



WEST PALM BEACH

**City of West Palm Beach
City Commission**

AGENDA

**May 17, 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 May 2021 as Haitian Heritage Month. Proclamation to be accepted by Samuel Pierre of Haitian Heroes.**
Agenda Cover Memorandum No.: 23331

CONSENT CALENDAR (2-8):

2. **Minutes of the Regular City Commission Meeting of May 3, 2021.**
Agenda Cover Memorandum No.: 23332

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of May 3, 2021.

3. **Resolution No. 75-21 granting a Temporary Construction Easement to Whiting-Turner Contracting Company for construction staging and storage on City-owned properties located at 1006 9th Street; two (2) parcels to the east with an address of 9th Street, and one (1) parcel with an address of N. Tamarind Avenue.**

RESOLUTION NO. 75-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA GRANTING A TEMPORARY CONSTRUCTION EASEMENT TO WHITING-TURNER CONTRACTING COMPANY FOR THE TAMARIND AVENUE STREETScape PROJECT FOR CONSTRUCTION STAGING AND STORAGE ON THE CITY-OWNED PROPERTIES LOCATED AT 1006 9TH STREET, TWO (2) PARCELS WITH AN ADDRESS OF 9TH STREET AND ONE (1) PARCEL WITH AN ADDRESS OF N. TAMARIND AVE.; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23333

Staff Recommended Motion:

Approve Resolution No. 75-21.

Background:

The City owns the properties located at 1006 9th Street; two (2) parcels to the east with an address of 9th Street, and one (1) parcel with an address of N. Tamarind Avenue (the "Properties").

Whiting-Turner Contracting company is contracted by the City of West Palm Beach for the construction of Tamarind Avenue Streetscape project. Whiting-Turner is requesting the use of the Properties for a lay down yard. The temporary construction easements will be used through July 2023 for the construction staging and storage of materials and equipment for the project.

Resolution No. 75-21 approves and grants a temporary construction easement to Whiting-Turner Contracting Company for the Tamarind Avenue Streetscape project for construction, staging, and storage on City-owned properties located at 1006 9th Street; two (2) parcels to the east with an address of 9th Street, and one (1) parcel with an address of N. Tamarind Avenue.

Commission District 3: Commissioner Christy Fox.

4. **Resolution No. 95-21 ratifying the acceptance of a 2021 LEED for Cities and Communities Technical Assistance Grant from the U.S. Green Building Council, Inc. to provide technical support as the City of West Palm Beach applies for certification with the LEED for Cities and Communities Program.**

RESOLUTION NO. 95-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RATIFYING THE ACCEPTANCE OF A TECHNICAL SUPPORT GRANT FROM THE U.S. GREEN BUILDING COUNCIL, INC.'S 2021 LEED FOR CITIES AND COMMUNITIES GRANT PROGRAM TO ASSIST THE CITY OF WEST PALM BEACH TO ORGANIZE, SET GOALS, COLLECT DATA, AND APPLY FOR CERTIFICATION THROUGH THE LEED FOR CITIES AND COMMUNITIES PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23334

Staff Recommended Motion:

Approve Resolution No. 95-21.

Background:

The City of West Palm Beach continues to strive to be a leader in sustainability and best practices. For the past several years, the framework for measuring the City's achievement in this realm has been the STAR Communities program in which the City of West Palm Beach was recognized as a "Four Star Community" in 2016. At the time, STAR was the country's leading program for evaluating local sustainability through performance measures. In 2018, the STAR Communities organization merged with the USGBC (US Green Building Council), which created the LEED for Cities and Communities program. LEED for Cities and Communities is now the leading global rating system and certification program for evaluating the sustainability and quality of life in a city or community. It serves as a catalyst toward more sustainable, equitable, and resilient communities and provides a clear data-driven approach to benchmarking and communicating progress.

The 2021 LEED for Cities and Communities Grant Program (Program) convenes a cohort of U.S. local governments committed to certifying in LEED for Cities and Communities and accelerating progress on climate change, social equity, and resilience. The Program is defined as consisting of: i) a training and education package that included a dedicated USGBC staff liaison providing project management, coaching support, and technical assistance; ii) a one (1) year USGBC membership at the Silver level; iii) a waiver of the LEED for Cities registration fee; and iv) a waiver of the LEED for Cities and Communities certification fee. The Program will provide valuable tools and networking opportunities for the City as it strives for continuous improvement and best practices in all its operations.

The deadline for the City to accept the grant and return the signed agreement was April 15, 2021. In order to meet this deadline, the Mayor signed the Grant Agreement. Resolution No. 95-21 ratifies the Mayor's acceptance of the Grant.

