



**City of West Palm Beach
City Commission**

AGENDA

**April 19, 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 JOSEPH A. PEDUZZI**

**COMMISSIONER KELLY SHOAF
COMMISSIONER CHRISTY FOX**

**COMMISSIONER SHALONDA WARREN
COMMISSIONER CHRISTINA LAMBERT**

**ADMINISTRATION
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 April 2021 as Fair Housing Month. Proclamation to be accepted by Vince Larkins, President and CEO of the Fair Housing Center of the Palm Beaches.**
Agenda Cover Memorandum No.: 23293

TRIBUTES (2-3):

2. **Tribute for Congressman Alcee Hastings.**
3. **Tribute Presentation to Dennis Grady for his outstanding contributions as President and CEO of the Chamber of Commerce of the Palm Beaches. Mr. Grady has retired after thirty-five (35) years of steady and thoughtful service.**
Agenda Cover Memorandum No.: 23294

APPOINTMENTS (4-5):

4. **City Commission approval is requested for the Mayor's reappointments of Denise Smith Barnes and Mr. Nicholas T. O'Neal to the West Palm Beach Housing Authority for a term of four (4) years to expire on April 3, 2025 for Ms. Barnes and March 15, 2025 for Mr. O'Neal. It is required that the City Commission confirm their reappointments.**
Agenda Cover Memorandum No.: 23295

5. **City Commission approval is requested for the Mayor's reappointment of Janie O. Peters to the Civil Service Board for a term of three (3) years to expire on April 6, 2024. Ms. Peters has served over the maximum allowed number of terms (3), and it is required that the City Commission confirms her reappointment.**
Agenda Cover Memorandum No.: 23296

CITY PROPERTY VALUES UPDATE (PROPERTY APPRAISER DOROTHY JACKS):

CONSENT CALENDAR (6-14):

6. **Minutes of the Special City Commission Meeting of April 1, 2021.**
Agenda Cover Memorandum No.: 23297

Staff Recommended Motion:

Approve the Minutes of the Special City Commission Meeting of April 1, 2021.

7. **Minutes of the Regular City Commission Meeting of April 5, 2021.**
Agenda Cover Memorandum No.: 23298

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of April 5, 2021.

8. **Resolution No. 62-21 authorizing the Mayor to execute a release of code enforcement liens encumbered at 1017 Avon Road.**

RESOLUTION NO. 62-21: A RESOLUTION OF THE CITY COMMISSION OF CITY OF WEST PALM BEACH, FLORIDA, CONDITIONALLY WAIVING CITY LIENS; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A RELEASE OF CODE ENFORCEMENT LIENS ENCUMBERING CERTAIN REAL PROPERTY LOCATED AT 1017 AVON ROAD, WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23299

Staff Recommended Motion:

Approve Resolution No. 62-21.

Background:

The property at 1017 Avon Road has been cited numerous times since 2008, to include but not limited to: overgrowth, trash, debris, prohibited vehicles, no rental license, no certificate of use, work without permit, exterior paint, and exterior wall repair. Also, interior violations to include electrical and plumbing repairs, replace all deteriorated wood, and un-permitted work. Since 2008, three (3) different trusts have owned the property. On January 28, 2021, the property was purchased by Sanchez Diaz Holdings, Inc. They have since applied for permits involving new windows and doors and new roof for the house and garage. The owner is also in conversation with an electrician and plumber to address

the interior electric and plumbing issues. Permitting is in the plan review stages at this time. The rehabilitation will eliminate an unpleasant property and significantly improve the surrounding area.

The conditional release of liens will require that the property be fully improved to code standards and an administrative fee of \$10,000 be paid along with any outstanding debt owed the City and payment of any outstanding taxes.

Fiscal Note:

Approval will conditionally release the \$362,775 fine/lien in exchange for, among other conditions, a \$10,000 administrative fee, payment of any outstanding debt owed the City, and payment of any outstanding taxes.

9. Resolution No. 67-21 authorizing the Mayor to execute a release of code enforcement liens encumbering 838 Upland Road.

RESOLUTION NO. 67-21: A RESOLUTION OF THE CITY COMMISSION OF CITY OF WEST PALM BEACH, FLORIDA, CONDITIONALLY WAIVING CITY LIENS; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A RELEASE OF CODE ENFORCEMENT LIENS ENCUMBERING CERTAIN REAL PROPERTY LOCATED AT 838 UPLAND ROAD, WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23300

Staff Recommended Motion:

Approve Resolution No. 67-21.

