



**City of West Palm Beach
City Commission**

AGENDA

**December 28, 2020
5:00 P.M.**

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, FLORIDA 33401, {(561) 822-1210}

**MAYOR
KEITH A. JAMES**

**CITY COMMISSION
PRESIDENT KELLY SHOAF**

**COMMISSIONER CHRISTINA LAMBERT
COMMISSIONER CHRISTY FOX**

**COMMISSIONER CORY NEERING
COMMISSIONER JOSEPH A. PEDUZZI**

**ADMINISTRATION
CITY ADMINISTRATOR, FAYE W. JOHNSON
CITY ATTORNEY, KIMBERLY ROTHENBURG
CITY CLERK, HAZELINE CARSON**

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

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.

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

APPOINTMENT (1):

1. **City Commission approval is requested for the Mayor's reappointment of Stewart W. Bosley, Jr. to the Sustainability Advisory Committee for a term of two (2) years to expire on October 8, 2022. Mr. Bosley has served over the maximum allowed number of terms (3), and it is required that the City Commission confirms his reappointment. Agenda Cover Memorandum No.: 23163**

CONSENT CALENDAR (2-5):

2. **Resolution No. 290-20 authorizing the assessment of city liens in the total amount of \$41,710.32 for unpaid water service, sewer service, and stormwater service charges for the month of June 2020.**

RESOLUTION NO. 290-20: 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; 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.

Agenda Cover Memorandum No.: 23164

Staff Recommended Motion:

Approve Resolution No. 290-20.

Background:

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. 290-20 are for unpaid water service, sewer service, and stormwater service charges for the month of June 2020. The list of properties to be assessed and the associated charges totaling \$41,710.32 are in EXHIBIT A - Utility Lien List - June 2020. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

3. **Resolution No. 293-20 authorizing the assessment of city liens in the total amount of \$29,205.43 for unpaid water service, sewer service, and stormwater service charges for the month of July 2020.**

RESOLUTION NO. 293-20: 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; 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.
Agenda Cover Memorandum No.: 23165

Staff Recommended Motion:

Approve Resolution No. 293-20.

Background:

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. 293-20 are for unpaid water service, sewer service, and stormwater service charges for the month of July 2020. The list of properties to be assessed and the associated charges totaling \$29,205.43 are in EXHIBIT A - Utility Liens July 2020. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

4. **Resolution No. 373-20(F) appropriating \$1,300,000 from the Water and Sewer General Reserve Fund 459 to the Water and Sewage Systems Revenue Fund 450 Reserve for Contingency, which was utilized to provide funding for costs incurred in response to emergency declaration procurements for the sanitary collection and transmission system at various locations throughout the City since October 2020.**

RESOLUTION NO. 373-20(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 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE WATER AND SEWER GENERAL RESERVE FUND AND THE WATER AND SEWAGE SYSTEM REVENUE FUND BUDGETS TO PROVIDE APPROPRIATION OF FUNDS FOR WATER AND SEWER OPERATING CONTINGENCY WHICH WERE UTILIZED TO FUND DECLARATION OF EMERGENCY PROCUREMENTS FOR THE SANITARY SEWER COLLECTION AND TRANSMISSION SYSTEM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23174

Staff Recommended Motion:

Approve Resolution No. 373-20(F).

Background:

The Public Utilities department has encountered several emergency situations since the beginning of the fiscal year, and as a result has utilized water and sewer operating contingency of approximately \$1.3 million to provide funding for costs incurred in response to the emergencies and to add approximately \$246,000 to the sanitary collections repair and maintenance services operating budget for future needs during fiscal year 2021.

On October 13, 2020, there was a sanitary sewer main failure on the south side of the property located at 2400 Centrepark West Drive, which required replacement of damaged sewer pipe to fully restore the integrity of the sanitary system. Approximate cost: \$266,166.

Beginning mid-October 2020, as a result of the very challenging weather conditions that affected numerous South Florida communities, the sanitary sewer collection and transmission system received unusually high and sustained volumes of wastewater. The situation resulted in two (2) instances where the City's collection and transmission system overflowed sanitary wastewater outside of the system. In the interest of public health and safety, a number of external utility contractors assisted with providing pumper trucks and vacuum trucks to handle the unusually high volume of wastewater in the system. Approximate cost: \$553,955.

In addition to the October events, in early November 2020, there were additional unexpected weather impacts resulting from Tropical Storm Eta from November 8 through November 11, which again required contracting with external vendors to provide pumper and vacuum trucks to handle the increased flows from Tropical Storm Eta. Approximate cost: \$233,366.

