, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF PINE STREET AND NORTH FLAGLER DRIVE, FROM CURRIE MIXED USE DISTRICT – CORE II SUB-DISTRICT TO CURRIE MIXED USE DISTRICT – CORE I SUB-DISTRICT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5061-23, changing the zoning designation of the ±1.828-acre property generally located at the southwest corner of Pine Street and North Flagler Drive (at 1901 North Flagler Drive), from Currie Mixed Use District – Core II Sub-district to Currie Mixed Use District – Core I Sub-district. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Background Information:

(THE INFORMATION BELOW IS A GENERAL SUMMARY. A FULL ANALYSIS IS INCLUDED IN THE STAFF REPORT.)

The subject property is located within the southern boundary of the Currie Mixed Use District (CMUD) and is comprised of a two-story, 26,367 square foot synagogue with surface parking located at the rear. The synagogue includes a temple, social hall, classrooms, and offices to support the activities within the religious congregation. The subject property also includes a parcel of upland property located on the east side of North Flagler Drive that abuts and has access to the Intracoastal Waterway. Uses surrounding the subject property include the Olara mixed-use project (a 306-foot tall building comprised of 458 residential units and 31,570 square feet of ground level commercial) currently under construction on the north side of Pine Street; the nine (9) story (112 foot-tall), 400-unit Flagler Pointe residential condominium abutting to the south (built in 2001 and located outside the boundaries of CMUD); and one (1) and two (2) story residential buildings abutting to the west. The residential properties immediately to the west are zoned CMUD-Transition and were recently purchased by the Developer of the Olara project for future redevelopment.

In 2021, the City adopted a major amendment to the CMUD regulations and the Official Zoning Map to spur growth and redevelopment activity within the District (Reference: Ordinance Nos. 4963-21 and 4964-21). The

amendments were adopted to provide for additional building height and greater development flexibility. As part of the amendment, the original CMUD Core Sub-district was further categorized into Core IA/I and Core II to address the potential development pattern with the increase in building height. During the amendment process, with its location at the southern boundary of CMUD and next to the 9-story/112-foot Flagler Pointe condominium building, the subject property was assigned a zoning designation of CMUD-Core II, to provide a logical and appropriate height and intensity transition from the center (the “heart”) of the District, to the edge and beyond the District. The building height/intensity within CMUD is at its highest from the center and gradually tapers off towards the edge of the District.

For this application, the applicant is seeking approval to rezone the subject property from CMUD-Core II to CMUD-Core I. The applicant provides that the subject property was the only property within the original CMUD Core that was assigned a Core II Sub-District during the 2021 amendment process and desires to be afforded the same development rights as the rest of the original Core Sub-district properties. (The other properties along North Flagler Drive in the original Core sub-district were assigned either a Core IA or Core I designation in the amendment.) At the time of the amendment and during the public hearing process, the applicant made several appeals to City staff, the Planning Board, and City Commission to include the subject property in the Core I sub-district; however, the applicant was informed by City staff that the amendments affecting CMUD was too far along in the process, and that the request could be considered at a later date. As such, the applicant is seeking to follow through with the rezoning of the subject property to the Core I Sub-district. No redevelopment application/proposal has been submitted with the rezoning, but it should also be noted that it is not required of the applicant for the rezoning process.

Analysis

Approval of the proposed rezoning to CMUD-Core I will increase the allowable building height on the subject property. Table 1 below provides a comparison of the current and proposed building heights with the current and proposed sub-district zoning designations.

Table 1:
Comparison of Building Height Allowances between the CMUD-Core I and CMUD-Core II Sub-district Zoning Designations

CMUD Sub-district	Base Height	Maximum Incentive*	Height with
Core I (Proposed)	111 feet	306 feet	
Core II (Current)	111 feet	202 feet	

Within the CMUD sub-district, the application of the height bonus options are provided in Sec. 94-215(k) of the ZLDRs up to the maximum building height specified in Table 1.