Fiscal Note:

No fiscal impact in fiscal year 2021. There is a LEED Cities fee of \$10,500 required every five (5) years for registration (\$2,500) and certification (\$8,000).

5. **Resolution No. 96-21(F) accepting and appropriating funds in the amount of \$5,811 from Prime Time of Palm Beach County funded by the Children Services Council in recognition of the after-school programs at Gaines Park, Howard Park, and South Olive Park achieving outstanding performance. These funds are solely to be used for program enhancements, staff development, and staff recognition.**

RESOLUTION NO. 96-21(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 TO PROVIDE FOR THE RECEIPT AND APPROPRIATION OF THE IMOTIVATE INCENTIVE AWARD FROM PRIME TIME OF PALM BEACH COUNTY TO PROVIDE AFTER SCHOOL PROGRAM ENHANCEMENTS, STAFF DEVELOPMENT, AND STAFF RECOGNITION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23335

Staff Recommended Motion:

Approve Resolution No. 96-21(F).

Background:

The iMotivate incentive program is a Prime Time strategy designed to further increase program quality within programs that participate in Prime Time's After School Quality Improvement System (QIS). The program is a performance-based recognition program that financially recognizes eligible QIS After School programs by giving an incentive award, based on merit, to reinvest back into the program. The award amount is based upon a tiered process through which a program demonstrates implementation of advanced youth development, staff development, and program management practices. These practices are in concert and direct relationship with a program's voluntary participation and work in Prime Time's QIS. Funding is provided by the Children's Services Council of Palm Beach County based upon availability of funds and performance.

This past year three of the City's After School Programs were eligible to receive an IMOTIVATE incentive award through Prime Time Palm Beach County's QIS incentive program. They each received a Tier "1" status in the QIS program, which requires programs to self-monitor as they have demonstrated a high level of quality programming and service delivery. When a program maintains "Maintenance" through PrimeTime's After School QIS, an incentive award is granted. iMotivate requires that the incentive award be spent on program enhancements, staff development, and staff recognition.

Gaines Park Community Center, Howard Park Community Center, and South Olive Park Community Center have been recognized as leaders in the Prime Time's Quality Improvement System and recipients of the incentive award. Gaines Park Community Center was awarded \$1,815; Howard Park Community Center \$2,250; and South Olive Community Center \$1,746.

Fiscal Note:

Upon approval, an additional \$5,811 will be added to the General Fund budget for after school program enhancements at Howard Park Community Center, Gaines Park Community Center, and South Olive Park Community Center.

6. **Resolution No. 98-21 authorizing the submittal of a grant application to the American Library Association COVID Relief Fund seeking up to \$50,000 for funding to support library services and to update the library collection.**

RESOLUTION NO. 98-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE AMERICAN LIBRARY ASSOCIATION FOR A COVID LIBRARY GRANT, REQUESTING UP TO \$50,000 TO SUPPORT LIBRARY SERVICES IMPACTED BY COVID-19, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23336

Staff Recommended Motion:

Approve Resolution No. 98-21.

Background:

The American Library Association COVID Library Relief Fund has been funded to assist public, school, academic, and tribal libraries across the United States and US Territories that are experiencing substantial economic hardship due to the coronavirus pandemic, which has impacted their ability to serve their community, especially traditionally under-served populations. The Fund has \$1.25M available and will provide grants between \$30,000 and \$50,000 to libraries/library systems/districts that have seen a substantial reduction in funding that has and will continue to impact their ability to provide essential services through December 31, 2021. Grants are intended to help sustain library operations, including but not limited to: staff salary (direct or indirect) materials, technology, and in-person or virtual services. Grants are to re-establish, sustain, amplify services, or create newly needed services to under-served, or populations in low to moderate income groups.

The Mandel Public Library of West Palm Beach will apply for up to \$50,000 in grant funds to aid in counteracting the cuts in the library collection budget. Funding would be applied towards buying hard copies of the many testing, technology, and other informational books, which are updated each year; the CloudLibrary platform for patron access to digital resources; and a selection of popular titles in both eBook and paper form.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

Grant award will provide \$50,000 to add materials to the Library collection.

7. **Resolution No. 102-21 authorizing the assessment of city liens in the total amount of \$35,306.86 for unpaid water service, sewer service, and stormwater service charges for the month of February 2021.**

RESOLUTION NO. 102-21: 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 FEBRUARY 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.: 23337

Staff Recommended Motion:

Approve Resolution No. 102-21.