This F-Resolution appropriates funding to replenish the Water and Sewer Operating Reserve for Contingency utilized for payment of the costs related to various sanitary sewer collection and transmission system emergency situations since October 2020 and to provide additional appropriation of funding for Sanitary Collections repair and maintenance services operating budget.

Fiscal Note:

Post approval, the Water Sewer Fund 459 General Reserve balance will be approximately \$58 million.

5. **Resolution No. 363-20 approving a right of way maintenance agreement with Love 718 Dixie, LLC for the Canopy Hotel development.**

RESOLUTION NO. 363-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A RIGHT OF WAY MAINTENANCE AGREEMENT WITH LOVE 718 DIXIE, LLC FOR MAINTENANCE OF THE LANDSCAPE AND HARDSCAPE WITHIN A PORTION OF THE RIGHT OF WAY ALONG SOUTH DIXIE HIGHWAY, AND TRINITY PLACE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23173

Staff Recommended Motion:

Approve Resolution No. 363-20.

Background:

Love 718 Dixie, LLC is the developer of the recently completed 150-room Canopy hotel located at 380 Trinity Place. As part of the construction of the project, the developer installed landscape and hardscape improvements within the City-owned right along south Dixie Highway and Trinity Place. The improvements include street trees, landscaping, irrigation, and hardscape improvements. The parties desire to enter into a maintenance agreement to transfer the maintenance responsibility for the improvements installed by the developer within the City-owned right-of-way to the developer.

Commission District 3: Commissioner Christy Fox.

RESOLUTIONS (6-7):

6. **Resolution No. 369-20 approving and authorizing the sale of City-owned property located at 813--6th Street to Altru Homes, LLC.**

RESOLUTION NO. 369-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE SALE OF REAL PROPERTY AT 813--6TH STREET TO ALTRU HOMES, LLC AND AUTHORIZING EXECUTION OF A SALE AND PURCHASE AGREEMENT; RELEASING ALL MINERAL RIGHTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23167

Staff Recommended Motion:

Approve Resolution No. 369-20.

Background:

On October 19, 2020, via Resolution No. 259-20, the City Commission approved the surplus and disposition of property located 813--6th Street under the City's Housing Assistance Incentives Program. City staff and Real Estate Asset Disposition Corp., a contractor who currently provides real estate services to the City, advertised the sale of certain City-owned properties through the City's website and Multiple Listing Services (MLS) for a minimum of twenty-one (21) days.

Pursuant to Section 2-31(27)(c) of the Code of Ordinances, a sale or lease of a property, which is assessed by the county property appraiser for less than \$50,000, does not require an appraisal. As determined by the Buyer Price Opinion completed by Real Estate Asset Disposition Corp., the property was listed for \$39,900.

The City received three (3) offers to purchase City-owned property located at 813--6th Street ranging from \$23,000 to 45,000. City staff recommends accepting the offer in the amount of \$45,000 from Altru Homes, LLC. The proceeds of the sale will be deposited in the City's Housing Trust Fund for the development or preservation of affordable or workforce housing.

The offers received for the property are available in the Housing and Community Development Department.

As a condition of the sale, the City will require that the purchaser meet certain conditions. The conditions include:

1. The Purchaser must obtain a Building permit within 180 days.
2. The Purchaser must commence construction of a single or multi-family dwelling or commercial building within 365 days from the date of issuance of the Building permit.
3. The Property must be sold to a buyer who intends to occupy the property as its primary residence.

Pursuant to Section 2-31(27)(g)(7) of the Code of Ordinances, the sale of properties under the City's Housing Assistance Incentives Program may be approved by resolution of the Commission. As such, City staff seeks approval of Resolution No. 369-20 authorizing the sale and transfer of property located at 813--6th Street to Altru Homes, LLC.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

Sale price of the property is \$45,000. After fees are paid, proceeds will be deposited into the City's Housing Trust Fund.

7. **Resolution No. 370-20 approving and authorizing the sale of City-owned property located at 818--8th Street to Altru Homes, LLC.**

RESOLUTION NO. 370-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE SALE OF REAL PROPERTY AT 818--8TH STREET TO ALTRU HOMES, LLC AND AUTHORIZING EXECUTION OF A SALE AND PURCHASE AGREEMENT; RELEASING ALL MINERAL RIGHTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23168

Staff Recommended Motion:

Approve Resolution No. 370-20.

