



**City of West Palm Beach
City Commission**

**DRAFT
AGENDA**

**February 22, 2021
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:

PROCLAMATION (1):

1. **Proclamation by Mayor Keith A. James proclaiming the first Monday in March as: COVID-19 Memorial Day.**
Agenda Cover Memorandum No.: 23217

PRESENTATION (2):

2. **Legislative update by Senator Bobby Powell, Jr.**

APPOINTMENTS (3-6):

3. **City Commission approval is requested for appointment of Kevin Volbrecht and Cristine Perdomo as a member to the Palm Beach Transportation Planning Agency Technical Advisory Committee.**
Agenda Cover Memorandum No.: 23218

Staff Recommended Motion:

Approve the appointment.

Background:

By Resolution No. 220-15, the City Commission approved the Interlocal Agreement for Creation of the Metropolitan Planning Agency, currently called the Palm Beach Transportation Planning Agency ("TPA").

The TPA is responsible for transportation planning in Palm Beach County. By federal regulation, each urban area in the United States creates an agency like this to act as a liaison between local communities, and the state and federal departments of transportation (DOTs). The TPA plans, prioritizes, and funds transportation projects and programs. Every five (5) years, the TPA updates a Long Range Transportation Plan that forecasts transportation demands and identifies cost-feasible projects for the next twenty-five (25) years. The TPA then annually adopts a five (5) year funding program that allocates federal and state transportation dollars to the projects in the Long Range Transportation Plan that are most important to our communities.

The TPA has a Technical Advisory Committee (TAC), which is made up of technical staff representing the various local governments within Palm Beach County, primarily planners and engineers. The TAC is responsible for reviewing and evaluating transportation-related plans and programs before these items are presented to the TPA Board. The TAC ensures that the studies, plans, and programs submitted to the TPA are technically sufficient, accurate, and comprehensive.

The City's member and alternate member to the TAC was Traffic Engineer, Khanh Uyen Dang and Senior Project Engineer, Lina Camacho. Ms. Dang has since resigned from the City.

Upon approval, Kevin Volbrecht, Director of Engineering Services, will now serve as TPA's TAC Committee active member, and Ms. Cristine Perdomo, Project Engineer, will serve as the alternate member.

The appointment of Kevin Volbrecht and Cristine Perdomo to the TAC requires approval by the City Commission. The City's appointment of Mr. Volbrecht and Ms. Perdomo to the TAC will be forwarded to the TPA for approval by the TPA Board.

Fiscal Note:

No fiscal impact.

- 4. City Commission approval is requested for the Mayor's reappointment of Dr. Deandre J. Poole to the Criminal Justice Advisory Committee for a term of two years (2) that expires on March 8, 2023. Dr. Poole 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.: 23219

- 5. City Commission approval is requested for the Mayor's reappointment of Ms. Bonni S. Jensen to the Golf Course Advisory Committee for a term of three years (3) that expires March 2, 2024. Ms. Jensen has served over the maximum allowed number of terms (3) and her place of residence is outside city limits. It is required that the City Commission confirms Ms. Jensen's reappointment.**

Agenda Cover Memorandum No.: 23220

6. **City Commission approval is requested for the Mayor's appointment of Christopher Chase to the West Palm Beach Housing Authority for a term of four years (4) to expire February 5, 2025. It is required that the City Commission confirms Mr. Chase's appointment.**
Agenda Cover Memorandum No.: 23221

CONSENT CALENDAR (7-12):

7. **Minutes of the Regular City Commission Meeting of January 25, 2021.**
Agenda Cover Memorandum No.: 23222

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of January 25, 2021.

8. **Minutes of the Regular City Commission Meeting of February 8, 2021.**
Agenda Cover Memorandum No.: 23223

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of February 8, 2021.

9. **Resolution No. 219-20 authorizing the assessment of city liens in the total amount of \$36,593.58 for unpaid water service, sewer service, and stormwater service charges for the month of May 2020.**

RESOLUTION NO. 219-20: 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 CHARGES FOR THE MONTH OF MAY 2020; 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.: 23224

Staff Recommended Motion:

Approve Resolution No. 219-20.

