



**City of West Palm Beach
City Commission**

AGENDA

**March 8, 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. **Proclaiming March 2021 as: Women’s History Month. Proclamation to be accepted by Congresswoman Lois J. Frankel.**
Agenda Cover Memorandum No.: 23233

CONSENT CALENDAR (2-10):

2. **Minutes of the Regular City Commission Meeting of February 22, 2021.**
Agenda Cover Memorandum No.: 23234

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of February 22, 2021.

3. **Resolution No. 31-21(F) authorizing the appropriation of \$150,000 from the Public Utilities Capital Fund 453 reserve for the purchase of a tanker, and a trailer for use by Public Utilities personnel to respond to emergencies and repairs of force mains and lift stations.**

RESOLUTION NO. 31-21(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 WATER AND SEWER UTILITIES CAPITAL FUND BUDGET TO PROVIDE APPROPRIATION OF FUNDING FOR THE PURCHASE OF EQUIPMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23235

Staff Recommended Motion:

Approve Resolution No. 31-21(F).

Background:

Approval of Resolution No. 31-21(F) would provide appropriation of \$150,000 for the purchase of a 7,000 gallon tanker at an approximate cost of \$82,726 and a Lowboy trailer at an approximate cost of \$58,396.

In October and November 2020, Southeast Florida saw unprecedented rainfall, king tides, and Tropical Storm Eta, resulting in a high water table and saturation of the ground. The City contracted with vendors to help pump down the sanitary sewer system and lift stations to avoid sanitary overflows. Having a tanker in house will allow a rapid response to similar emergencies in the future and will be used by Public Utilities' Sanitary Collections and Pumping Operations staff to respond to emergencies with downed lift stations, high-water events, force main repairs, pump outs, and bypassing of lift stations. The purchase of the tanker will save money and time by reducing and potentially eliminating the high cost of contracted pumping. The lowboy trailer will help move heavier equipment around faster and safer. The purchase of the trailer will eliminate towing charges currently incurred for towing heavy machinery for maintenance and Public Utilities construction activities throughout the City.

Fiscal Note:

Post approval, the Water and Sewer Utilities Capital Fund 453 reserve for future projects balance will be approximately \$316,000.

4. **Resolution No. 39-21 accepting donations from the West Palm Beach Police Foundation canine equipment and of safety helmets and underwater flashlights for the Dive Team, totaling an approximate value of \$12,000.**

RESOLUTION NO. 39-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING FROM THE WEST PALM BEACH POLICE FOUNDATION A DONATION OF DIVE TEAM AND CANINE EQUIPMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23236

Staff Recommended Motion:

Approve Resolution No. 39-21.

Background:

The West Palm Beach Police Foundation is forwarding a donation of canine training equipment they received from Crazy Tuff K9 Gear (Peter Swart). The equipment has been approved by the Police Department Canine Trainers and would help to keep expenses of the canine unit closer to earlier years, despite the increased number of dogs and handlers. The retail cost of the training equipment to be donated is approximately \$6,500 (\$600-\$650 in equipment per dog).

The Foundation also received a directed donation from Justice for Kids, a division of Kelley Kronenberg, in the amount of \$2,500 to assist with the expenses of retrofitting a vehicle for the Jimmy Ryce Foundation sponsored bloodhound.

The Foundation also became aware of un-met needs of the Dive Team and committed to purchase essential safety gear required for the team. The Foundation purchased underwater flashlight systems to assist with nighttime or dark water searches and has reimbursed a purchase made by the City to provide safety helmets for the newest of the Dive Team vessels. The safety gear has a total value of \$2,905.40 (\$940 for the helmets and \$1,965.40 for the underwater light systems).

A revenue account has already been established to accept authorized donations from the Foundation.

Fiscal Note:

The donations have an approximate value of \$12,000.

5. **Resolution No. 40-21 authorizing the assessment of city liens in the total amount of \$23,114.22 for unpaid water service, sewer service, and stormwater service charges for the month of November 2020.**

RESOLUTION NO. 40-21: 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 NOVEMBER 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.: 23237

Staff Recommended Motion:

Approve Resolution No. 40-21.

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. 40-21 are for unpaid water service, sewer service, and stormwater service charges for the month of November 2020. The list of properties to be assessed and the associated charges totaling \$23,114.22 are in Resolution No. 40-21 as EXHIBIT A - Utility Lien List - November 2020. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

6. **Resolution No. 41-21 approving a Conditional Settlement Agreement in the amount of \$95,000 in the matter of Rosalind Helton v. City of West Palm Beach.**

RESOLUTION NO. 41-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT FOR \$95,000 IN THE MATTER OF ROSALIND HELTON V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23238

Staff Recommended Motion:

Approve Resolution No. 41-21.