Background:

On October 19, 2020, via Resolution No. 259-20, the City Commission approved the surplus and disposition of property located 818--8th Street under the City's Housing Assistance Incentives Program. City staff and Real Estate Asset Disposition Corp., a contractor who currently provides real estate services to the City, advertised the sale of certain City-owned properties through the City's website and Multiple Listing Services (MLS) for a minimum of twenty-one (21) days.

Pursuant to Section 2-31(27)(c) of the Code of Ordinances, a sale or lease of a property, which is assessed by the county property appraiser for less than \$50,000, does not require an appraisal. As determined by the Buyer Price Opinion completed by Real Estate Asset Disposition Corp., the property was listed for \$36,900.

The City received three (3) offers to purchase City-owned property located at 818--8th Street ranging from \$26,900 to 45,000. City staff recommends accepting the offer in the amount of \$45,000 from Altru Homes, LLC. The proceeds of the sale will be deposited in the City's Housing Trust Fund for the development or preservation of affordable or workforce housing.

As a condition of the sale, the City will require that the purchaser meet certain conditions. The conditions include:

1. The Purchaser must obtain a Building permit within 180 days.
2. The Purchaser must commence construction of a single or multi-family dwelling or commercial building within 365 days from the date of issuance of the Building permit.
3. The Property must be sold to a buyer who intends to occupy the property as its primary residence.

Pursuant to Section 2-31(27)(g)(7) of the Code of Ordinances, the sale of properties under the City's Housing Assistance Incentives Program may be approved by resolution of the Commission. As such, City staff seeks approval of Resolution No. 370-20 authorizing the sale and transfer of property located at 818--8th Street to Altru Homes, LLC.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

The sales price of the property is \$45,000. After closing costs and fees are paid, the proceeds will be deposited into the City's Housing Trust Fund.

PUBLIC HEARINGS (8-11):

8. **Public Hearing and Second Reading of Ordinance No. 4915-20 which amends and replaces Chapter 78, Article V of the Code of Ordinances regarding Public Art.**

ORDINANCE NO. 4915-20: 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 78 - STREETS, SIDEWALKS AND PUBLIC PLACES, TO AMEND AND RESTATE ARTICLE V - ART IN PUBLIC PLACES AS ARTICLE V – PUBLIC ART; AND TO AMEND AND RESTATE ARTICLE I – IN GENERAL, SECTION 78-10 – MONUMENTS; PROVIDING A SEVERABILITY AND CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23169

Staff Recommended Motion:

Approve Ordinance No. 4915-20 at second reading.

Background:

City Commission adopted Ordinance No. 1913-85 on December 2, 1985 creating the Art in Public Places Committee consisting of seven members. City Commission adopted Ordinance No. 4504-14 on March 31, 2014 amending and restating the Art in Public Places program. Ordinance No. 4504-14 directed that this Ordinance be reviewed after one (1) year of implementation and that a report on the implementation along with any suggested revisions to the program and ordinance be brought back to City Commission. City Commission adopted Ordinance No. 4754-17 to adopt revisions to the Ordinance recommended by the consultant retained for the Art in Public Places Master Plan.

The ArtLife WPB Committee and city staff reviewed the progress at the end of the five (5) year Art in Public Places Master Plan, including programming, operational goals, and branding of ArtLife WPB and Master Plan, and have been updated to best serve the public and distinguish it from other municipalities. Also, as part of the branding of the program, it is proposed that Art in Public Places be renamed as ArtLife WPB. The ArtLife WPB Committee recommends additional revisions to the Ordinance to support the updated Public Art Master Plan.

REVISIONS: Ordinance No. 4915-20 proposes the following significant additions, clarifications or revisions:

Sec. 78-121 - Purpose and intent:
Additional language.

Sec. 78-122 - Definitions:

Removal of the following:

1. Housing payments do not exceed 35 percent (35%).
2. Artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist.
3. The incremental costs of infrastructure elements.

Ineligible Artwork - Additional:

1. Commercial expression.
2. Revision definition of Artist.
3. Removal Private art program.

Revision:

4. Public art assessment \$500,000.
5. Temporary artwork not to exceed eighteen (18) months.

Sec. 78-123 - ArtLife WPB committee; membership and organization:

1. Members shall have demonstrated a knowledge of the arts.
2. Term of office four (4) years.

Sec. 78-124 - Powers, duties and functions:

1. Site is appropriate for public art.
2. Remove separate mural review.
3. Report to the city commission on an annual basis - account.
4. Removal of art in public places committee to the City Commission shall be advisory only and may or may not be consistent with similar recommendations made other departments.