Background:

The previous owner of 838 Upland Road pulled permits in May 2018 to rehabilitate the property, including new windows/doors, paint, interior renovations, and a new roof. Unbeknownst to the City, he was hit by a car and was not able to complete the work. The property was cited for violations in January 2019 and has fallen into disrepair. It has recently been purchased with the intent of following through with the original plans for rehabilitation. In fact, the new owners, 838 Upland, LLC had the property cut and cleaned even before the deed was transferred in order to remove the overgrowth. The rehabilitation of this property will eliminate an unpleasant property in Flamingo Park and significantly improve the area. This resolution would allow the release of the \$69,300 fine/lien if certain conditions are met, including payment of a \$5,000 administrative fine, payment of any outstanding utility liens or taxes, and completion of the property rehabilitation by October 15, 2021.

Fiscal Note:

Approval will conditionally release the \$69,300 fine/lien in exchange for, among other conditions, a \$5,000 administrative fee, payment of any outstanding debt owed to the City and payment of any outstanding taxes.

10. **Resolution No. 78-21 authorizing the assessment of city liens in the total amount of \$24,247.42 for unpaid water service, sewer service, and stormwater service charges for the month of January 2021.**

RESOLUTION NO. 78-21: 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 JANUARY 2021; 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.: 23301

Staff Recommended Motion:

Approve Resolution No. 78-21.

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. 78-21 are for unpaid water service, sewer service, and stormwater service charges for the month of January 2021. The list of properties to be assessed and the associated charges totaling \$24,247.42 are in Resolution No. 78-21 as EXHIBIT A - Utility Lien List - January 2021.

Fiscal Note:

No fiscal impact.

11. **Resolution No. 79-21 waiving a potential conflict of interest relating to Holland and Knight's representation of Volta Industries, Inc. in connection with deploying electric charging stations and of the City in unrelated matters.**

RESOLUTION NO. 79-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, WAIVING A POTENTIAL CONFLICT OF INTEREST RELATING TO HOLLAND & KNIGHT LLP'S REPRESENTATION OF VOLTA INDUSTRIES, INC. D/B/A VOLTA CHARGING IN CONNECTION WITH THE DEPLOYMENT OF ELECTRIC CHARGING STATIONS AND ITS REPRESENTATION OF THE CITY IN UNRELATED MATTERS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23302

Staff Recommended Motion:

Approve Resolution No. 79-21.

Background:

Holland & Knight LLP currently represents the City in existing federal lobbying work. Holland & Knight wishes to represent Volta Industries, Inc. d/b/a Vola Charging in connection with the deployment of electric vehicle charging stations at commercial locations within the City. Holland & Knight's desired representation of Volta is unrelated to any of the existing federal lobbying work it is currently doing on behalf of the City. As such, Holland & Knight requests that the City waive any potential conflict and has stated that they are able to provide competent and diligent representation to both the City in unrelated matters and Volta in the matters described herein. Holland & Knight also agrees that it will not represent Volta in any formal litigation or similar adversarial proceedings against the City, and if the matter it expects to handle for Volta becomes adversarial, it will withdraw as counsel for Volta. Holland & Knight has also sought consent from Volta, and Volta has agreed to waive this potential conflict under the conditions outlined herein.

12. **Resolution No. 84-21 approving and authorizing the medical and dental insurance plan for General Employees, Police and Fire employees, and Employee Assistance Program (EAP) for all City employees.**

RESOLUTION NO. 84-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING APPLICATION FOR AND EXECUTION OF ALL NECESSARY DOCUMENTS BETWEEN THE CITY OF WEST PALM BEACH AND CIGNA HEALTH AND LIFE INSURANCE COMPANY (CIGNA) FOR MEDICAL AND DENTAL INSURANCE FOR POLICE, FIRE AND GENERAL EMPLOYEES (CONFIDENTIAL, NON-REPRESENTED, PMSA AND SEIU), AND THE EMPLOYEE ASSISTANCE PROGRAM (EAP) FOR ALL CITY EMPLOYEES, AUTHORIZING PAYMENT OF ALL INSURANCE PREMIUMS, PROVIDING FOR AN EFFECTIVE DATE; AND OTHER PURPOSES.

Agenda Cover Memorandum No.: 23303

Staff Recommended Motion:

Approve Resolution No. 84-21.

Background:

The City released ITN 20-21-500 for Employee Benefits Insurance on December 10, 2020, for general employees, police and fire employees, inclusive of medical, dental, vision, life insurance (employer paid and employee purchase), long term disability, and Employee Assistance Program. The City requested that firms respond on an individual product basis and/or a bundled basis. The following is a breakdown of companies responding for medical services: Aetna, Cigna, Humana, and United Healthcare. The following companies responded for dental services: Cigna, Aetna, Delta Dental, Humana, Metlife, Solstice,

United Concordia, and United Healthcare. The breakdown for the companies responding for employee assistance program (EAP) services is as follows: Cigna, Aetna, Humana, United Healthcare (Optum), Metlife, and Ochs (Minnesota Life).