Background:

Ms. Rosalind Helton was a passenger in a vehicle that was involved in an accident on a City of West Palm Beach roadway on November 2, 2015. Ms. Helton subsequently filed a complaint for personal injury damages against the City of West Palm Beach, to wit: Rosalind Helton v. City of West Palm Beach, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida, Case No.: 50 2017CA009367XXXXMB AO. An agreement has been reached with Ms. Helton and her attorney to resolve her personal injury claim for \$95,000. Ms. Helton has signed a general release that releases the City from all claims arising from this accident, which ends all of her claims for damages, including all attorney's 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. 41-21 approves the conditional settlement agreement.

7. **Resolution No. 43-21(F) amending the Fire Department's FY21 General Fund operating budget for the purchase of a subscription service for \$34,495.75 to implement an annual fire policy and training manual program from Lexipol, LLC.**

RESOLUTION NO. 43-21(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 PROVIDE APPROPRIATIONS FOR THE PURCHASE OF A SUBSCRIPTION SERVICE FOR IMPLEMENTATION OF AN ANNUAL FIRE POLICY AND TRAINING MANUAL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23239

Staff Recommended Motion:

Approve Resolution No. 43-21(F).

Background:

The West Palm Beach Fire Department is seeking funding to purchase a subscription from Lexipol, LLC as an editing company for the Fire Department's administrative policies, procedures, and tactical guidelines. Lexipol provides state-specific, customized policies, and training solutions. The product will align the Fire Department's internal policies with state and federal law, national standards, and local regulations.

The Lexipol Policies and Training subscription features include: copyrighted policy manual content, document management, copyrighted training content and testing. The fire department is required to comply with regulations from a variety of agencies, including but not limited to: the Drug Enforcement Administration (DEA), Department of Transportation (DOT), Florida Department of Health (DOH), Florida Division of Financial Services, and the National Fire Protection Association (NFPA). The Fire Department does not have the resources to continuously research and monitor changes to the current standards from various governing agencies.

Lexipol's all in one product will save hundreds of administrative staff hours per year attempting policy review and training on the policies, especially ahead of promotional examinations. Lexipol solely offers this service and guarantees consistency of language and content throughout the Fire Department's more than 2,500 pages of material. The total cost for year 1 implementation and training is \$34,495.75. This item has not been budgeted for in FY21; however, the Fire Department General Fund training budget will have sufficient available budget remaining (\$32,100), due to the offset of significant 2018 AFG grant funding that has provided for officer training. The additional \$2,400 needed is available from EMS operating supplies, due to a cost savings from the implementation of a digital inventory system. The subsequent two (2) year subscription of \$17,806.80 per year will be available from Emergency Medical Supplies FY22 cost savings from the inventory system.

Fiscal Note:

Approval provides for the transfer of Materials & Services budget allocations in the Fire Department General Fund from training and operating expense to other contractual services.

8. **Resolution No. 51-21(F) accepting and appropriating funding in the amount of \$5,000 from The Walter & Adi Blum Foundation, Inc. to reimburse the Parks and Recreation Department for the funds used to purchase Christmas presents for school aged children who attend schools and programs that serve the Pleasant City Community.**

RESOLUTION NO. 51-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OF 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 DONATION FUND BUDGET TO RECOGNIZE THE DONATION FROM THE WALTER AND ADI BLUM FOUNDATION, INC. TO REIMBURSE THE CITY FOR THE PURCHASE OF CHRISTMAS PRESENTS IN 2020; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23240

Staff Recommended Motion:

Approve Resolution No. 51-21(F).

Background:

The Walter and Adi Blum Foundation, Inc. has once again generously donated \$5,000 to reimburse the purchase of Christmas presents for children who attend local elementary, middle, and high schools, after-care, childcare programs that serve the Pleasant City Community. Programs include Tyson's Tiny Tots, Pleasant City Youth Empowerment Center, and Coleman Park Community Center after-school program. Due to COVID-19 restrictions, every effort was made to ensure that a child went home with a present, with the need being more significant this year.

Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

No fiscal impact. Additional revenue offsets additional expense.