Sec. 78-125 - Criteria for art and elements:

1. Compatibility.
2. Diversity.
3. Artist qualifications.

Sec. 78-126 - Public Art Account:

1. A separate art in public places account. The funds kept separate from any other city funds.
2. City acceptance of gifts, grants, and donations for public art.

Sec. 78-128 - Applicability:

1. Private development projects as set forth in Section 78-129.
2. Public construction projects as set forth in Section 78-133.
3. Projects by a non-profit entity as set forth in Section 78-129.
4. Projects on premises owned or leased solely by tax exempt non-profit 501(c)(3) and used for the non-profit purposes are exempt.

Sec. 78-129 - Public art assessment for private development:

1. Removal of within ninety (90) days of the issuance of the first building permit.
2. Revision: Before the issuance of the first building permit for the project, the developer must select one of the following options:
3. Option 1: Install and artwork on the development site valued in an amount no less than one percent (1%) of the total construction costs; and
4. Option 2: Contribute an amount equal to 75 percent (75%) of one percent (1%) of the total construction costs for deposit to the public art account.

REMOVE: Option 3 and 4

1. Valuation of artwork. The following costs shall not be included site preparation costs, landscaping and hardscaping costs, artist events, promotional materials, future costs for the operation, conservation or maintenance of the artwork.
2. Definition of "distinct" artwork.

Sec. 78-130 - Inclusion of art in the project:

1. Option 1: Art application shall be submitted with the application for a building permit.
2. Option 2: The public art assessment shall be paid in full at the time of payment of the building permit fees.
3. An application for approval of the public artwork shall be made to the ArtLife WPB committee within thirty (30) days of the issuance of the first building permit for the project.
 1. Public art application, on the city's forms, completed and signed.
 2. Construction cost valuation of the project.
 3. Art budget, itemized.
 4. Value of proposed artwork.
 5. Artist's qualifications.
 6. Detailed description and depiction of the artwork.
 7. Drawings and renderings of the proposed artwork.
 8. Appraisal of the value of the art or element.

9. Proposed materials and installation methods.
10. Copies of artist contract.
11. Copy of the escrow agreement.
12. Maintenance plan.
13. Community outreach.
14. Proposed project schedule.
15. Committee review scheduled at least twenty (20) days from application submittal.
16. City commission approval. The developer/owner or commissioned artist will present the proposed artwork to the City Commission.
17. The City's administrator of public art and culture will advise the City Commission of the recommendation of the committee.
18. If not approved by the City Commission, escrowed public art assessment deposited into the public art account.
19. Artwork shall be clearly demonstrated on all site-plans submitted for city approvals.
20. Copies of invoices evidencing the cost of the artwork.
21. Plaque or marker.
22. Identifies the artwork as a public benefit created under the city's public art program.

Sec. 78-134: City public art

1. Public art. Permanent, temporary or rotating installations, exhibitions or performative art.
2. Public art installed as part of a private development, provided title and rights transferred to the city and accepted by the City Commission.
3. Donations of artwork shall be formally accepted by the City Commission.
4. If development is unable to accommodate artwork, a developer may offer to commission and install a privately funded artwork on City, or a City agency owned property. Title and rights to artwork transferred to the City.
5. Commission of proposals for City-owned public art shall be by call to artists, request for qualifications, request for proposals or other form of competitive selection, or direct invitation.

Sec. 78-135: Artist grant of license.
Clarification of language.
Removal of Mural Art provisions.

Sec. 78-137:
Remains unchanged.
Amend and restate Article I (In General), Section 78-10 (Monuments)

Sec. 78-10 - Monuments:

1. Definition.
2. Authority.
3. Standards.
4. City Commission may determine to honor a deceased person/significant historical contribution to the city and deceased at least ten (10) years. No monument may honor any person convicted of a crime of moral turpitude or found by a competent authority to have violated ethics laws or regulations.
5. Must reflect the image and values of the City.
6. May not endorse or advocate any religion or specific religious belief, nor have an obscene connotation, or malevolently portray or demean any race, ethnicity, or other protected group.
7. A privately-funded monument shall have all funding for design, fabrication and installation secured in advance.
8. A monument shall be located only where sufficient space, utilities, and other elements to accommodate the monument exist, as determined by engineering and planning staff, and approved by the City Commission.
9. All monuments maintained with reasonable effort and cost.

