



WEST PALM BEACH

**City of West Palm Beach
City Commission**

AGENDA

**July 12, 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 July as National Recreation and Parks Month. Proclamation to be accepted by Leah Rockwell, Director of Parks and Recreation.**
Agenda Cover Memorandum No.: 23385

PRESENTATION (2):

2. **Legislative update by Representative Omari Hardy.**

RECOGNITION (3):

3. **Special recognition of City staff who participated in the distribution of COVID-19 vaccines April - May 2021 and water distribution efforts May 30 - June 4, 2021.**

CONSENT CALENDAR (4-13):

4. **Minutes of the Regular City Commission Meeting of June 14, 2021.**
Agenda Cover Memorandum No.: 23386

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of June 14, 2021.

5. **Resolution No. 146-21(F) amends the grant programs' special revenue fund budget to reallocate the amount \$7,270 of salaries and benefits from a CARES Act grant awarded by the Florida Department of State Division of Library and Information Services towards the purchase of library materials to continue providing COVID-19 relief and recovery efforts to the West Palm Beach community.**

RESOLUTION NO. 146-21(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 GRANT PROGRAMS SPECIAL REVENUE FUND BUDGET TO REAPPROPRIATE CONTRIBUTIONS FROM THE FLORIDA DEPARTMENT OF STATE DIVISION OF LIBRARY AND INFORMATION SERVICES TO PROVIDE APPROPRIATIONS FOR LIBRARY MATERIALS TO SUPPORT THE WEST PALM BEACH COMMUNITY IN ITS COVID-19 RELIEF FOR ONE (1) YEAR; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23387

Staff Recommended Motion:

Approve Resolution No. 146-21(F).

Background:

By Resolution No. 26-21 and Resolution No. 336-20(F) adopted by the City Commission on February 8, 2021 and on January 11, 2021, respectively, the City Commission authorized acceptance of a CARES Act grant from the Florida Department of State Division of Library and Information Services for the amount of \$46,463 for use by the Mandel Public Library of West Palm Beach to support COVID-19 relief efforts, specifically focusing on local childcare centers, nursing homes, and assisted living facilities.

As some COVID-19 restrictions are still in place and many citizens still uncomfortable about coming into the library, staff is working tirelessly to connect patrons with digital materials and produce a wide variety of virtual programs to bring the library into their homes. This limited capacity for in-person assistance means most of City staff efforts are concentrated on providing the best services we can digitally and require new solutions to address changing needs. The library plans to enhance our digital presence with improved tools and equipment for producing elevated virtual programming to better serve the community at large. A reference chat service and new library programs calendar will help advance the library's efforts of providing world-class virtual programs to the community. The library will further respond to the COVID-19 crisis by assembling and distributing Healing Library Kits to help patrons of all ages respond to and process the trauma of the current times. The library will also provide focused outreach to higher need populations including: childcare centers, nursing homes, and assisted living facilities by supplying

physical and electronic materials and targeted programming with respect to the needs of those specific populations.

As a result of necessary funding needs, the City of West Palm Beach ("City") submitted a change request for use of the grant to the State of Florida ("State") and it was approved by the State. The City's request was formalized by an amendment between the State and the City, which authorized the following: (1) change to the order of the payment requests; and (2) reallocation of \$7,270 from Salaries and Benefits to Library Materials.

Fiscal Note:

Upon approval, funding in the amount of \$7,270 will be moved from Personnel to Materials and Services for the funding of Library materials.

6. **Resolution No. 167-21(F) amending the Fiscal Year 2020/21 Miscellaneous Trust Fund Budget to authorize appropriations of \$5,000 from Law Enforcement Forfeiture Receipts for donations; a donation to the Florida Office of the Attorney General - National Conference on Preventing Crime.**

RESOLUTION NO. 167-21(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 MISCELLANEOUS TRUST FUND BUDGET TO PROVIDE APPROPRIATIONS FROM THE STATE LAW ENFORCEMENT FORFEITURE RECEIPTS FOR DONATIONS PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23389

Staff Recommended Motion:

Approve Resolution No. 167-21(F).