The City met with the Gehring Group (Agent of Record) to review initial evaluations. Medical insurance proposals ranged from an increase of 5.5% to 8.5%, dental insurance proposals ranged from a reduction of 10.4% to an increase of 4.4%, Employee Assistance Program (EAP) proposals ranged from a reduction of 11.84% to an increase of 11.18%. On March 31, 2021, the selection committee met and selected Cigna Health and Life Insurance Company (CIGNA) to provide medical services, dental services, and employee assistance program services based on an increase of 5.5% for medical premiums, a credit for selecting Cigna Dental and EAP, and no increase for dental premiums. Cigna has provided a 36-month rate guarantee for medical services, 24-month rate guarantee for dental services, and 24-month rate guarantee for EAP services.

Fiscal Note:

Approval will result in a 5.5% increase in medical premiums, a credit for the selection of Cigna Dental and EAP, and no increase for dental premiums.

Total cost: \$3,043,620 - Health Plan Administrative Fees and Stop Loss Insurance + \$1,006,924 - Dental Plan Insurance Premiums + \$26,374.92 – Employee Assistance Program Administrative Fees = \$4,076,918.92.

13. **Resolution No. 85-21 approving and authorizing the vision insurance plan with EyeMed Vision Care, LLC for General Employees, Police, and Fire employees.**

RESOLUTION NO. 85-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING APPLICATION FOR AND EXECUTION OF ALL NECESSARY DOCUMENTS BETWEEN THE CITY OF WEST PALM BEACH AND EYEMED VISION CARE, LLC (EYEMED) FOR VISION INSURANCE FOR POLICE, FIRE, AND GENERAL EMPLOYEES; AUTHORIZING PAYMENT OF ALL INSURANCE PREMIUMS, PROVIDING FOR AN EFFECTIVE DATE; AND OTHER PURPOSES.

Agenda Cover Memorandum No.: 23304

Staff Recommended Motion:

Approve Resolution No. 85-21.

Background:

The City released ITN 20-21-500 for Employee Benefits Insurance on December 10, 2020 for general employees, police and fire employees, inclusive of medical, dental, vision, life insurance (employer paid and employee purchase), long term disability, and Employee Assistance Program. The City requested that firms respond on an individual product basis and/or a bundled basis. The following is a breakdown of companies responding for vision services: EyeMed, Aetna, Cigna, Humana, Metlife, Solstice, United Healthcare, Versant (Superior Vision), and Vision Service Plan (VSP).

The City met with the Gehring Group (Agent of Record) to review initial evaluations. Vision insurance proposals ranged from an increase of 16.5% to a reduction of 15.4%. On March 31, 2021, the selection committee met and selected EyeMed to provide vision services, which are employer paid, based on a premium reduction of 2.1% or -\$3,933.12. EyeMed has provided a 48-month rate guarantee.

Fiscal Note:

A reduction of 2.1% or -\$3,933.12.

14. **Resolution No. 86-21 approving and authorizing the life insurance (employer provided and employee supplemental) and long-term disability plan with Life Insurance Company of North America (New York Life) for all eligible City employees General, Police, and Fire.**

RESOLUTION NO. 86-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING APPLICATION FOR AND EXECUTION OF ALL NECESSARY DOCUMENTS BETWEEN THE CITY OF WEST PALM BEACH AND LIFE INSURANCE COMPANY OF NORTH AMERICA (NEW YORK LIFE) FOR LIFE INSURANCE (EMPLOYER PROVIDED AND EMPLOYEE SUPPLEMENTAL) AND LONG TERM DISABILITY FOR ALL ELIGIBLE CITY EMPLOYEES, POLICE, FIRE, AND GENERAL, AUTHORIZING PAYMENT OF ALL INSURANCE PREMIUMS, PROVIDING FOR AN EFFECTIVE DATE; AND OTHER PURPOSES.

Agenda Cover Memorandum No.: 23305

Staff Recommended Motion:

Approve Resolution No. 86-21.

Background:

The City released ITN 20-21-500 for Employee Benefits Insurance on December 10, 2020 for general employees, police, and fire employees, inclusive of medical, dental, vision, life insurance (employer paid and employee purchase), long term disability, and Employee Assistance Program. The City requested that firms respond on an individual product basis and/or a bundled basis. The following is a breakdown of companies responding for life insurance (employer paid and employee purchase) and long term disability insurance services: Metlife, Ochs (Minnesota Life/Madison National), New York Life (formerly Cigna), Reliance Standard, Solstice/AXA Equitable, The Standard, United Healthcare and Voya.

The City met with the Gehring Group (Agent of Record) to review initial evaluations. Life insurance (employer paid and employee purchase) and long-term disability insurance proposals ranged from a reduction of 15.87% to an increase of 5.12%. On March 31, 2021, the selection committee met and selected Life Insurance Company of North America (New York Life) based on a premium reduction of 15.87% or -\$126,481.99.