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. 219-20 are for unpaid water service, sewer service, and stormwater service charges for the month of May 2020. The list of properties to be assessed and the associated charges are in Resolution No. 219-20 as EXHIBIT A - Utility Lien List - May 2020. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

10. **Resolution No. 36-21 authorizing the assessment of city liens in the total amount of \$27,010.60 for unpaid water service, sewer service, and stormwater service charges for the month of August 2020.**

RESOLUTION NO. 36-21: 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 FOR THE MONTH OF AUGUST 2020; 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.: 23226

Staff Recommended Motion:

Approve Resolution No. 36-21.

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. 36-21 are for unpaid water service, sewer service, and stormwater service charges for the month of August 2020. The list of properties to be assessed and the associated charges totaling \$27,010.60 are in Resolution No. 36-21 as EXHIBIT A - Utility Lien List - August 2020. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

11. **Resolution No. 33-21 authorizing submittal of a one (1) year grant application to South Florida Water Management District for the FY 2022 Cooperative Funding Program Water Conservation Project, requesting up to \$31,250 for the Community Water Conservation Measures Project - Phase VIII (High Efficiency Toilet Voucher).**

RESOLUTION NO. 33-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR A COOPERATIVE FUNDING PROGRAM WATER CONSERVATION GRANT, REQUESTING UP TO \$31,250 FOR THE COMMUNITY WATER CONSERVATION MEASURES PROJECT - PHASE VIII (HIGH EFFICIENCY TOILET VOUCHER); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23225

Staff Recommended Motion:

Approve Resolution No. 33-21.

Background:

The South Florida Water Management District (SFWMD) offers a program for the implementation of technology based water conservation projects that address the demand side of the water use equation. The intent of the Community Water Conservation Measures Project - Phase VIII (High Efficiency Toilet Voucher {"HET"}) project is to provide funding to save water through demand reduction and foster water conservation efforts of public and private water providers or large users within the SFWMD boundaries.

The City of West Palm Beach (City) is dedicated to water conservation and water conservation education. The HET Voucher program can supplement these efforts by increasing customer awareness of water efficiency and achieving water efficiency savings for the program participants thus working toward the goals of 'Rethink Paradise: West Palm Beach, Sustainability Action Plan.

The proposed project, Community Water Conservation Measures Phase VIII, would continue past year's successful residential and commercial toilet voucher program.

The total program cost for the one (1) year program is \$62,500. The grant is on a reimbursement basis and would reimburse the City for up to 50% or \$31,250 of the program cost for a one (1) year program.

If awarded, the estimated program costs of \$62,500 will come from the Water & Sewer FY 2022 Operating Fund Budget. The grant is on a reimbursement basis and would reimburse the City for up to \$31,250 - 50% of the program cost for the one (1) year program.

Fiscal Note:

If awarded, appropriations for the estimated program cost of \$62,500 would be made by F-Resolution or included in the Fiscal Year 2022 Water and Sewer Fund 450 Operating Budget.

12. **Resolution No. 37-21 authorizing submittal of a one (1) year grant application to South Florida Water Management District (SFWMD) for the FY 2022 Cooperative Funding Program Water Conservation Project, requesting up to \$55,725 for an Urban Irrigation Efficiency Improvement Program, Phase One.**

RESOLUTION NO. 37-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR A COOPERATIVE FUNDING PROGRAM WATER CONSERVATION GRANT, REQUESTING UP TO \$55,725 FOR AN URBAN IRRIGATION EFFICIENCY IMPROVEMENT PROGRAM, PHASE ONE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23227

Staff Recommended Motion:

Approve Resolution No. 37-21.

Background:

The South Florida Water Management District ("SFWMD") offers a program for the implementation of technology based water conservation projects that address the demand side of the water use equation through the Cooperative Funding Program (CFP) for Water Conservation (WC) projects. The focus of the CFP WC component is to share costs on water conservation efforts of public and private water providers and/or users. Projects that use hardware and/or technology to implement water conservation improvements are eligible for funding consideration.