Background:

Pursuant to the Florida Contraband Forfeiture Act, any local law enforcement agency that acquires at least \$15,000 within a fiscal year must expend or donate no less than 25 percent (25%) of such proceeds. These funds may be expended upon request by the Chief of Police to the City Commission and upon appropriation to the police department's miscellaneous trust fund. Such funds may be used only for school resource officers, crime prevention, safe neighborhoods, drug abuse education, drug prevention programs, or other law enforcement purposes as the municipality's governing body deems appropriate.

The State Law Enforcement Trust Fund expenditure of \$5,000, which the Chief of Police certifies is in compliance with; Section 932.7055(5)(c)3, Florida Statutes.

Donation:

The Florida Office of the Attorney General has announced the 2021 National Conference on Preventing Crime in partnership with the Florida Consortium of Urban League Affiliates (Urban League of Broward County) and Derrick Brooks Charities. The Conference will be held August 25-27 in Orlando, Florida. The West Palm Beach Police Department seeks to attend and be a Co-Sponsor of the Conference, which includes a Five Thousand Dollar (\$5,000) donation to the Florida Office of the Attorney General (see Gold Level Sponsorship for specifics). The donation is to be made from the available state forfeiture funds in accordance with the Florida Contraband Forfeiture Act. A Co-Sponsor will have the opportunity to be involved in the strategic planning and development of the conference program to ensure that the needs of our represented constituents are met.

The Conference is designed to foster communication and action among practitioners by sharing innovative and successful ideas and prevention strategies. A major component of this initiative will be directed toward efforts to provide positive alternatives to violence among our young people.

The State Forfeiture funds requested complies with the permissible use reporting categories identified as: (1) law enforcement training and education; and (2) crime prevention.

Fiscal Note:

Approval recognizes state forfeiture revenue proceeds and provides appropriations for donations.

7. **Resolution No. 171-21 approving an agreement between the City of West Palm Beach and the West Palm Beach Police Foundation Inc. establishing a Victim Assistance Program funded by the West Palm Beach Police Foundation.**

RESOLUTION NO. 171-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE WEST PALM BEACH POLICE FOUNDATION, INC. AND THE CITY OF WEST PALM BEACH TO IMPLEMENT A VICTIM ASSISTANCE PROGRAM TO PROVIDE EMERGENCY FUNDING TO SUPPORT CRIME VICTIMS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23390

Staff Recommended Motion:

Approve Resolution No. 171-21.

Background:

The West Palm Beach Police Foundation, Inc. (“Foundation”) is a 501(c)(3) tax-exempt non-profit corporation registered with the State of Florida. The Foundation’s main purpose is to support the employees of the West Palm Beach Police Department and to help foster good relations between the community and Department. The Foundation solicits donations and grants from private individuals, charitable organizations, and companies. These donations and grants can be unrestricted in their use or can be restricted to a particular program or use.

The Foundation has entered into Agreements with the I-95 Nissan, Greenacres Nissan, and Southern 441 Nissan Dealers to provide donations to the Foundation, the use of which is to be restricted, and to provide West Palm Beach police officers the ability to provide support in the form of emergency lodging, food, clothes, travel, communications, and other necessities for crime victims (domestic assault, gun violence, sexual assault, homicide, witness protection, etc.) in the community they serve and foster officer well-being in the community (the “Victim Assistance Program”). The Foundation and City desire to enter into an Agreement to establish a relationship between the parties for the Foundation to provide funds to the City to assist crime victims.

The Foundation will provide the funds to the City by issuance of debit card. Once funding is available, the Police Department will offer assistance to crime victims/witnesses in need. Any officer who identifies a victim/witness in need may request assistance. The officer will, during normal business hours, contact a Criminal Investigations Division (CID) supervisor, or afterhours, the on-call CID Sergeant for approval. When approval is granted, the funding can be used for shelter, food, travel, communication, or anything deemed necessary. The assistance is intended to be short term until other services can be established. Officers will document the assistance in a police report and provide expenditure receipts to the CID Commander.