9. **Resolution No. 69-21 accepting a historical marker commemorating the Women's Suffrage parade in West Palm Beach in 1917 for installation within the City's Waterfront.**

RESOLUTION NO. 69-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A MARKER TO COMMEMORATE THE 1917 WOMEN'S SUFFRAGE PARADE IN WEST PALM BEACH FROM THE WILLIAM G. POMEROY FOUNDATION PROGRAM; AUTHORIZING INSTALLATION OF THE MARKER AT THE WATERFRONT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23249

Staff Recommended Motion:

Approve Resolution No. 69-21.

Background:

The City of West Palm Beach has received a request from Ms. Killian O'Donnell of the Votes for Women National Trail to install a women's suffrage marker at 101 South Flagler Drive within the City's Waterfront to commemorate the suffrage parade as part of the Seminole Sun Dance festival. According to the application provided to staff, these markers are being placed at prominent locations across the country to recognize the 2020 centennial celebration of women's suffrage in the United States. The William G. Pomeroy Foundation is funding the Historic Markers.

In January 1917, the Palm Beach County Equal Suffrage League reported that they received a special message from the secretary of the West Palm Beach Board of Trade inviting the league to take part in the Seminole Sun Dance festival in March of that year. The league then consulted with Mrs. Herbert Sanford Carpenter, of New York, who had organized and led several large parades throughout the Country. The suffragists and the Woman's Club invited Mrs. William Jennings Bryan to the event.

National suffragists appeared before the general Sun Dance committee and announced their attention to participate in Sun Dance festivities parade. The Sun Dance committee accepted and pledged its cooperation to induce the largest possible number of local citizens to enter the equal suffrage section of the parade, which was the climax of the Flagler Day ceremonies. So important was this event, that famous newspaper writers were ordered to remain in the city to cover it.

Four hundred (400) suffragists were in the parade line, which took place on March 8, 1917 and consisted of more than 25,000 persons. The proposed marker inscription would read as follows:

“On March 8, 1917, 400 women marched in the Flagler Day parade. Miss Evans was dressed as Joan of Arc on a white horse.”

The suffrage parade was made the subject of many moving pictures and was recorded as the first for Florida and for the south.

The Planning Division and Parks & Recreation staff will select an appropriate location on the City's Waterfront for installation of the marker.

Fiscal Note:

No fiscal impact.

10. **Resolution No. 27-21 approving a locally funded agreement with the State of Florida Department of Transportation, to provide \$35,000 toward the Downtown West Palm Beach Transportation Management Initiative.**

RESOLUTION NO. 27-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A LOCALLY FUNDED AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION TO PROVIDE FUNDING TOWARDS THE DOWNTOWN WEST PALM BEACH TRANSPORTATION MANAGEMENT INITIATIVE THROUGH SEPTEMBER 30, 2021; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23242

Staff Recommended Motion:

Approve Resolution No. 27-21.

Background:

Resolution No. 27-21 authorizes the Mayor to execute a locally funded agreement with the Florida Department of Transportation (FDOT) to continue FDOT's participation and funding toward the Transportation Management Initiative through Fiscal Year 2020-2021. The City will pay FDOT the sum of Thirty Five Thousand (\$35,000) for its services. FDOT's share under this agreement is Twenty Five Thousand (\$25,000) for a total cost of Sixty Thousand (\$60,000).

As part of the Transportation Concurrency Exception Area (TCEA) adopted by the City in 1997 and Palm Beach County, and included in their respective Comprehensive Plan's Transportation Elements, the City of West Palm Beach was required to implement a series of programs and strategies in order to address congestion within the downtown. In January 2002, a meeting of downtown West Palm Beach stakeholders was held to discuss solutions to traffic congestion. City leaders, County leaders, representatives of the Florida Department of Transportation (FDOT), and the Downtown business community reached a clear consensus that one effective solution to traffic would be to establish a Downtown West Palm Beach Transportation Management Initiative (TMI). The City of West Palm Beach and the FDOT have periodically executed joint participation agreements to fund the TMI. The TMI is a public/private initiative that provides transportation assistance to employers, commuters, residents, and the Downtown business community. In addition, it serves as a forum for coordinating public and private efforts relating to transportation issues. The purpose of the TMI is to address downtown West Palm Beach traffic congestion and parking demand by encouraging and promoting alternatives to single occupancy vehicles in the downtown.

South Florida Commuter Services (SFCS), the regional commuter assistance program of FDOT, was contracted to operate the TMI. In June 2002, a full time Program Coordinator was hired and the TMI started operations. Since that time, and on an annual basis, the City and the FDOT have extended this agreement in which the City agrees to pay its annual share towards the project's cost in order to fulfill the TCEA requirements and to promote alternative modes of transportation in the City.