Fiscal Note:

Premium reduction of approximately 15%, approximately \$126,481.99 per year.

RESOLUTIONS (15-16):

15. **Resolution No. 72-21 approves a license agreement between the City of West Palm Beach and Florida Power and Light Company ("FPL") for an art installation on FPL property located at 810 Charlotte Avenue.**

Resolution No. 73-21(F) authorizes the appropriation of \$40,000 from the Public Art Account to issue a Call to Artists, commission an artist, and for the art installation on FPL property located at 810 Charlotte Avenue.

RESOLUTION NO. 72-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND FLORIDA POWER AND LIGHT COMPANY FOR ART INSTALLATION ON THE PERIMETER WALL AT 810 CHARLOTTE AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 73-21(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 ART IN PUBLIC PLACES CAPITAL PROJECT FUND BUDGET TO PROVIDE APPROPRIATIONS TO ISSUE A CALL TO ARTISTS, COMMISSION AN ARTIST, AND FOR THE ART INSTALLATION ON THE PERIMETER WALL AT 810 CHARLOTTE AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23306

Staff Recommended Motion:

Approve Resolution No. 72-21 and Resolution No. 73-21(F).

Background:

Resolution No. 72-21 approves an agreement between FPL and the City of West Palm Beach.

The City of West Palm Beach is committed to shaping the character of our City through the power of public art. The ArtLife WPB Committee recommends the City's partnership with Florida Power & Light Company ("FPL") to install an art mural on FPL's perimeter wall located at 810 Charlotte Avenue. The partnership aligns with the ArtLife WPB Committee's strategic goals to cultivate purposeful partnerships with other cultural institutions, businesses, and stakeholders by advocating creative design integrations into

public and private buildings and infrastructure. Further, the project will visually promote West Palm Beach as an art destination. The partners have agreed to install an original public artwork by a professional artist or artist team to be installed on the south facing portion of the identified wall.

Location:

The identified site serves as a visually prominent entry way to the City's downtown corridor. When heading east on Okeechobee Boulevard towards downtown West Palm Beach, there is a large wall on the south east corner of Okeechobee Boulevard between Australian Avenue and west of Parker Avenue. The wall is 370 linear square feet, and the commissioned artist or artist team will have a central focal area to design and implement their art piece. The work will be seen by vehicular travelers, and therefore, will be viewed at a speed of 40 mph unless cars are stationary due to the train or traffic lights. The location is highly visible and will be seen daily by approximately 64,000 motorists. The artwork site will not be accessible to pedestrians; therefore, the artwork must be fully contained within the designated site.

The theme of the project is "Florida Fauna". The colorful foliage of South Florida will inspire the design. The final design will be presented to City Commission for approval at a later date.

Goals of the Project:

- Be inspired by the colorful foliage of South Florida and reflect the area while creating a visually positive image while entering the downtown corridor.
- Artwork will be of high artistic quality.
- Expressive design which echoes the theme of the project.
- Artwork will become a visual identifier as an entry point to the City.
- Artwork is appropriate for the site in terms of scale, design, and materials.

Resolution No. 73-21(F) - Funding:

On Wednesday, February 3, 2021 the ArtLife WPB Committee voted unanimously to recommend to the City Commission the allocation of \$40,000 from the Public Art Reserves to issue a Call to Artists for a professional artist or artist team who reside in the state of Florida. The commissioning budget is \$40,000 and is all-inclusive, including: design, artist fee, materials, installation, travel, and insurance. The City will contract with the Artist for the Commission of the Artwork and oversee all aspects of the installation services to be rendered by the Artist.

Commission District 3: Commissioner Christy Fox.

16. **Resolution No. 45-21 approving a first amendment to the landscape maintenance memorandum of agreement with the Florida Department of Transportation for maintenance of a portion of State Road 5/Quadrille Boulevard from Datura Street to mile post 0.502; and**

Resolution No. 47-21 approving a right of way maintenance agreement with SHP VI Datura West Palm Owner, LLC for maintenance of a portion of State Road 5/Quadrille Boulevard from Datura Street to mile post 0.502.

RESOLUTION NO. 45-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE OF A PORTION OF QUADRILLE BOULEVARD (STATE ROAD 5) FROM DATURA STREET (MILE POST 0.469) TO MILE POST 0.502; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 47-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING EXECUTION OF A RIGHT-OF-WAY MAINTENANCE AGREEMENT WITH SHP VI DATURA WEST PALM OWNER, LLC, FOR MAINTENANCE OF A PORTION OF STATE ROAD 5 / QUADRILLE BOULEVARD FROM DATURA STREET (MILE POST 0.469) TO MILE POST 0.502; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23268

Staff Recommended Motion:

Approve Resolution No. 45-21 and Resolution No. 47-21.