Funding for the program will be provided solely by the Foundation based on donations from the Dealers; there is no minimum amount of funding guaranteed to the City. The City will be responsible for quarterly reporting to the Foundation regarding the use of the funds.

This program does not require City budgeted funds only in-kind manpower for tracking and reporting usage of funds.

Fiscal Note:

No fiscal impact to the City budget. City may receive funding from the Police Foundation, which can be used for specified victim assistance purposes. Only "cost" to the City is time for tracking/reporting usage of funds.

8. **Resolution No. 148-21 authorizing the assessment of city liens in the total amount of \$23,295.68 for unpaid water service, sewer service, and stormwater service charges for the month of April 2021.**

RESOLUTION NO. 148-21: 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 APRIL 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.: 23391

Staff Recommended Motion:

Approve Resolution No. 148-21.

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. 148-21 are for unpaid water service, sewer service, and stormwater service charges for the month of April 2021. The list of properties to be assessed and the associated charges totaling \$23,295.68 is in Resolution No. 148-21 as EXHIBIT A - Utility Lien List - April 2021.

Fiscal Note:

No fiscal impact.

9. **Resolution No. 166-21 approving a Conditional Settlement Agreement in the amount of \$60,000 in the matter of Guillermo Matranca v. Alton Seymoure, Jr., The Alton Seymoure Jr. Living Trust, and the City of West Palm Beach.**

RESOLUTION NO. 166-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT IN THE AMOUNT OF \$60,000 IN THE MATTER OF GUILLERMO MATRANCA v. ALTON SEYMOURE, JR., THE ALTON SEYMOUR JR. LIVING TRUST, AND CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23392

Staff Recommended Motion:

Approve Resolution No. 166-21.

Background:

A claim has been brought by Guillermo Matranca against Alton Seymoure, Jr., The Alton Seymoure Jr. Living Trust, and the City of West Palm Beach, for an accident that occurred on May 15, 2019. A settlement agreement has been reached with Mr. Matranca and all of the Defendants to resolve the matter for a total of \$60,000. The City will pay \$59,000 towards the total settlement. Mr. Matranca will sign a general release that releases the City from all claims arising from this incident, which ends all of the 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. 49-21 approves the conditional settlement agreement.

- 10. Resolution No. 170-21 authorizing a quit claim deed of a strip of land along the north boundary of 300 Banyan Boulevard in exchange for a public easement over the area for sidewalk and related purposes.**

RESOLUTION NO. 170-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE CONVEYANCE OF A 4.8 FOOT STRIP OF LAND ALONG 300 BANYAN BOULEVARD IN EXCHANGE FOR A PUBLIC EASEMENT OVER THE PROPERTY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23398

Staff Recommended Motion:

Approve Resolution No. 170-21.

Background:

The City of West Palm Beach is making pedestrian and streetscape improvements as part of the Banyan Boulevard Complete Streets Project. As part of the Banyan Boulevard Complete Streets Project, the City completed a boundary survey along the corridor. The survey revealed several gaps in the rights of way maps along Banyan Boulevard, resulting in portions of the existing sidewalk laying outside of the platted and dedicated right of way.

Section 95.361, Florida Statutes, allows a government entity to obtain ownership of existing sidewalks, if the government entity has maintained the area for more than the immediate last seven (7) years, but does not have actual title to the area. By Resolution No. 174-20, the City Commission authorized the filing of a maintenance map by the City in the Office of the Circuit Court of Palm Beach County to vest the ownership of portions of the existing sidewalk and project areas not within the platted right of way along Banyan Boulevard to enable the City to make improvements as part of the Banyan Boulevard Complete Streets Project. On or about April 6, 2021, the City filed a maintenance map in

the Office of the Circuit Court of Palm Beach County covering areas along Banyan Boulevard. A 4.8 ft. wide portion of the real property commonly known as 300 Banyan Boulevard was included on the maintenance map.