The City of West Palm Beach is dedicated to water conservation and water conservation education, and the Office of Sustainability proposes an Urban Irrigation Efficiency Improvement Program, Phase One to evaluate up to 150 residential irrigation systems and to provide a minimum of 100 hardware installations to increase the system's efficiency. The project proposes to contract with Palm Beach Soil and Water Conservation District to provide the irrigation evaluations and hardware installations to residential properties within the city boundaries. This is a new, phase one project, and if successful would be continued in future years to expand to more properties as funding allows.

Palm Beach Soil and Water Conservation District's mission is to educate residents, land users, and businesses on ways to protect our natural resources, promote best management practices, and conserve, improve, and sustain the environment. The Palm Beach Soil & Water Conservation District is a not-for-profit 501(c)3. It is a division of the State of Florida; however, it does not levy taxes or issue bonds, or have the means to enforce land use laws. The District works with local businesses and agencies to provide conservation services throughout Palm Beach County.

The total cost for one (1) year of the Urban Irrigation Efficiency Improvement Program Phase One is \$111,450. If awarded, the estimated program costs of \$111,450 will be funded through the Water & Sewer FY 2022 Operating Fund Budget. The SFWMD grant is on a reimbursement basis and would reimburse the City for up to 50% or \$55,725 of the program cost for the one (1) year program.

Fiscal Note:

No fiscal impact at this time. If awarded, the estimated program revenue of \$55,275 and costs of \$111,450 will be appropriated in the Water & Sewer Operating Fund 450 Budget.

RESOLUTIONS (13-16):

13. **Resolution No. 35-21(F) amending the Fiscal Year 2020/2021 General Fund budget to recognize parking meter donation of \$3,149 for Martin Luther King Day, January 18, 2021, and appropriating the funds for a donation to the Martin Luther King Caregivers.**

RESOLUTION NO. 35-21(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 GENERAL FUND BUDGET TO RECOGNIZE PARKING METER REVENUES AND PROVIDE APPROPRIATIONS FOR A DONATION TO MARTIN LUTHER KING CAREGIVERS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23228

Staff Recommended Motion:

Approve Resolution No. 35-21(F).

Background:

Resolution No. 35-21(F) appropriates the Parking Meter Donations from the Martin Luther King (MLK) Holiday to the Martin Luther King Caregivers. The Martin Luther King Caregivers are volunteers who provide assistance to the frail elderly and homebound in the inner City of West Palm Beach. This program began in 1996 and continues to provide much needed assistance.

A donation of \$3,149 is awarded to the Martin Luther King Caregivers program for the 2021 MLK holiday.

Fiscal Note:

Approval recognizes donation proceeds and provides appropriations for Martin Luther King Caregiver programming.

- 14. Resolution No. 17-21 approving a license agreement between Environment Risk Management, Inc. on behalf of the Florida Department of Environmental Protection and the City of West Palm Beach for Groundwater monitoring at 1028 North Tamarind Avenue.**

RESOLUTION NO. 17-21: RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A LICENSE AGREEMENT BETWEEN ENVIRONMENT RISK MANAGEMENT, INC., ON BEHALF OF THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND THE CITY OF WEST PALM BEACH FOR GROUNDWATER MONITORING AT 1028 NORTH TAMARIND AVENUE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23229

Staff Recommended Motion:

Approve Resolution No. 17-21.

Background:

The City owns a vacant lot at 1028 North Tamarind Avenue. The Florida Department of Environmental Protection (FDEP) has determined that, in the past, a petroleum storage facility was located across the street at 1029 North Tamarind Avenue, a parcel under private ownership. The site at 1029 North Tamarind Avenue is contaminated and FDEP has found that, based on previous environmental assessment data summaries, the groundwater contamination likely extends under North Tamarind Avenue. In order to determine the full extent of groundwater contamination, FDEP has retained the Services of Environmental Risk Management, Inc. (ERMI) to install monitoring wells in various locations in order to determine the full extent of groundwater contamination. The City's lot is across the street from the contaminated site and is the location for the desired monitoring well, and FDEP is requesting the City's permission to install the well.