Application:

10. Citizens may petition for approval of a monument by submittal of an application and include information demonstrating that it meets the standards in subsection (c).
11. City-sponsored application may be submitted at the request of a City Commissioner, or by direction of the Mayor.
12. Approval of the monument concept must first be approved by the City Commission.
13. Conceptual approval for a monument shall be by super-majority of the City Commission.
14. Such approval shall establish a deadline for the applicant to obtain a design and develop a budget, which timeline shall not exceed six (6) months.

Design & Budget:

15. If concept approval is granted to a citizen-sponsored monument, the applicant shall have a period, not to exceed six (6) months, in which to obtain a professional design, drawings, materials listing, and detailed budget for completion of design, fabrication, permitting, site preparation, installation and maintenance of the proposed monument.
16. City-sponsored monument/City Commission shall establish a budget and funding source for the monument. Budget shall consider the cost relative to other City monuments and maintenance requirements.
17. City to obtain professional design, drawings, materials listing, and budget for completion of design, fabrication, permitting, site preparation, installation, and maintenance of the proposed monument.
18. The ArtLife WPB advisory committee shall review the proposed monument based on the standards and criteria established in this article.
19. The ArtLife WPB committee may, but is not obligated to, recommend funding of a portion of the monument costs from ArtLife WPB funds, not to exceed \$40,000 or fifty percent (50%) of the total cost of design, fabrication and installation, whichever is less.
20. Full Funding. If the ArtLife WPB recommends approval of the monument, the applicant shall have twelve (12) months in which to raise all funding necessary and to submit to the City evidence that such funds have been obtained and are immediately available.
21. The applicant or commissioned artist will present the proposed monument to the City Commission.
22. City Commission approval shall be by a super-majority of the City Commission.
23. Ownership and legal rights. All monuments located on City property shall be titled in the name of the City, and the City shall have all rights regarding the ability to repair, restore, relocate, or remove a monument and to utilize images or reproductions of such monument without notice to or consent of the designer.
24. If the monument is to be maintained by the applicant or other citizen group or private entity, a formal written agreement detailing these obligations and defining the rights and responsibilities of all parties shall be approved for legal sufficiency by the City Attorney's office and approved by the City Commission prior to commencement of installation of the monument on City property.
25. Maintenance may include care of the public property immediately surrounding the monument, depending on the location.

26. The City may require the escrow of maintenance funds or other arrangement to ensure the availability of future maintenance funds.

Ordinance No. 4915-20 will become the ordinance governing the City's public art program.

Fiscal Note:

No fiscal impact.

9. **Public Hearing and Second Reading of Ordinance No. 4919-20 amending the City's Code of Ordinances to prohibit certain conduct that threatens the aesthetic beauty and public health and safety in the City's Downtown and Northwood Area.**

ORDINANCE NO. 4919-20: 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, FLORIDA, AT CHAPTER 54 – OFFENSES, ARTICLE IV – OFFENSES AGAINST PUBLIC PEACE, DIVISION 3, SECTIONS 54-146 AND 54-147, REGARDING PROHIBITED CONDUCT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Agenda Cover Memorandum No.: 23170

Staff Recommended Motion:

Approve Ordinance No. 4919-20.

Background:

The City's Downtown and Northwood Areas have experienced conduct threatening the aesthetic beauty and public health and safety in those areas. Such conduct includes panhandling and soliciting, camping/sleeping in public areas, and public indecency, urination, and defecation. This has become a systemic problem that threatens the use of the Downtown and Northwood Areas by the City's citizens and visitors, placing the profitability of businesses in those areas at risk and threatening the individual well-being of citizens and visitors.

In accordance with *Joel v. City of Orlando*, 232 F.3d 1353 (11th Cir. 2000), the City has a legitimate government purpose in promoting aesthetics, sanitation, public health, and safety. Pursuant thereto, the City wishes to preserve the aesthetic beauty, as well as promote the health, sanitation, and public safety of the City's Downtown and Northwood Areas for all of the City's citizens and visitors. To that end, Ordinance No. 4919-20 regulates and prohibits certain conduct that would negatively affect the aesthetic beauty and the health, sanitation, and public safety of the City's Downtown and Northwood Areas. It does this by: (1) prohibiting panhandling or soliciting in the Downtown and Northwood Areas; (2) regulating sleeping and "camping" in those areas; and (3) prohibiting public indecency, public urination, and public defecation.