Prior to the filing of the maintenance map, the developer of the 300 Banyan Boulevard property had incurred significant soft costs on a development plan for the property. The pro forma assumptions, on which the project financing was granted, was based on a development of 99,000 square feet. The loss of the 4.8-ft. strip, as a consequence of the maintenance map, reduces the size of the building, which can be constructed on the property, impacts the financing and viability of the proposed project, and created a defect in the property title.

The City desires to provide the developer of 300 Banyan Boulevard the ability to develop the property as planned, while also retaining the ability to construct the sidewalk and public improvements along this area as planned for the Banyan Boulevard Complete Streets project. This can be accomplished by issuing a quit claim deed to convey the 4.8 ft. wide strip of property to the owner of 300 Banyan Boulevard in order to remove the cloud on title and to allow for the proposed development of the property, in exchange for a perpetual easement for public sidewalk, fixtures, utilities, and other public improvements in the 4.8 ft. wide area.

Section 2-31(27)(g) of the Code of Ordinances of the City of West Palm Beach provides that the issuance of a right-of-way or quit claim deed, or similar instrument for the purposes of removing a defect in or cloud on title may be approved by resolution of the City Commission approved by simple majority vote.

Resolution No. 170-21 approves the issuance of a quit claim deed for the 4.8 ft. wide strip of land to 300 Banyan LLC in exchange for a Public Easement over the 4.8 ft. wide strip of land for public sidewalk and related purposes.

Fiscal Note:

No fiscal impact.

11. **Resolution No. 158-21(F) provides appropriations for the fencing and gate replacement at Mary Brandon Park Dog Park in the amount of \$49,625.34.**

RESOLUTION NO. 158-21(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 PARKS AND RECREATION BUDGET TO PROVIDE APPROPRIATIONS FOR FENCING AND GATE REPLACEMENT AT MARY BRANDON DOG PARK; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23399

Staff Recommended Motion:

Approve Resolution No. 158-21(F).

Background:

Mary Brandon Park is located just one block south of Forest Hill on Georgia Avenue next to the West Palm Beach Municipal Golf Course. It is a beautiful, small, and quiet neighborhood park with just enough amenities to suit most residents in the area. The park contains both active and passive recreation, including a dog park. The overall park is functioning for its intended purpose; however, there are improvements needed, such as the fence replacement for the Dog Park. The fence is at the end of its useful life and is not effective in separating the large dogs from the small dogs, which have led to reported dog fights. The four (4) foot fence will be replaced with a six (6) foot high vinyl coated chain link fence and gate. Additionally, a bottom rail will be added to the fence to prevent the dogs from escaping.

The funding the department would like to use for the fence and gate replacement is from the "other contractual services" expense account, which was budgeted to hire one of the City's current right-of-way contractors to maintain the Belvedere Gateway right-of-way and the Southern Blvd./South Flagler landscape improvements. The City signed a Landscape Maintenance Memorandum of Agreement to maintain the right-of-way for Palm Beach County and FDOT in both locations. Both of those projects are still under construction or have been delayed; therefore, the City is not anticipating using any or all of the contractual services budgeted funds this fiscal year.

The total cost of the fence and gate replacement is \$49,625.34.

Funds are available in the Parks Department General Fund budget and approval allows the transfer from contractual services to repair and maintenance.

Fiscal Note:

Approval will provide \$49,626 to the repair and maintenance expense account for the replacement of the fence and gate at Mary Brandon Dog Park.

12. **Resolution No. 168-21 authorizing and ratifying the City’s application for grants under the Early Learning Coalition’s Child Care Provider Phase V Program and the Mini Grants School Readiness Program in the amounts of \$51,000 and \$38,250, respectively; authorizing and ratifying the Mayor’s execution of the applications; authorizing and ratifying the City’s submittal of the applications to the Early Learning Coalition and authorizing receipt and use of the grant funds.**