Should the City grant FDEP permission to install the monitoring well, staff is requesting the City Commission to authorize the Mayor to execute a License Agreement substantially in the form in Resolution No. 17-21 as Exhibit A. The License Agreement provides certain protections for the City including, but not limited to, requiring that if remediation is required, the City and FDEP must enter into a separate agreement describing the terms and conditions under which such remediation will occur. In addition, the agreement limits the hours of operation from 8:00 a.m. to 5:00 p.m., prohibits excessive noise or vibration and requires restoration of the site to its original or better condition upon completion of the activities. The duration of the license will remain in effect for 180 days (6 months) from the date of the execution by the City.

Commission District 3: Commissioner Christy Fox.

15. **Resolution No. 29-21 granting an access easement to Center 513, LLC to allow pedestrian access to the property located at 513 Clematis Street through the City-owned Clematis Passageway located on the west side of the Clematis Street Garage at 500 Banyan Boulevard.**

RESOLUTION NO. 29-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AN ACCESS EASEMENT IN FAVOR OF CENTER 513, LLC, OWNER OF THE PROPERTY LOCATED AT 513 CLEMATIS STREET, TO CROSS A PORTION OF THE CITY-OWNED CLEMATIS PASSAGEWAY PROPERTY LOCATED AT 500 BANYAN BOULEVARD TO ACCESS 513 CLEMATIS STREET; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23230

Staff Recommended Motion:

Approve Resolution No. 29-21.

Background:

In July 2020, Center 513, LLC submitted an interior build-out and remodel permit for the back structure located at 513 Clematis Street. Between the two buildings on site at 513 Clematis (Clematis frontage structure and the back structure) exists a courtyard with a wall along the east property line. Within this wall area is an existing doorway that leads from the courtyard directly onto the City-owned 500 Clematis Passageway (“Passageway”). This City-owned Passageway connects from the Clematis Street sidewalk to the alley behind the north 500 block of Clematis. The Passageway is directly between the 513 Clematis property and the City-owned parking garage at 500 Banyan Boulevard (Clematis Garage).

The Clematis passageway is currently activated with tables and chairs from Subculture coffee, and the sidewalk extension to connect Clematis Street with Banyan Boulevard was recently completed. The sidewalk extension provides a comfortable pedestrian connection between the two streets, and the ultimate vision is to have active uses facing the Clematis passageway. The existing door at 513 Clematis supports the desire to activate the Clematis passageway, and considering the door has existed for several years, staff recommended the owner to apply for the access easement to legalize the access across the City-owned property.

This access easement is necessary to permit the ingress, egress, and use of the Easement Area as a pedestrian access way from the Passageway to the 513 Clematis Street property. Resolution No. 29-21 approves the Access Easement.

Commission District 3: Commissioner Christy Fox.

16. Resolution No. 25-21 approving a Development Agreement and Restrictive Covenant for The Grand project for the utilization of TDRs under the affordable housing incentive program.

RESOLUTION NO. 25-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE DEVELOPMENT AGREEMENT AND RESTRICTIVE COVENANT BETWEEN ROSEMARY WPB, LLC, AND THE CITY OF WEST PALM BEACH REGARDING THE TRANSFER OF DEVELOPMENT RIGHTS AND AFFORDABLE HOUSING FOR THE GRAND PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23231

Staff Recommended Motion:

Approve Resolution No. 25-21.

Background:

On November 7, 2019, Harvey E. Oyer, III of Shutts & Bowen, on behalf of WPB Rosemary, LLC ("Developer"), submitted an application for a 309-unit mixed income housing residential building at 620 3rd Street generally bounded by North Sapodilla Avenue to the west, North Rosemary Avenue to the east, 2nd Street to the south, and 3rd Street to the north within the Northwest Neighborhood. The Project is known as "The Grand". The building has received approval for special review through the Downtown Action Committee (DAC) and is under site plan review. The project is utilizing the affordable housing incentive program, which authorizes the City to transfer City-owned development rights to the project at no cost in exchange for the provision of workforce and affordable housing units as regulated by Section 94-134 of the City's Zoning and Land Development Regulations (ZLDRs).