Background:

Located within the Downtown Master Plan (DMP) Area, the property at 445 Datura Street, herein referred to as “Watermark Senior Living,” is currently under construction for an 8-story, 154-unit senior living facility with 20 memory care units, 34 assisted living units, and 100 independent living units. A portion of the development includes streetscape improvements to the right-of-way (ROW) of State Road 5 (Quadrille Boulevard), which is owned and operated by Florida Department of Transportation (FDOT). On February 7, 2002, an agreement between FDOT and the City of West Palm Beach (“the City”) was signed, which transferred the maintenance of Quadrille Blvd. landscape and hardscape, excluding the sidewalk, from FDOT to the City. This agreement covers the entire portion of State Road 5 (Quadrille Boulevard) from Dixie Highway to Okeechobee Boulevard. When new developments are proposed along Quadrille Boulevard, FDOT requires a new maintenance memorandum of agreement (MMA) to be signed by the City prior to issuance of permit to the developer to do work within their ROW. In 2017, the City entered into a MMA with FDOT regarding maintenance related to the Broadstone project, which

is adjacent to the Watermark Senior Living Project. In order for FDOT to permit Watermark to construct improvements in the ROW, FDOT is requiring the City to amend the MMOA to include the portion of Quadrille Boulevard improved for the Watermark Project. The First Amendment to the MMOA transfers the ROW maintenance for the portion of FDOT ROW from Datura north of the Broadstone project to Mile Post 0.502 from FDOT to the City. City staff has estimated the annual cost of this maintenance to be \$2,024.58. The City will then transfer the maintenance responsibilities pursuant to the Maintenance Agreement approved by Resolution No. 47-21.

ANALYSIS:

RESOLUTION NO. 45-21: As part of the development of the Watermark Senior Living, the applicant is proposing to install landscape material, including sod and oak trees, as well as irrigation within the Quadrille Boulevard right-of-way. As part of this proposal, an amendment to the landscape maintenance memorandum agreement with FDOT is required to transfer the maintenance of the landscape and hardscape improvements from FDOT to the City.

This resolution approves the Amendment to the MMOA, which transfers the maintenance of the new landscape and hardscape along this portion of Quadrille Boulevard from FDOT to the City.

RESOLUTION NO. 47-21: Approves a maintenance agreement with the developer of Watermark Senior Living for the maintenance of landscape and hardscape within the Quadrille Boulevard right-of-way that was installed as part of the development's streetscape enhancements.

This Resolution will transfer the maintenance obligations established in the FDOT MMOA from the City to the developer for all landscape installed, which includes sod and oak trees. There is no specialty hardscape proposed along Quadrille Boulevard for this project.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

The Amendment to the MMOA with FDOT will result in annual maintenance costs of approximately \$2,024.58. This cost will be borne by the developer who will be responsible for maintenance of the ROW.

PUBLIC HEARINGS (17-19):

17. **Public Hearing and Second Reading of Ordinance No. 4937-21 amending the Code of Ordinances to create the Office of Economic Opportunity; amending the Procurement Code to transfer authority for the Small Business Program and the M/WBE Program to the director of the Office of Economic Opportunity; and amending the Small Business Program to increase the small business participation goal for construction and master contracts to 18%.**

ORDINANCE NO. 4937-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 2 - ADMINISTRATION, DIVISION 1 - MAYOR'S OFFICE, TO CREATE SECTION 2-135 - OFFICE OF ECONOMIC OPPORTUNITY; FURTHER AMENDING THE CODE OF ORDINANCES TO CHAPTER 66 - PROCUREMENT, ARTICLE IX - SMALL BUSINESS PROGRAM, TO INCREASE THE GOAL FOR SMALL BUSINESS PARTICIPATION TO 18% FOR CONSTRUCTION AND MASTER CONTRACTS; AND TO REFLECT ADMINISTRATION OF THE PROGRAM BY THE OFFICE OF ECONOMIC OPPORTUNITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23307

Staff Recommended Motion:

Approve Ordinance No. 4937-21.

Background:

It is the policy of the City of West Palm Beach that all businesses be afforded an opportunity for full participation in the City's procurement system. In enactment of the policy, the City of West Palm Beach established a Small Business Program Ordinance to spur economic development by encouraging small businesses to locate and remain in Palm Beach County, especially within the City and to provide for participation of small businesses in City contracts.

The City's Office of Economic Opportunity ("OEO") was established by Mayor Keith A. James to ensure fair business practices in the City of West Palm Beach. The OEO is responsible for coordinating and facilitating programs that foster workforce development, business development, and professional education and training. The OEO welcomes small-, minority-, and women owned businesses to be active participants in the City's procurement process. The OEO educates and informs all businesses of how to work with the City. The office also tracks the compliance of City departments and Prime Contractors on their inclusively, diversity, and accessibility of procurement solicitation. Previously the functions of the OEO were part of the procurement division of the City. This Ordinance will amend the code to reflect the administration of the Small Business Program by the Office of Economic Opportunity.