- 10. Public Hearing and First Reading of Ordinance No. 4918-20 amending Article IV - Downtown Master Plan to modify the permitted uses within the Industrial Chic District and the Brelsford Park District-Residential and remove the density limitations for the Industrial Chic District.**

ORDINANCE NO. 4918-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ZONING AND LAND DEVELOPMENT REGULATIONS AT ARTICLE IV - DOWNTOWN MASTER PLAN, SECTION 94-105 USE REQUIREMENTS AND TABLE IV-2: PERMITTED USE TABLE FOR DMP AND TABLE IV-3: PERMITTED USE TABLE FOR DMP TO MODIFY PERMITTED USES WITHIN THE INDUSTRIAL CHIC DISTRICT AND BRELSFORD PARK DISTRICT; AND SECTION 94-124 INDUSTRIAL CHIC DISTRICT, TABLE IV-28 BUILDING REQUIREMENTS ICD-5 AND TABLE IV-29 BUILDING REQUIREMENTS ICD-2 TO REMOVE DENSITY LIMITATIONS WITHIN THE INDUSTRIAL CHIC DISTRICT; DECLARING THE PROPOSED AMENDMENTS TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23171

Staff Recommended Motion:

Approve Public Hearing and First Reading of Ordinance No. 4918-20 based upon the testimony presented, the staff report, the Planning Board and Downtown Action Committee recommendations, and the findings that the proposed amendment complies with the Comprehensive Plan and the amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

The Industrial Chic District and Brelsford Park District are an area of downtown that has not seen much redevelopment in comparison to the rest of downtown. In the last few decades, the area has only seen the construction of a storage facility on 7th Street, the renovation of few of the existing houses inside Brelsford Park, and the renovation of some office buildings along the North Dixie corridor. A large portion of the two (2) districts is currently comprised of vacant lots or occupied by non-compatible industrial uses.

In particular, the area along the west side of North Railroad Avenue continues the operation of some industrial uses, such as Palm Beach Cast Stone located at 809 North Railroad Avenue and utilizing several of the lots on the east side of Railroad Avenue for outdoor storage. Other existing buildings are currently vacant. The Danieli Art world gallery occupies the large warehouse at 1009 North Railroad Avenue and Rinker Materials utilizes the property at 1021 North Railroad Avenue as a truck maintenance yard.

On July 14, 2020, Shutts & Bowen, LLC submitted an application on behalf of N. Railroad Commercial, LLC for a code amendment of the Downtown Master Plan requesting a series of changes directed to facilitate the redevelopment of certain properties located within the ICD-5 (west side of North Railroad Avenue). The applicant had acquired several of the existing buildings and intended to renovate them into restaurants, office, a boutique hotel, and possibly retail and residential.

The applicant is proposing two main changes as follows:

1. Permitted Uses Within the ICD-5:

The applicant is requesting a change to the permitted use table to allow retail, office, restaurant and other commercial uses within the ICD-5 sub-district without limitations on size or type.

The current use regulations for the ICD-5 and ICD-2 include a series of restrictions intended to limit the size and type of retail, live/work, office, restaurants, and commercial uses allowed within the district. The district, originally envisioned as an alternative neighborhood with industrial character and less conventional uses, includes a specific provision that limits the type of retail, live/work, office, restaurant and commercial uses, to uses identified as art designer related uses. According to the definition in Section 94-109, art design related uses include architects, landscape architect, artist's studios, graphic designers, interior designers, photographers, culinary arts, flower shops, arts production, dance and music studios, film production, various crafts, fashion designers, merchandising studios, and related studios.

The original intent of the district was to attract art related uses and to promote less conventional uses that may utilize the large open space of old industrial building attractive for their tenants. However, since the adoption of the DMP update in 2007, the district has not seen substantial changes and the existing property owners have reported that they have experienced difficulties in finding tenants that meet the design art related uses definition.

Staff supports the applicant's request, since the existing restrictions seem to be hindering the redevelopment of the district instead of helping it. Staff also supports the removal of the existing restriction that limits the size of restaurants to an occupancy of no more than 75 patrons. For consistency purposes, staff is recommending the same changes to be included for the Industrial Chic District-2.

The applicant's proposal also includes the removal of the existing restriction for storage facilities. Staff does not support the removal of the existing restrictions, which limits storage uses to small businesses and families.

2. Permitted Uses Within the BPD-R:

The applicant is also requesting a change to the permitted use table to allow surface parking lots within the Brelsford Park District – Residential. The applicant is proposing the construction of new surface parking lots on the properties facing Railroad Avenue to serve the renovated structures located on the west side of the street. Over the years, several of the properties located along the east side of Railroad Avenue have been informally converted into outdoor storage and surface parking lots, despite current regulations that do not allow such uses within the BPD-R. All of these lots are associated with industrial uses occupying the existing buildings on the west side of Railroad Avenue. In some cases, hedges have been installed by the property owners to mitigate the negative impact of the outdoor storage.