The Affordable Housing Incentive is intended to promote the creation of workforce and affordable housing by allowing additional development capacity for projects, which include affordable and workforce housing units. The City's Housing and Community Development Department (HCD) determines which percentages are considered "affordable" and which are considered "workforce". The City's current definition of affordable is anything under 80% of the AMI and workforce is anything between 81-120% of the AMI. The incentive is only available to properties eligible as a receiving site in Table IV-35 of the Downtown Master Plan. The Grand property is within the Northwest District 2-8 receiving site area and is eligible to use this incentive with the provision of workforce and affordable housing units.

In order to apply for the incentive, the Developer must comply with specific standards of Section 94-134, including obtaining City Commission authorization for the conveyance of City-owned development rights. The City's TDRs can be dedicated to residential use only and may not be used for any commercial or amenity space within the proposed project. If the site plan approval expires prior to commencement of construction, the development rights transferred by the City at no cost are forfeited and revert back to the City.

All of the workforce and affordable housing units shall meet all requirements of Section 94-134(e), which sets specific standards for the units. The Developer is also required to comply with the requirements established within the Workforce Incentives Loan Agreement between the City of West Palm Beach and the Developer, which was previously approved by the City Commission in October 2020. This Loan Agreement grants a loan of \$1,000,000 to be used to fund pre-construction project costs in connection with the project. Other incentives included within the Agreement include fee waivers for the alley abandonment, expedited permitting, art in public places, and for water and sewer utility capacity charges. Additionally, the City agreed to reduction in cost of engineering construction administration fees, engineering site development review fee, roadway and sidewalk closure fee, and a reduction for parking requirements.

The Loan Agreement previously approved and the TDR Agreement requires the Developer to comply with affordable and workforce housing set-asides for the units within the proposed development as follows:

- One-third (1/3) of the total dwelling units rented to tenants that earn up to one hundred percent (100%) of the AMI, with a minimum of forty percent (40%) rented to tenants that earn no more than eighty percent (80%) of the AMI;
- One-third (1/3) of the total dwelling units rented to tenants that earn up to one hundred and forty percent (140%) of the AMI, with a minimum of thirty percent (30%) rented to tenants that earn no more than one hundred twenty percent (120%) of the AMI; and
- One-third (1/3) of the total dwelling units shall be unrestricted.

The maximum rent the Developer may charge shall be governed by the rent limit amounts established annually by the Florida Housing Finance Corporation for the type and size of unit, for the West Palm Beach - Boca Raton Housing and Mortgage Finance Agency (HFMA). Along with the Loan Agreement, a Restrictive Covenant was signed between the City of West Palm Beach and the developer to enforce the mixed income housing requirements and the affordability period, which shall remain in effect for fifteen (15) years following the issuance of a certificate of occupancy.

The Downtown Action Committee reviewed the TDR transfer request at their January 13, 2021 meeting and unanimously recommended approval. The current approximate cost for each square foot of TDRs is \$12 - \$15 per square foot.

Resolution No. 25-21 approves the Development Agreement and Restrictive Covenant, which requires the developer to provide for residential units within the project at workforce and affordable income ranges, maintain affordability for a period of 15 years, and approves the transfer of 162,449 square feet of City-owned TDRs from Gateway Park to The Grand project.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

**PUBLIC HEARING – QUASI JUDICIAL (17):
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

- 17. Resolution No. 30-21 approving the abandonment of the east-west alley right of way located between Rosemary Avenue and Sapodilla Avenue, 2nd Street and 3rd Street, associated with the construction of The Grand residential project.**

RESOLUTION NO. 30-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING THE EAST-WEST ALLEY RIGHT-OF-WAY LOCATED BETWEEN ROSEMARY AVENUE AND SAPODILLA AVENUE, 2ND STREET AND 3RD STREET; AUTHORIZING A DISCLAIMER OF INTEREST IN THE AFORESAID RIGHT-OF-WAY UPON COMPLIANCE WITH CONDITIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23232

Staff Recommended Motion:

Approve Resolution No. 30-21 abandoning the east-west alley right of way located between Rosemary Avenue and Sapodilla Avenue, 2nd Street and 3rd Street, subject to the condition that the existing Florida Public Utilities facilities in the alley are relocated.