For many years, the Small Business Program Ordinance has established a goal of 15% participation by small businesses in construction contracts, and master contracts, when MWBE requirements are not applicable.

In keeping with Mayor James' vision of working to create a "Community of Opportunity for All" in our city, the City's Small Business Program exceeded the 15% small business participation goal in the competed procurements for 2019-2020. In its final 2020 report, the Office of Economic Opportunity announced that an eighteen percent (18%) participation level was achieved. The total amount of Small Business Payments, year to date, was \$12,896,966, equivalent to 18% of total dollars expended.

The operation and administration of the Small Business Program has been revised from time to time to reflect changes in the market or the administration of the Program, and to ensure that the purposes of the Ordinance continue to be met. OEO staff believes that the higher level of small business participation can continue to be achieved and recommends amendment of the Small Business Program Ordinance to establish a goal of 18% participation by small businesses in construction contracts, and master contracts, when MWBE requirements are not applicable.

Ordinance No. 4937-21 amends the City Code to create the Office of Economic Opportunity; amend the Procurement Code to transfer authority for the Small Business Program and the MWBE Program to the director of the Office of Economic Opportunity; and amend the Small Business Program to increase the small business participation goal for construction contracts and master contracts to 18%.

Fiscal Note:

No fiscal impact.

18. **Public Hearing and First Reading of Ordinance No. 4934-21 amending the City's Code of Ordinances to prohibit sleeping/camping in certain designated areas in the City.**

ORDINANCE NO. 4934-21: 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 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.: 23308

Staff Recommended Motion:

Approve Ordinance No. 4934-21 on First Reading and schedule Second Reading for May 3, 2021.

Background:

The City has experienced conduct threatening the public health, safety, and welfare. Such conduct includes camping/sleeping in public areas, as well as in the entrances and exits of businesses located in the City. This has become a systemic problem that threatens the use of the City's public areas and businesses by its citizens and visitors, placing businesses, patrons and residents in those areas at risk and threatening the individual well-being of citizens and visitors.

The City wishes to promote the health, safety and welfare of its citizens, visitors, and businesses. To that end, Ordinance No. 4934-21 regulates and prohibits sleeping and "camping" in public areas, as well as in the entrances and exits of the City's businesses. However, the City wishes to make enforcement of such prohibitions applicable only after the City has undertaken significant outreach measures, including offering social service and/or housing/shelter assistance and where housing/shelter is available.

19. **Public Hearing and First Reading of Ordinance No. 4942-21 modifying the Comprehensive Plan Downtown Master Plan Element to amend Policy 2.4.2 and Policy 3.1.3 in relation to the creation of a new Downtown Master Plan (DMP) Housing Incentive Program.**

ORDINANCE NO. 4942-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MODIFYING THE COMPREHENSIVE PLAN TO AMEND THE DOWNTOWN MASTER PLAN ELEMENT, POLICY 2.4.2 TO REMOVE THE NAME OF A SPECIFIC INCENTIVE PROGRAM; TO AMEND POLICY 3.1.3 TO MODIFY THE MAXIMUM DEVELOPMENT CAPACITIES ALLOWED WITH INCENTIVES WITHIN CERTAIN DISTRICTS; AND TO IDENTIFY NEW AREAS ELIGIBLE FOR INCENTIVES WITHIN THE CULTURAL ARTS DISTRICT, THE TRANSIT DEVELOPMENT DISTRICT AND THE CLEMATIS WATERFRONT 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.: 23309

Staff Recommended Motion:

Approve Ordinance No. 4942-21 on First Reading and authorize the transmittal of the proposed Comprehensive Plan Amendment to the Department of Economic Opportunities for review.

Background:

Over the last few years, there has been significant discussion within the City regarding the availability of reasonably priced housing for individuals and families earning a salary close to the Area Median Income (AMI) which is currently \$79,100 for Palm Beach County. There has particularly been an emphasis for housing that is affordable to this income group for those that also work within the downtown area. As employment in the downtown continues to increase, the availability of reasonable-priced housing for workers within downtown has not followed pace, forcing workers to commute to downtown every day and increasing the potential of existing and future traffic congestion.

Currently, the city has an incentive program that allows additional development capacity through the transfer of City-owned development rights (TDRs) to projects proposing housing for individuals and families earning between 50% and 150% of the AMI. From the initiation of this program, three (3) developments within the DMP have utilized the affordable housing incentive program: Evernia Place at 631 Evernia Street, the two (2) recently approved projects at 991 Banyan Boulevard (Flagler Station), and the Grand at 620 3rd Street. In the case of Evernia Place and Flagler Station, 100% of the units (179) are restricted for families with incomes below 80% of AMI, and the projects received or will receive financial assistance from the State through the low-income tax credit program. In the case of the Grand, the project also received financial assistance from the City in exchange for the affordable units. The three projects received City-owned TDRs at no-cost as an incentive for the construction of the affordable housing units.