Despite the fact that surface parking is not a use commonly supported by staff within a residential neighborhood, the particular conditions of the area, and the potential benefits of the renovation of the old industrial buildings along Railroad Avenue into uses more compatible with the residential neighborhood, justifies the change. Several provisions are recommended to mitigate any possible negative impact caused by the surface parking use.

Additional Changes Proposed by City Staff:

In addition to the changes proposed by the applicant, staff is proposing the removal of the existing density limitation for ICD-5 and ICD-2. Currently, Table IV-28: Building requirements ICD-5, includes a maximum density of 40 dwelling units per acre, and Table IV-29: Building requirements ICD-2 includes a maximum density of 20 dwelling units per acre. Similar to the regulations existing within the majority of the downtown core, staff recommends the removal of the density limitations for these two (2) districts to allow more flexibility for the developer to adjust to the market demands on unit size. Despite the removal of the density limitations for both districts, the floor area ratio prescribed for each district is maintained (ICD-5 FAR = 2.75; ICD-2 FAR = 1.0), and the existing requirements for average unit size and minimum unit size are still applicable.

Additional information regarding all proposed changes can be found in the Planning Board report.

COMMUNITY PARTICIPATION: On September 16, 2020, staff facilitated a virtual community participation meeting. During the virtual meeting, the applicant presented to the community the request being presented to the City Commission. Notice for the virtual community meeting was sent via mail to all property owners within the ICD and BPD-R, plus those lying within 500 feet of the two districts, and notice of the public hearings scheduled for the Downtown Action Committee and the Planning Board were also sent to all property owners within the affected area and 500 feet.

NOTICE: A seven (7) day display ad was published in the Palm Beach Post on December 21, 2020. Proof of publication is housed in the Planning and Zoning division records.

DAC: The Downtown Action Committee reviewed and approved (6-0) the proposed amendment during its October 14, 2020 meeting.

PLANNING BOARD: The Planning Board reviewed and approved (7-0) the proposed amendment during its November 17, 2020 meeting.

Commission District 3: Commissioner Christy Fox.

11. Public Hearing and First Reading of Ordinance No. 4925-20 approving and authorizing the sale of City-owned property located on Spruce Avenue (PCN 74-43-43-16-19-072-0062) to N Railroad Land, LLC.

ORDINANCE NO. 4925-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA (“CITY”) AUTHORIZING THE CONVEYANCE OF A CITY OWNED PROPERTY LOCATED ON SPRUCE AVENUE, (PCN 74-43-43-16-19-072-0062), TO N RAILROAD LAND, LLC.; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY FOR THE CONVEYANCE OF SAID PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23166

Staff Recommended Motion:

Ordinance No. 4925-20 on first reading and schedule second reading.

Background:

The City is the owner of the property located on Spruce Avenue, PCN No. 74-43-43-16-19-072-0062 (“Property”). On October 19, 2020, via Resolution No. 259-20, the City determined that the Property was not needed for other City purposes, declared the property surplus, and approved sale with the proceeds going to the Housing Trust Fund as the method of disposition of the property.

The City has negotiated the sale of the property to N Railroad Land, LLC., for \$20,000. The proceeds of the sale will be deposited in the City’s Housing Trust Fund for the development or preservation of affordable or workforce housing.

Pursuant to Section 2-31(27)(c) of the Code of Ordinances, a sale or lease of a property, which is assessed by the county property appraiser for less than \$50,000, does not require an appraisal. The current fair market value of the property is \$15,000, as determined through a Buyer Price Opinion provided by Real Estate Asset Disposition Corp., who is a contractor who currently provides real estate services to the City.

Pursuant to Section 2-31(27) of the Code of Ordinances, the sale of surplus property must be approved by Ordinance. As such, City staff seeks approval of Ordinance No. 4925-20 on first reading, authorizing the sale of the Spruce Avenue Property (PCN No. 74-43-43-16-19-072-0062) to N Railroad Land, LLC.

Commission District 3: Commissioner Christy Fox.