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. 102-21 are for unpaid water service, sewer service, and stormwater service charges for the month of February 2021. The list of properties to be assessed and the associated charges totaling \$35,306.86 are in Resolution No. 102-21 as EXHIBIT A - Utility Lien List - February 2021.

Fiscal Note:

No fiscal impact.

8. Resolution No. 104-21(F) recognizing Palm Beach County Cares Act reimbursement proceeds of \$344,420.

RESOLUTION NO. 104-21(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, WATER & SEWAGE SYSTEMS AND INFORMATION TECHNOLOGY FUND BUDGETS TO RECOGNIZE PBC CARES ACT REIMBURSEMENT OF \$344,420 IN PROCEEDS: PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23338

Staff Recommended Motion:

Approve Resolution No. 104-21(F).

Background:

Palm Beach County has determined that it is in the public's best interest to reimburse municipalities in Palm Beach County for their procurement and expenditure of COVID-19 related goods or services with CARES ACT funds received by Palm Beach County.

The City was reimbursed \$344,420 for COVID-19 related goods and services. The General Fund Departments' expenditures total: \$272,189, the Public Utilities Department expenditures total: \$20,772, and Information Technology Department expenditures total: \$51,459.

Resolution No. 104-21(F) records the PBC Cares Act reimbursement proceeds.

Fiscal Note:

Reimbursement proceeds total \$344,420.

PUBLIC HEARINGS (9-10):

9. **Public Hearing and Second Reading of Ordinance No. 4941-21 Chapter 90 (Utilities) Article III (Sewers and Sewage Disposal) amending Section 90-122 and Section 90-126 of the Code of Ordinances to comply with requirements of the Florida Administrative Code as regulated by the Florida Department of Environmental Protection.**

ORDINANCE NO. 4941-21: 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 90 (UTILITIES), ARTICLE III (SEWERS AND SEWAGE DISPOSAL), SECTION 90-122 AND SECTION 90-126 REGARDING THE CITY'S WASTEWATER INDUSTRIAL PRETREATMENT PROGRAM TO COMPLY WITH REGULATIONS BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING FOR A CODIFICATION CLAUSE, A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23339

Staff Recommended Motion:

Approve Ordinance No. 4941-21 on Second Reading.

Background:

The proposed amendments to the sewer use ordinance will provide for language to allow for the City's regulations relating to dental amalgam sewer ban and pharmaceutical hazardous waste sewer ban, which requirements are set forth in Chapter 62-625 of the Florida Administrative Code. These regulations and guidelines were originally set forth by the Environmental Protection Agency (EPA). The City of West Palm Beach, in its capacity as the control authority of the East Central Regional Wastewater Treatment Facility, is tasked with the enforcement of these rules.

On April 5, 2021, the Florida Department of Environmental Protection issued a preliminary approval of the proposed amendments to the City.

Fiscal Note:

No fiscal impact.

10. Public Hearing and Second Reading of Ordinance No. 4943-21 approving a Ground Lease, Development, and Operating Agreement for the City's Golf Course property with the West Palm Golf Community Trust.

ORDINANCE NO. 4943-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A GROUND LEASE, DEVELOPMENT, AND OPERATING AGREEMENT BETWEEN THE CITY AND THE WEST PALM GOLF COMMUNITY TRUST, INC., FOR THE MUNICIPAL GOLF COURSE PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THESE PURPOSES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23340

Staff Recommended Motion:

Approve Ordinance No. 4943-21.

Background:

This Ordinance No. 4943-21, approving a long-term lease, was unanimously approved by the City Commission at First Reading on May 3, 2021, in compliance with Section 2-31(27) of the Code of Ordinances.

The City of West Palm Beach's municipal Golf Course property is a unique parcel of approximately 179 acres located just south of Forest Hill Boulevard, east of Interstate 95, west of South Dixie Highway and the Florida East Coast Railway line, and north of the Lake Worth "C-51" Canal.

The City of West Palm Beach desires to keep its public Golf Course open and offering public play to its residents at affordable rates, while also maintaining a world class golf facility that will attract new golf devotees and tournaments. Accordingly, on more than one occasion, the City sought proposals for a development agreement / lease for the West Palm Beach municipal Golf Course seeking the renovation and restoration of the municipal Golf Course with related development to attract new residents and visitors to the area and Golf Course. On each prior occasion, after significant time spent in negotiations, the City has been unable to finalize a development agreement / lease with a proposer.