In total, for FY 2020-2021, the City will contribute the sum of Thirty Five Thousand (\$35,000) towards this agreement, which is the same amount the City has contributed for the last few years, while FDOT's share under this agreement is Twenty Five Thousand (\$25,000), for a grand total of Sixty Thousand (\$60,000). These amounts will fund approximately twenty (20) hours per week of SFCS staff dedicated to West Palm Beach TMI functions, with the rest of their time being dedicated to Countywide TMI tasks.

Pursuant to the Agreement, the City agrees to utilize the Federal government e-Verify system to verify the employment of new employees.

Fiscal Note:

The \$35,000 will be funded from the General Fund for Planning under Account No. 001-033220-515-500340-00000000.

PUBLIC HEARINGS (11-14):

11. **Public Hearing and First Reading of Ordinance No. 4933-21 proposed City-initiated amendments to the Future Land Use Element (FLUE) of the City's Comprehensive Plan regarding Mixed Use Districts (MUDs), the Currie Mixed Use District (CMUD), and the Broadway Mixed Use District (BMUD).**

ORDINANCE NO. 4933-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MODIFYING THE COMPREHENSIVE PLAN TO AMEND THE FUTURE LAND USE ELEMENT AT POLICY 1.7.2.1A TO REMOVE THE REFERENCE TO THE STREET VISTAS REGULATING PLAN; POLICY 1.7.2.1B TO REMOVE THE REFERENCE TO THE LIMITED DURATION RESIDENTIAL INCENTIVE; POLICY 1.7.2.3 TO DELETE THE MAXIMUM HEIGHT CAP FOR THE CURRIE MIXED USE DISTRICT; AND POLICY 1.7.2.4 TO DELETE REFERENCES TO BUILDING TYPOLOGY FOR THE BROADWAY MIXED USE 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.: 23243

Staff Recommended Motion:

Approve Ordinance No. 4933-21 amending the Comprehensive Plan and direct submittal of the amendments to the State Land Planning Agency.

Background:

The proposed City-initiated amendments will modify existing policies 1.7.2.1a, 1.7.2.1b, 1.7.2.3, and 1.7.2.4. of the Future Land Use Element (FLUE) of the City's Comprehensive Plan regarding Mixed Use Districts (MUDs), the Currie Mixed Use District (CMUD), and the Broadway Mixed Use District (BMUD) to reflect future desires and outcomes, to remove outdated language and to remove from the Comprehensive Plan provisions dealing with building types and heights that are more appropriate for the Zoning and Land Development Regulations (ZLDRs).

The proposed amendments are centered on three (3) main items: (1) removing the general policies language from Mixed-Use Districts pertaining to the Street Vistas Regulating Plan and from the sunsetted limited duration residential incentive program; (2) removing from the Comprehensive Plan specific criteria for maximum building height for the Currie Mixed Use District; and (3) deleting from the Broadway Mixed Use District language dealing with building typology and height.

The City will also amend the Zoning and Land Development Regulations (ZLDRs) regarding the Mixed-Use Districts, Currie Mixed Use District, and Broadway Mixed Use District. Since amendments to the Comprehensive Plan involve a longer processing period because they require the review of the Florida Department of Economic Opportunity (DEO) and other agencies, the matching revisions to the ZLDRs will be presented to the City Commission in upcoming months. The intent is that both the Comprehensive Plan amendments contained in this Ordinance and the corresponding amendments to the ZLDRs, will be adopted concurrently by the City Commission later this year. None of the proposed amendments will increase the amount of development that is permitted within each of the Mixed Use Districts.

The proposed amendments were endorsed by the Community Redevelopment Agency Advisory Board (CRAAB) during its January 8, 2021 meeting. The Planning Board recommended approval (7-0) of this request to the City Commission after a Public Hearing on January 19, 2021.

Fiscal Note:

No fiscal impact.