Considering that the implementation of the program has resulted in the construction of just 85 units from the total 3,397 units built in the downtown from 2006 to 2021, just 2.5% of the total units that the City has limited in-house TDR capacity, the City has decided to create a more aggressive program to ensure that the construction of residential units for families earning below 100% of the AMI to follow the pace of construction of market rate units. In an effort to expand the program beyond tax credit projects, the City is proposing to create a new program that applies to all residential projects seeking to utilize the incentives within the Downtown Master Plan (DMP). It is the goal of the City to create a new housing incentive program within the DMP to promote the construction of mix income residential buildings.

The City's Planning Division and Housing and Community Development Department are currently working collaboratively on the details of the new DMP Housing Incentive Program that will meet the City's objective of providing housing for working families with income between 60% and 100% of the AMI within the limits of the DMP area. Under the scope of the City's established TDR program (Section 94-134 of the ZLDRs), the new incentive will permit additional height and FAR for residential developments, which include residential units for the target income. The details of the DMP Housing Incentive Program will be included in a future amendment to the Zoning and Land Development Regulations.

As part of the development of the program, the City has determined that it is necessary to expand the areas eligible to receive incentives, necessitating an amendment to the Downtown Master Plan Element (DMPE) of the City's Comprehensive Plan. The amendments included in Ordinance No. 4942-21 are the proposed amendments to the DMPE of the City's Comprehensive Plan necessary to set the framework for future ZLDR amendments. Two (2) amendments are proposed as follows:

1. Update to Policy 2.4.2:

The proposed amendments will modify Policy 2.4.2 of the DMPE of the City's Comprehensive Plan to remove the existing reference to the specific "Affordable Housing Incentive Program" and maintain a more general policy. The specific name of any housing incentives will be established within the Zoning and Land Development Regulations.

2. Update to Policy 3.1.3:

The proposed amendments will also modify Policy 3.1.3 of the DMPE of the City's Comprehensive Plan to allow, with incentives, additional development capacity and height for certain sub-districts. Specifically, the amendments will allow new areas within the TOD-10, QBD-10, QBD-8, and CAD-5, to be eligible for incentives. The proposed areas are located within a five (5) minute walk of the intermodal station and the Brightline Station, making them a prime location for the construction of new housing.

One additional area located within the CWD-5 is also proposed as eligible for incentives. The proposed incentive would extend the same height and development intensity allowed within the Clematis Waterfront District 10-12 incentive district located immediately west. In this case, the area is envisioned for the redevelopment of an existing underutilized public parking garage facility.

The additional development capacity proposed within the subject incentive districts will be obtained through the use of the TDR program; therefore, no additional development will be added to the overall capacity of the Downtown area. The DMP housing incentive program will not preclude the City from incentivizing the development of office, commercial, and hotel in areas where these uses are currently permitted. The proposed amendments will modify Table DMP-1 Maximum Development Capacity, which includes the maximum development capacity and height allowed for each sub-district by right and through incentives, and also modify DMP Figure-3 Incentive Areas to indicate the specific locations where the additional incentives are appropriate. The additional development capacity and height permitted has been calculated utilizing basic urban design principles to ensure the height and intensity of development do not create unintended consequences for the public realm.

The Downtown Action Committee reviewed the proposed amendments during its March 10, 2021 meeting and recommended unanimous approval (7-0). The Planning Board reviewed the proposed amendment during its March 16, 2021 meeting and also recommended unanimous approval (4-0).

The proposed Ordinance was advertised in the publication of the Palm Beach Post of April 12, 2021.

The amendment will be applicable to properties located within the Downtown Master Plan area within Commission District 3: Commissioner Christy Fox.

**PUBLIC HEARING – QUASI JUDICIAL (20):
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

- 20. Public Hearing of Resolution No. 76-21: A request by Joni Brinkman, of Urban Design Studio, on behalf of Banyan Cay Resort & Golf LLC, for a Major Amendment to the Banyan Cay RPD/CPD, located at 3200 North Congress Avenue, to modify the Design Guidelines and Development Regulations, specifically with regard to the required elements for the parking garage.**

RESOLUTION NO. 76-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE BANYAN CAY RESORT RESIDENTIAL AND COMMERCIAL PLANNED DEVELOPMENTS, GENERALLY LOCATED NORTH OF PRESIDENTIAL WAY AND EAST OF CONGRESS AVENUE, TO MODIFY THE BANYAN CAY DESIGN GUIDELINES AND DEVELOPMENT REGULATIONS, SPECIFICALLY WITH REGARD TO THE REQUIRED ELEMENTS FOR THE PARKING GARAGE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23310

Staff Recommended Motion:

Approve Resolution No. 76-21 regarding a Major Amendment to the Banyan Cay Residential and Commercial Planned Developments to modify the Design Guidelines and Development Regulations with regard to the required elements for the parking garage, with the conditions recommended in the staff report. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, the findings that the request complies with the Comprehensive Plan, and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

ALTERNATIVE MOTION (IF STAFF'S CONDITION IS TO BE REMOVED FROM THE RESOLUTION):

Approve Resolution No. 76-21 regarding a Major Amendment to the Banyan Cay Residential and Commercial Planned Developments to modify the Design Guidelines and Development Regulations with regard to the required elements for the parking garage, but with the provision that shade structures shall only be required along the perimeter rows of parking on the upper level of the garage. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board,

the findings that the request complies with the Comprehensive Plan, and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Background:

(The information provided below is a general summary. A full analysis is included in the Staff Report.)

Located north of Presidential Way and east of Congress Avenue, the subject property consists of a total of ±119.53 acres and is the location of the former north golf course of The President Country Club within the Lands of the President. Due to a decline in the membership and the financial instability of the private club, the President Country Club was sold in July 2011.

In order to enhance the remaining south golf course, the north course was approved for redevelopment as an exclusive resort-style community consisting of residential homes; a resort hotel with spa, meeting space, and restaurant; golf clubhouse; a future multifamily high-rise; and resort cottages. Originally known as the PCC Resort Community, the initial version was adopted by the City Commission on July 8, 2013.

Several amendments have occurred since the original approval, with the most recent being approved by the City Commission on November 20, 2017. The golf course clubhouse was ultimately completed (but is still pending a final Certificate of Occupancy) and many of the 94 single family homes in Pod A have also been completed and are now occupied; the remaining homes in Pod A have been permitted.

Following a lengthy stall, the hotel and associated parking garage have also resumed construction, but the developer has identified some concerns with the screening elements that were required on top of the hotel parking garage; specifically, the costs. In order to provide a more cost-effective alternative, the applicant is requesting that instead of structural pergolas or trellis' across all parking spaces on the upper parking deck, that canvas "sails" be allowed on the perimeter rows of parking. These triangular-shaped fabric elements would be stretched between support poles.

The treatment of the parking on the upper level of the garage was an item of lengthy debate when the project was initially proposed as residents living in the surrounding high-rise condominiums were concerned about having to look down on the roof of the cars. The upper level of the garage is unique in that unlike a surface parking lot, landscape islands with shade trees are not required and thereby results in a large surface area of open parking. To address this concern, the original set of Design Guidelines & Development Regulations required that:

- Shade/flowering trees be planted along the outside perimeter of the garage;
- Pergolas be installed along the perimeter rows of parking;
- Shade structures (sails, awnings, etc.) be provided on interior rows of parking; and
- Landscaping such as potted trees/plants be installed throughout.

As part of the Major Amendment in 2017 the developer requested to “water down” the screening requirements to the point that landscaping would only be required along the perimeter of the garage at the ground level and that the screening of the spaces only needed to consist of an open-air trellis; the requirement of “movable, self-contained planters” on the interior portion of the roof level and taller landscaping on the perimeter was ultimately added in to try and address Staff’s concerns at that time.

While Staff understands the challenges of the structural pergolas and the cost associated with such, there is significant concern that this is the second proposed modification to the screening requirements and that the proposed design is a considerable deviation from what was originally proposed and conveyed during the initial community outreach. As such, it is Staff’s position that it is still important to provide some level of screening on these interior spaces. Providing such would: reduce the heat island effect, reduce the glare that would result from the sun reflecting off the roofs of the cars; and shield the lighting of the roof deck (which was originally designed to be underneath the pergolas). Therefore, Staff is recommending that the proposed canvas sails not only be required along the perimeter rows of parking, but that the interior rows also be provided with the same screening.

CONCLUSION: Overall, the previously approved development remains unchanged from that which was approved in 2017. The applicant is requesting the design changes to the upper level of the garage due to cost concerns, but it is Staff’s professional opinion that the alternative shade structures along the perimeter rows of parking could also be provided on the interior spaces and help to address the original concerns that were expressed by surrounding residents throughout the initial public hearing process. Subject to providing the shade structure throughout the upper level of the garage, the project complies with all of the other requirements of Banyan Cay RPD/CPD, and the Development Services Department – Planning Division has found that the request satisfies all of the standards found within the City’s ZLDRs.

PLANNING BOARD: After a Public Hearing on March 16, 2021, the Planning Board recommended approval (4-0) of the request, subject to the conditions recommended by Staff.

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Resolution No. 76-21 was also advertised in the Palm Beach Post on April 9, 2021.

Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

No fiscal impact.

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

DISCUSSION: BOARDS AND COMMITTEES COMMISSION LIAISONS:

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.