As shown in Table 1 above, the current and proposed building base height (building height permitted by-right) in the Core I and Core II Sub-districts are the same at 111 feet; however, the rezoning of the subject property to Core I will allow up to an additional 104 feet in building height with the application of the height bonus options in Section 94-215(k) of the Zoning and Land Development Regulations.

Concerns have been raised by staff regarding the impact of the proposed rezoning on the abutting 9-story/112-foot Flagler Pointe building immediately south of the subject property. The applicant was asked to provide information/studies that could support the proposed rezoning to Core I, which were included as part of the applicant's application. A shadow study of the subject property, comparing the current and proposed zoning at maximum building height, indicate that a building at 202 feet or 306 feet in height on the subject property would not cast a direct shadow on the Flagler Pointe building or to any other buildings to the south, and therefore, the impacts of the rezoning would not be detrimental.

Mayor/Commission Work Session

On May 8, 2023, the Mayor and Commission held a Work Session to discuss building height within CMUD and the proposal to expand CMUD at the southern boundary. The issue was raised due to the increase in development pressure within the City, staff's desire to revitalize North Dixie Highway, and the opportunity to bring back to the table the applicant's desire to rezone the subject property to Core I. The Work Session gave the opportunity for the Mayor and Commissioners to provide feedback to Planning staff on the direction of the rezoning to increase building height on the subject property. There were no major issues raised and at the conclusion of the Work Session, staff was given the directive to proceed with rezoning application for the subject property.

CONCLUSION:

Although it is staff's professional opinion that the building height transition under the current Zoning Map should remain, the proposed rezoning must be evaluated with the Rezoning Standards of the City's Zoning and Land Development Regulations. Based on staff's review of the application with the Rezoning Standards, the application is found to be consistent with the Standards and therefore, staff is recommending approval.

Should the rezoning to Core I be approved, it will be imperative for the applicant/Developer to engage with the community/adjacent property owners on any proposed redevelopment project to address concerns and any potential negative impacts by the proposal, but also to offer a transparent and

inclusionary process with the community members of the area, prior to the submission of a formal redevelopment application to City staff.

PUBLIC COMMENT:

Staff has received a number of support and objection letters for the proposed rezoning.

PLANNING BOARD:

After a Public Hearing on July 18, 2023, the Planning Board recommended approval (5-1) of the rezoning to the City Commission on the condition that the applicant meet with the residents of Flagler Pointe to discuss and answer any questions on the proposed rezoning prior to City Commission.

Shortly after the Planning Board meeting, the applicant reached out to the board members of Flagler Pointe and had also sent out an invitation to all property owners within Flagler Pointe to meet, discuss, and answer questions on the proposed rezoning of the property. This meeting was held on August 24, 2023.

PUBLIC NOTICE:

Individual notices were mailed to all property owners within 500 feet of the subject property, and signs were posted on the property. In accordance with the advertising requirements of the City's Zoning and Land Development Regulations, a legal ad for Ordinance No. 5061-23 was advertised in the September 22, 2023 edition of the Palm Beach Post.

Commission District 1: Commissioner Cathleen Ward.

11. COMMENTS FROM THE PUBLIC

Public comments are limited to 3 (three) minutes. Anyone wishing to address the Commission should complete a "Comments by the Public" card and present it to the City Clerk prior to the Public Comments. When you are called to speak, please go to the podium and state your name and address for the record prior to addressing Commission. The Commission will not discuss the matter nor respond to the comment this evening. Comments made will become part of the record and may be addressed at a later date.

12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

13. ADJOURNMENT

*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 2.) written communications shall be placed in the record; and 3) site visits, investigations, etc. shall be disclosed.

NOTICE: If any person decides to appeal any decision made by the City Commission at this meeting, that person will need a record of the proceedings, and that, for such purposes, may need to ensure that a verbatim records of the proceedings be made, which record includes the testimony and evidence upon which the appeal is based. The City of West Palm Beach does not prepare or provide such record.