12. **Public Hearing and First Reading of Ordinance No. 4935-21 amending Article X Supplemental District Regulations of Chapter 94 Zoning and Land Development Regulations (ZLDR) amending the dock regulations to be consistent with State Statutes.**

ORDINANCE NO. 4935-21: 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 94, ZONING AND LAND DEVELOPMENT REGULATIONS; ARTICLE X, SUPPLEMENTAL DISTRICT REGULATIONS; DIVISION 1, GENERALLY; SECTION 94-313, DOCKS, TO BE CONSISTENT WITH GENERAL LAW; DECLARING THIS AMENDMENT TO BE CONSISTENT WITH 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.: 23244

Staff Recommended Motion:

Approve Public Hearing and First Reading of Ordinance No. 4935-21 based upon the testimony presented, the staff report, the Planning Board 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:

Previously, state law allowed water management districts and the Department of Environmental Protection (DEP) to require an environmental resource permit (ERP) and impose reasonable conditions to ensure certain construction activities comply with the law and will not harm water resources from the construction of docks. Some projects could be exempted for ERP permitting if they met specific statutory restrictions, and local governments could require an application to get verification from DEP that an activity qualifies for an ERP exception. An ERP exception existed for the replacement or repair of a dock or pier if the replacement or repaired dock or pier is in the same location and under specific conditions. The exception allowed minor deviations to upgrade the dock or pier to current structural and design standards.

As of July 1, 2020, Section 403.813, Florida Statutes, now prohibits local governments from requiring further verification from DEP that a particular construction activity meets an ERP exception. In addition, the changes revised the ERP exception for the replacement or repair of existing docks and piers to allow for the repair or replacement, if it is within five (5) feet of the same location, and no larger than the existing dock or pier, and no additional aquatic resources are adversely and permanently impacted.

The proposed text amendment inserts language that brings the City's dock regulations into compliance with State Statutes. Additional information regarding the proposed change can be found in the Planning Board report.

NOTICE: This item will be advertised in the Palm Beach Post ten (10) days before the Second Reading.

PLANNING BOARD: The Planning Board reviewed and approved (7-0) the proposed amendment during its January 19, 2021 meeting.

Commission District: This amendment will apply Citywide.

13. **Public Hearing and First Reading of Ordinance No. 4936-21 amending Chapter 78, Article X: Sidewalk Cafes, to introduce new regulations for sidewalk café seating; and discussion of Resolution No. 55-21 amending the fee schedule for sidewalk cafe seating permits.**

ORDINANCE NO. 4936-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 78 – STREETS, SIDEWALKS AND PUBLIC PLACES TO AMEND AND REPLACE ARTICLE X – SIDEWALK CAFES; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 55-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE COMPREHENSIVE FEE SCHEDULE FOR SIDEWALK CAFÉ PERMITS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23245

Staff Recommended Motion:

Approve Ordinance No. 4936-21 amending Chapter 78, Article X: Sidewalk Cafes, to establish new regulations for sidewalk café seating city-wide; and schedule the Ordinance for Second Reading on March 22, 2021.

For discussion only: Resolution No. 55-21 amending the fee schedule for sidewalk cafe seating permits.

Background:

In 2017, the City of West Palm Beach embarked on the redesign of Clematis Street from Flagler Drive to Rosemary Avenue. It was not anticipated how important the proposed wider sidewalks would have in the City's response to the COVID-19 pandemic. The project, now completed, has provided private businesses along the street the opportunity to expand its outdoor seating and accommodate patrons in a safe way, and it has highlighted the importance of modifying the sidewalk cafe regulations to reflect the new conditions and public expectations.

These new sidewalk cafe regulations will amend the existing City Code of Ordinances to clearly identify the areas allowed for sidewalk seating as well as the minimum dimensions for a clear pedestrian path, ensuring the general public is able to enjoy the public space as much as the restaurant and seated patrons.

Although the redesign of Clematis Street elicited the reworking of the Sidewalk Cafe regulations, the proposed sidewalk cafe regulations will be effective within the entire city. Some of the proposed regulations will vary depending on the context as follows:

- Minimum clear pedestrian path for the downtown area - five (5) feet.
- Minimum clear pedestrian path for Clematis street from Flagler Drive to Rosemary Avenue and Rosemary Avenue from Clematis Street to Okeechobee Boulevard - six (6) feet.
- Outside the downtown area- three (3) feet and eight (8) inches (44 inches).

Proposed regulations also include specific language for placement of tables and chairs, signage, umbrellas, lighting, and other elements within sidewalk cafes.

Staff met with the downtown merchant's group on August 28, 2019 and September 25, 2019 to receive input and discuss the proposed regulations. As a result of the meetings, the originally proposed eight (8) foot wide clear pedestrian path was reduced to six (6) feet for Clematis Street and Rosemary Avenue.