**PUBLIC HEARING – QUASI JUDICIAL (12):
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

- 12. Public Hearing and Second Reading of Ordinance No. 4916-20 regarding a rezoning to change the zoning designation of ±5.97 acres located at 1301 Belvedere Road from Office Commercial to Office Commercial Planned Development;**

Public Hearing of Resolution No. 338-20 approving the development regulations and conditions for the Holiday Inn PBI Office Commercial Planned Development and granting waivers of the Zoning and Land Development Regulations; and

Public Hearing of Resolution No. 339-20 approving the plat entitled “Holiday Inn PBI” dividing the subject property located at 1301 Belvedere Road into two (2) separate parcels (Parcels “A” and “B”) within the Holiday Inn PBI Office Commercial Planned Development.

The above referenced requests are being made by Ele Zachariades of Dunay, Miskel and Backman, LLP, on behalf of AD1 PB Airport Hotels, LLC, to provide for the construction of a four (4) story, 112-room hotel.

ORDINANCE NO. 4916-20: 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, FLORIDA, BY REZONING ±5.97 ACRES LOCATED AT 1301 BELVEDERE ROAD FROM OFFICE COMMERCIAL TO OFFICE COMMERCIAL PLANNED DEVELOPMENT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 338-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE DEVELOPMENT REGULATIONS AND CONDITIONS FOR THE HOLIDAY INN PBI OFFICE COMMERCIAL PLANNED DEVELOPMENT; GRANTING WAIVERS OF THE ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 339-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MINOR SUBDIVISION OF REAL PROPERTY TO CREATE THE PLAT ENTITLED “HOLIDAY INN PBI” CONSISTING OF TWO (2) SEPARATE PARCELS, AND CONTAINING A TOTAL OF 5.97 ACRES LOCATED AT 1301 BELVEDERE ROAD; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23172

Staff Recommended Motion:

Approve Ordinance No. 4916-20 changing the zoning designation of ±5.97 acres located at 1301 Belvedere Road from Office Commercial to Office Commercial Planned Development. 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 Section 94-32 of the City’s Zoning and Land Development Regulations.

Approve Resolution No. 338-20, which will approve the development regulations and conditions for the Holiday Inn PBI Office Commercial Planned Development (OCPD) and granting waivers of the Zoning and Land Development Regulations.

Approve Resolution No. 339-20, which will approve the plat entitled “Holiday Inn PBI” creating two (2) separate parcels (Parcels “A” and “B”) within the Holiday Inn PBI Office Commercial Planned Development (OCPD).

Background:

The subject property is located at 1301 Belvedere Road and is developed with an existing 136,600 square foot, 11-story, 199-room hotel with associated parking. Immediately east of the hotel building, is a vacant sodded area that was previously developed with a restaurant building (demolished in 2016). The subject property lies in close proximity to the Palm Beach International Airport (1.3 miles away), Downtown (2.5 miles away) and is accessible to a variety of local and county roads, and Interstate-95. The area surrounding the property is characterized by a mix of fast-food restaurants, and a variety of office, commercial, and entertainment uses.

The applicant is seeking approval to rezone the property from Office Commercial (OC) to an Office Commercial Planned Development (OCPD) to allow for the redevelopment of the subject property with a second hotel and seek waivers from the requirements of the City’s Zoning and Land Development Regulations (ZLDRs). The proposed secondary hotel is a four (4) story building with 112 rooms. The purpose of the second hotel is to provide additional lodging options in the City that will serve the Airport and Downtown submarkets.

As part of the proposed OCPD, the applicant is requesting waivers from the following requirements of the ZLDRs:

- Front building setback;
- Interior side building setback;
- Required parking;
- Landscape buffer – South property line;
- Landscape buffer – Along the subdivision line dividing Parcels A and B; and
- Loading zone requirement for Parcel B.

CONCLUSION: It is Staff's professional opinion that the proposed redevelopment plan is a significant improvement to the property that will also have a positive effect on future redevelopment in the area. Staff does not object to the waiver requests, as the waivers are necessary in order to provide for an attractive and cohesive development. The proposed development project complies with all of the required standards found in Sections 94-32 of the City's Zoning and Land Development Regulations. Therefore, Staff is recommending approval subject to the conditions contained in Resolution No. 338-20.

PLANNING BOARD: After a Public Hearing on October 20, 2020, the Planning Board recommended approval (7-0) of the requests, subject to the conditions contained in Resolution No. 338-20.

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs had also been posted on the subject property. In accordance with the advertising requirements of the Florida Statutes and the ZLDRs, Ordinance No. 4916-20, and Resolution Nos. 338-20 and 339-20 were advertised in the Palm Beach Post on December 18, 2020.

Commission District 5: Commissioner Christina Lambert.

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

COMMENTS BY THE MAYOR AND CITY COMMISSIONERS:

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

NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.