Background:

On November 7, 2019, Harvey E. Oyer, III of Shutts & Bowen, on behalf of Rosemary WPB, LLC, submitted a formal site plan application for the construction of a new mixed-income residential project on the 2.54-acre property generally located between Sapodilla Avenue and Rosemary Avenue, 3rd Street and 2nd Street. The site is currently vacant, and an alley separates the north and south sides of the property.

The proposed development is located within the Northwest Neighborhood District, at the edge of the district closer to the downtown core. The proposed project includes a new 8-story workforce residential building with 309 units, 3,657 sf of ground floor commercial use, and a 6-level parking garage with 410 parking spaces, with a total square footage of 288,824 sf.

The developer of The Grand project entered into a workforce incentive loan agreement with the City (Resolution No. 349-19) and into a development agreement with the Community Redevelopment Agency by which the City and the CRA provide supporting funding and special incentives for the construction of the project with the condition that the project provides workforce and affordable housing units for rent as follows:

- 1/3 of the total dwelling units to tenants that earn up to 100% of the AMI, with a minimum of 40% of these units for tenants that earn no more than 80% of the AMI.
- 1/3 of the total dwelling units to tenants that earn up to 140% of the AMI, with a minimum of 30% of these units to be rented to tenants that earn no more than 120% of the AMI.
- No more than 1/3 of the units shall be unrestricted.

Construction of the proposed project requires abandonment of the east-west alley right of way that runs in the middle of the subject property. The alley abandonment would allow the site to be consolidated into one (1) single site. The alley is a 15-foot wide alley extending from Sapodilla Avenue to Rosemary Avenue, with a total square footage of 7,500 sf. There are two (2) properties adjacent to the alley, one is the subject site and the other property is 631 2nd Street. Once abandoned, a portion of the alley (375 sf) will, as a matter of law, become part of the adjacent 631 2nd Street property.

An appraisal to determine the value of the alley was not conducted as the Project is an affordable housing project. However, the value of the alley is estimated to be approximately \$62,846 based on the value of the adjacent land as recorded in the Palm Beach County property appraisals website.

Although the abandonment of alleys is discouraged downtown, the proposed abandonment does not represent a major impact to downtown. The block will be consolidated into one (1) single project and will not impact transportation in the downtown. The subject site is located on the edge of a residential subdistrict and adjacent to non-residential subdistricts NWD-2 and NWD-5.

Alley abandonments must comply with Section 78-217 of the City Code, which, among other criteria, includes consideration of the necessity to relocate public and/or private utilities. Florida Public Utilities has facilities underground within the alley. Staff recommends that approval of the alley abandonment be conditioned upon the relocation of the FPU utilities. With that condition, Planning Staff has found that the abandonment will meet the criteria for vacation or closure of a right-of-way as prescribed by Section 78-217 of the City Code.

The project will implement the following strategies to compensate for the abandonment of the alley:

- a. Internal trash storage: The trash collection is organized internal to the parking garage, and the trash containers will be rolled to the street for pick up only.

- b. Provide an open space equal to the size of the vacated alley: The project is required to provide 11,062 sf of private open space. In addition, the project will develop an additional 7,500 sf, equivalent to the size of the alley, into supplemental private open space dedicated for the tenants' use. The total area of the private open space provided by the project will be 19,324 sf.

DAC REVIEW: The Downtown Action Committee reviewed the proposed abandonment and recommended approval (6-0) during its January 13, 2021 meeting. Mailers were sent to all property owners 500 feet around the subject alley, and a sign was posted on site with a notice of the public rearing as required by Section 78-215 of the City Code.

Commission District 3: Commissioner Christy Fox.

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.