Along with the proposed sidewalk regulations, staff is proposing an amendment to the current fee schedule for the use of the public right of way for sidewalk cafe seating by restaurants and retail businesses. The proposed fee schedule, established by Resolution No. 55-21 and presented as a companion item to Ordinance No. 4936-21, is as follows:

- First time application fee: \$200
- Annual usage fee assessed at \$5 per square foot occupied with sidewalk seating
- Annual renewal fee: \$50

Ordinance No. 4936-21 establishes the new sidewalk cafe regulations at First Reading.

Resolution No 55-21 is for discussion purposes only, and it will be presented for City Commission approval at the time of Second Reading for Ordinance No. 4936-21.

Fiscal Note:

Approval will establish a new fee schedule for sidewalk cafe permits. Amount of revenue is not estimated.

14. Public Hearing and First Reading of Ordinance No. 4938-21 amending the Commission Rules of Procedure to reorganize and clarify rules regarding public comment and civility and decorum.

ORDINANCE NO. 4938-21: 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 2 (ADMINISTRATION), ARTICLE II (CITY COMMISSION), SECTION 2-31 (RULES OF PROCEDURE); PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Agenda Cover Memorandum No.: 23250

Staff Recommended Motion:

Approve Ordinance No. 4938-21 on First Reading and schedule Second Reading for March 22, 2021.

Background:

During the commission meeting of February 22, 2021, a question arose as to the approved length of time for a public comment on consent agenda items. The City Commission's Rules of Procedure for commission meetings is codified in Section 2-31 of the City of West Palm Beach Code of Ordinances. As it relates to the consent calendar, the City's rules allow for three minutes on an individual consent item only, when the item is pulled from consent and moved to the regular agenda for discussion; otherwise, comments are limited to three minutes for all items on the consent agenda prior to the commission vote for approval. The City's rules are similar to those of Palm Beach County's regarding consent agenda public comment. On September 26, 2019, the Fifteenth Judicial Circuit upheld the County's rules in *Larson, et al. v. Palm Beach County*, Case No. 502016CA001706XXXXMB AH, and explained that the an opportunity to be heard does “not require the Board to provide members of the public with an equal amount of time to be heard on all non-ministerial propositions contained on its consent and regular agendas.” The decision was affirmed by the Fourth District Court of Appeal. As currently drafted, there are several places in the City's Rules of Procedure that address time limits and civility and decorum requirements. The proposed revisions to the Rules of Procedure reorganizes and clarifies the amount of time provided for public comment for items on the consent calendar, regular agenda, quasi-judicial items, and non-agenda items and provides for forfeiture of unused time.

Approval of Ordinance No. 4938-21 amends the City Commissions Rules of Procedure by reorganizing and clarifying regulations related to public comment and civility and decorum contained therein.

PUBLIC HEARING – QUASI JUDICIAL (15-18):

**DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

- 15. Public Hearing and First Reading of Ordinance No. 4926-21 for the re-designation of Northwood Hills on the West Palm Beach Local Register of Historic Places.**

ORDINANCE NO. 4926-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RE-DESIGNATING NORTHWOOD HILLS AS A HISTORIC DISTRICT ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES, IDENTIFYING NEWLY CONTRIBUTING STRUCTURES AND CHANGE IN STATUS FOR SOME PROPERTIES TO NON-CONTRIBUTING AS FURTHER LEGALLY DESCRIBED HEREIN; ALLOWING THE ESTABLISHMENT OF BED AND BREAKFAST BUSINESSES WITHIN THE DISTRICT BOUNDARIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE.

Agenda Cover Memorandum No.: 23246

Staff Recommended Motion:

Approve Ordinance No. 4926-21 and schedule Second Reading.

Background:

This application for a re-designation of the Northwood Hills Historic District in the West Palm Beach Register of Historic Places was requested by Northwood Hills Neighborhood Association. City staff, in tandem with approximately five (5) neighborhood volunteers, surveyed the area including photographing all structures, held multiple zoom meetings, and helped determine which buildings have a proposed change in status. Staff attended a Northwood Hills Neighborhood Association Meeting on November 17, 2020 to explain the resurvey. Additionally, mailers were sent to all property owners.

This residential district consists of properties within the existing Northwood Hills Historic District. The boundaries of the historic district are as follows: bounded by the northern property line of properties on 39th Court, the southern property line of properties on 29th Street, Windsor Avenue to the west, and the Florida East Coast (FEC) Railroad tracks to the east. Northwood Hills is significant for its collection of architecture representative of the period from 1925 to 1971. The area has a significant collection of Mission Revival style houses, as well as a number of houses that reflect Post-War architecture. The district maintains the integrity of setting, design, materials and scale that reflect its development during the Florida Land Boom era of the 1920s, the Great Depression Era, the Post-War Period, and the Cold War Period.