Subsequently, the South Florida Section, Professional Golfers Association of America, Inc. ("SFPGA"), submitted an unsolicited proposal for the development of the Golf Course. SFPGA formed the West Palm Golf Community Trust, Inc. (the "Developer"), which is a not-for-profit corporation to be operated exclusively for charitable purposes within the meaning of with Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, with a primary purpose to develop, improve, maintain, and operate the West Palm Beach public golf course to provide affordable golf to residents of West Palm Beach, and to develop, improve, maintain, and/or operate recreational activities and facilities, such as municipal parks, nature trails, lakes, and golf courses, for use by the general public and to make charitable contributions toward other public needs. These uses and amenities have also

been vocalized by residents through numerous public engagement efforts that the City and SFPGA has undertaken.

Upon the Mayor's directions, negotiations were conducted, and by Resolution No. 346-20, the City Commission approved a Term Sheet with Developer for the redevelopment of the City's municipal Golf Course by the Developer, along with the construction of administrative offices for SFPGA. The City Commission further directed that a development agreement and lease, which provides financial protections to the City, be negotiated and brought back to the Commission for consideration.

LEASE TERMS: The significant terms of the negotiated Ground Lease, Development, and Operating Agreement include the following:

- **Term:** The lease term is fifty (50) years, with an option to extend the term for an additional twenty (20) years.
- **Golf Course:** Developer is to redevelop and construct the Golf Course with Florida friendly native trees and plants. The Golf Course will include a short course, putting course, practice range, and short game area. A new Clubhouse with a bar, dining facilities, full-service kitchen, and office space for the Golf Course operations will also be constructed. A Performance Center, which may include indoor/outdoor hitting bays, a teaching facility, club fitting and putting studio with computer technology and training aids, will also be developed as part of the Golf Course. The Concept Plan for the Golf Course is attached to this Ordinance.
- **SFPGA Offices:** A building for the SFPGA administrative offices for 15-20 persons will also be constructed and may be used for operating and managing community outreach programs, hosting events, fundraising activities, and children's program(s), along with the ability for future construction of a building to house the memorabilia collection of PGA of America.
- **Minimum Capital Contribution:** The Developer's investment into the Golf Course improvements shall not be less than Nine Million Dollars (\$9M).
- **Golf Course Operating Costs:** Developer shall be responsible for all operating and maintenance costs of the Golf Course, except for property insurance. City shall have no obligation for any operating deficit.
- **Schedule:** The intended schedule contemplates issuance of a Certificate of Occupancy for the Golf Course and Clubhouse by September 1, 2023, subject to reasonable causes for delay as provided in the Lease.
- **Resident Rates:** At all times, West Palm Beach residents shall receive a discount of not less than 35% off the prevailing highest, non-resident green fee rates for that day and time.

- Resident Tee Times: No less than 20% of the available tee times will be for City Residents on a monthly basis.
- Rent: \$1 per year.
- Additional Rent: After the first ten (10) years of operating the Golf Course, the Developer will pay Additional Rent to the City provided that: (i) the endowment of the Foundation is at least \$25M (as adjusted per the Lease); (ii) that the Foundation has budgeted and reserved for any required capital projects as determined by the Board of Directors of the Foundation; and (iii) that the Lessee has a positive net operating income in such year. In such circumstances, Lessee shall pay seventy-five percent (75%) of the excess operating income from the Golf Course as Additional Rent. The City may utilize the Additional Rent to fund capital improvement projects or programs related to the Golf Park, Mary Brandon Park, improvements to the public realm, streetscapes, hardscapes, public art, other enhancement improvements within one-half (½) mile of the Golf Park, or other City projects or programs mutually agreed to by City and the Developer.
- SB / MWBE Participation: The Developer is required to have small business and MWBE firms participate in fifteen percent (15%) of the construction contract value.
- Local Workforce: The Developer is required to have five percent (5%) of its construction workforce be City residents.
- City Obligations: The City will pay or waive, as applicable, various fees for the development, including but not limited to, application and development fees, impact fees, utility capacity and connection fees, water and connection fees, and property insurance for the Golf Course. The City will purchase title insurance for the leased property.

CONCEPTUAL PLAN: The Developer has also submitted its proposed Conceptual Plan for the Property for the City Commission's approval.

APPRAISAL: Section 2-31(27)(c) of the Code Ordinances eliminates the requirement for appraisal of the property to be leased if the lessee is a bona fide not-for-profit 501(c)(3) corporation. The Developer meets this requirement, so appraisal of the property was not required.

Ordinance No. 4943-21 approves the Ground Lease, Development, and Operating Agreement with West Palm Golf Community Trust, Inc. and approves the proposed Concept Plan.

Fiscal Note:

Rent of \$1 per year. Additional rent may commence after ten (10) years of Golf Course operations and may vary based on whether excess revenue is generated. The City will not be responsible for Golf Course operating costs.

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.