The updated Northwood Hills Historic District consists of 806 historic resources; 677 contributing structures (84%), 97 non-contributing structures (12%), 30 vacant lots (3.8%), and 2 properties consisting of Sullivan Park and a playground for a daycare (.2%).

On January 26, 2021, the Historic Preservation Board (7-0) recommend to re-designate Northwood Hills Historic District on the West Palm Beach Register of Historic Places.

Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

No fiscal impact.

16. **Public Hearing and First Reading of Ordinance No. 4927-21 for the designation of Temple Beth Israel now known as the Yeckes Family Chapel on the West Palm Beach Local Register of Historic Places.**

ORDINANCE NO. 4927-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH FLORIDA, DESIGNATING THE TEMPLE BETH ISRAEL BUILDING NOW KNOWN AS THE YECKES FAMILY CHAPEL AT 2814 POINSETTIA AVENUE, AS A HISTORIC PROPERTY ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE.

Agenda Cover Memorandum No.: 23247

Staff Recommended Motion:

Approve Ordinance No. 4927-21 and schedule Second Reading.

Background:

Temple Beth Israel, now known as the Yeckes Family Chapel, located at 2814 Poinsettia Avenue (PCN Address – 2815 North Flagler Drive), was previously designated at its previous location at 2020 Broward Avenue. The main body of the temple, which was moved in 2012 from its original 2020 Broward Avenue location, is a rectangle running east/west and was constructed between 1922 and 1924. An addition to the rear, running north/south, was built in 2014 creating a T-shape structure.

Temple Beth Israel, 2814 Poinsettia Avenue, is eligible for historic designation under criteria A and B for its association with events that have made a significant contribution to the broad pattern of the City's history. It reflects the influx of immigrants into American society between the years 1880 and 1910 and the growth of the City of West Palm Beach into a culturally diverse community. Temple Beth Israel is the oldest synagogue in Palm Beach County. In February 1922, seventy (70) people attended a meeting to discuss building a synagogue in West Palm Beach. At the meeting, \$1,400 was pledged toward the cost of a structure, and a building lot was donated by Mr. and Mrs. Charles B. Frankel. A building permit for the synagogue, known as Temple Beth Israel, was issued in December 1922. However, the cornerstone on the building is dated 1924. The cornerstone, located at the northwest corner of the building, lists Max Sirkin as president of the building committee, Julius J. Lax as vice-president, and Joseph Mendel. These men were prominent businessmen and civic leaders in the community. Max Sirkin, a Russian immigrant, had settled in West Palm Beach in 1896 and went into partnership with his father-in-law as proprietors of a men's furnishings store. Sirkin served as City Councilman and in other offices before his death in 1933. Joseph Mendel served on the City's Planning Commission, and in 1923-1924, was Mayor of West Palm Beach. He was also active in welfare circles, leading both the United Jewish Welfare Board and the City Welfare Federation. Julius Lax was president and manager of the Palm Beach Plumbing and Supply Company.

Several spiritual leaders guided Temple Beth Israel, including Rabbi Leon Freidless and Dr. Gustav N. Hausmann, in the 1920s, and Dr. Carl Herman who served as Rabbi from 1930 to 1947. He was succeeded by Rabbi Richard Singer, the driving force behind the construction of Temple Israel at 1901 North Flagler Drive.

The Jewish community in West Palm Beach continued to grow. The City Directories list three (3) congregations in 1952: Temple Beth Israel, Temple Beth-El at 630 Fern Street, and Temple Israel at 1901 North Flagler Drive. By 1956, Temple Beth Israel was no longer in existence, and the building was used as St. Catherine's Greek Orthodox Church from 1956-1958. In 1959 and 1960, City Directories show the building occupied by the Unitarian Society of Palm Beach County.

Architecturally, synagogues in America have adopted the prevailing styles of their time of construction. In the early years of the twentieth century, especially after the First World War, the Byzantine Revival style was especially popular. During this period, the central dome over the sanctuary space became a common feature. Although Temple Beth Israel is a simple, vernacular structure, the partial dome over the portico references the Byzantine Revival style. Temple Beth Israel, the oldest temple in Palm Beach County, was constructed by the local contracting firm, Newlon and Stephens. William O. Newlon and Thomas H. Stephens worked together from 1920 into the 1930s. They were also partners in the Associated Home Builders Company. Temple Beth Israel is their only known religious commission.

On January 26, 2021, the Historic Preservation Board (7-0) recommended to designate Temple Beth Israel on the West Palm Beach Register of Historic Places.

Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

No fiscal impact.

17. Public Hearing and First Reading of Ordinance No. 4928-21 for the designation of the William Ohlhaber House on the West Palm Beach Local Register of Historic Places.

ORDINANCE NO. 4928-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH FLORIDA, DESIGNATING THE WILLIAM OHLHABER HOUSE AT 215 PILGRIM ROAD, AS A HISTORIC PROPERTY ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE.

Agenda Cover Memorandum No.: 23248

Staff Recommended Motion:

Approve Ordinance No. 4928-21 and schedule Second Reading.

Background:

The William Ohlhaber House is a two (2) story Mission Revival structure that was formerly located at 205 Pilgrim Road and a contributing property within the Belair Historic District and moved one parcel to the west outside of the Historic District at 215 Pilgrim Road.

William Ohlhaber (1866-1948) was born near Hamburg, Germany on February 19, 1866. Mr. Ohlhaber moved to Chicago and became a licensed architect. In Chicago, he is listed as the architect for at least seven (7) properties built during the 1880s-1900s as identified in the Chicago Historic Resources Survey (1995). In 1916, Mr. Ohlhaber moved to West Palm Beach to retire, but instead became a real estate investor and was a large owner of Florida real estate. He was also a licensed architect in the State of Florida. Mr. Ohlhaber purchased the land tract with Sophia Ohlhaber on June 6, 1923 and named the tract Belair, an addition to West Palm Beach, on June 11, 1923.

Mr. Ohlhaber passed away on Sunday, April 18, 1948 at a local hospital after a long illness. He is buried at Forest Home Cemetery in Forest Park, Illinois, a suburb of Chicago. During his life, he was a member of the Masonic Lodge and the Lutheran Church of Chicago. In the City of West Palm Beach, the following properties have been identified as being designed by Ohlhaber: 205 (215) Pilgrim Road, 234 Pilgrim Road, 244 Pilgrim Road, 229 Plymouth Road, and 241 Plymouth Road.

Historic Preservation Board (HPB) Case No. 13-46 is required if the structures were moved to the parcel to the west (215 Pilgrim). The City shall individually designate the structures.

On January 26, 2021, the Historic Preservation Board (7-0) recommended to designate the William Ohlhaber House on the West Palm Beach Register of Historic Places.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

18. **Public Hearing of Resolution No. 327-20 approving the re-plat entitled "STYX PROMENADE" associated with the construction of four (4) new shot-gun style structures, the rehabilitation of one (1) shot-gun style structure, and the development of a new public bi-directional vehicular "Promenade", which extends from 7th Street south, and turning west to North Sapodilla Avenue, along the south portion of the shot-gun structure lots, containing approximately 0.964 acres; and**

Resolution No. 334-20 approving various public easements related to property at 710 North Sapodilla Avenue, owned by Queen of Sheeba, LLC, related to the Styx Promenade and the Northwest Cultural Trail (7th Street).

RESOLUTION NO. 327-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A REPLAT OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "STYX PROMENADE" CONTAINING APPROXIMATELY 0.96 ACRES AND GENERALLY LOCATED ON THE SOUTH SIDE OF 7TH STREET BETWEEN ROSEMARY AVENUE AND SAPODILLA AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 334-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AND ACCEPTING EASEMENTS REGARDING THE PROPERTY AT 710 N. SAPODILLA AVENUE, OWNED BY QUEEN OF SHEEBA, LLC, RELATED TO THE NORTHWEST CULTURAL TRAIL (7TH STREET) AND THE STYX PROMENADE PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23183

Staff Recommended Motion:

Approve Resolution No. 327-20 approving the re-plat entitled “Styx Promenade”. This motion is based upon the plat submitted factual testimony, and the findings that the plat is consistent with the Comprehensive Plan, complies with the requirements set forth in Sections 94-44 and 94-342 of the Zoning and Land Development Regulations and complies with all applicable provisions of Chapter 177, Florida Statutes.

Approve Resolution No. 334-20 granting and accepting various easements between the Queen of Sheeba, LLC and the City of West Palm Beach related to the property at 710 North Sapodilla Street.

ITEM TO BE CONTINUED TO APRIL 5, 2021 AGENDA.

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.