RESOLUTION NO. 168-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING AND RATIFYING THE CITY’S APPLICATION FOR A GRANT UNDER THE EARLY LEARNING COALITION OF PALM BEACH COUNTY CHILD CARE PROVIDER PHASE V GRANT PROGRAM IN THE AMOUNT OF \$51,000 AND A GRANT UNDER THE EARLY LEARNING COALITION OF PALM BEACH COUNTY MINI GRANTS SCHOOL READINESS PROGRAMS IN THE AMOUNT OF \$38,250; AUTHORIZING AND RATIFYING THE MAYOR’S EXECUTION OF THE GRANT APPLICATIONS EFFECTIVE AS OF JUNE 16, 2021 AND JUNE 23, 2021, RESPECTIVELY; AUTHORIZING AND RATIFYING THE SUBMITTAL OF GRANT APPLICATIONS TO THE EARLY LEARNING COALITION OF PALM BEACH COUNTY; AUTHORIZING RECEIPT AND USE OF THE GRANT FUNDS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23400

Staff Recommended Motion:

Approve Resolution No. 168-21.

Background:

The Department of Parks and Recreation was contacted on May 24, 2021, by the Early Learning Coalition of Palm Beach County regarding the State of Florida Office of Early Learning COVID-19 Response and Relief Supplemental Appropriations Phase V grant funding to support ongoing out-of-school program operations. The Early Learning Coalition provided the City with four (4) [one for each licensed City facility] Early Learning/Child Care Provider Phase V Grant Eligibility Forms to complete, sign, and return for funding. The City's out-of-school programs are eligible based on the open criteria/operating April 1, 2021 providing on-sight early learning services and was required to submit an Expenditure Plan Narrative and budget on the Phase V Grant Eligibility Form.

Phase V funding being offered is based on capacity of enrollment at licensed child-care centers. Funds will be specified for staffing, deferred maintenance, program equipment, and supplies. The proposed budget for each center is as follows:

- Coleman Park Community Center: \$10,500
- Howard Park Community Center: \$10,500
- Gaines Park Community Center: \$15,000
- South Olive Park Community Center: \$15,000
- **Total: \$51,000**

On June 15, 2021, the City received four (4) additional electronic applications from the Early Learning Coalition of Palm Beach County for mini grants earmarked for School Readiness programs open and operating as of June 1, 2021.

The Phase V mini grants are also based on capacity and the number of children enrolled with the Early Learning Coalition of Palm Beach County for financial support at each City licensed facility. Funds will be specified for staffing, deferred maintenance, program equipment, and supplies. The proposed budget for each center is as follows:

- Coleman Park Community Center: \$7,875
- Howard Park Community Center: \$7,875
- Gaines Park Community Center: \$11,250
- South Olive Park Community Center: \$11,250
- **Total:** **\$38,250**

The Early Learning Coalition of Palm Beach County required all applications to be completed and returned to them no later than June 23, 2021. In order to meet this deadline, the Mayor was requested to sign, and signed, the Early Learning Coalition of Palm Beach County Child Care Provider Phase V Grant Eligibility Forms on June 16, 2021 and the

Early Learning Coalition of Palm Beach County Mini Grants School Readiness Programs applications on June 23, 2021. The City Commission is requested to authorize the City's application for the grants and authorize and ratify the Mayor's prior execution of the Grant Applications. The Child Care Provider Eligibility Form is in Resolution No. 168-21 as Exhibit A and the Mini Grants School Readiness application as Exhibit B.

Fiscal Note:

Approved funding will total \$51,000 and \$38,250.

13. **Resolution No. 180-21 approving the submittal of a grant application in the amount up to \$1.3M for the U. S. Department of Transportation RAISE grant and approving a memorandum of understanding between the City and Northend RISE.**

RESOLUTION NO. 180-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE DEPARTMENT OF TRANSPORTATION FOR A REBUILDING AMERICAN INFRASTRUCTURE WITH SUSTAINABILITY AND EQUITY GRANT; REQUESTING UP TO \$1,300,000 FOR PLANNING, PREPARATION, OR DESIGN OF THE NORTH TAMARIND CORRIDOR REVITALIZATION PLANNING PROJECT; AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WEST PALM BEACH AND NORTHEAST RISE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23409

Staff Recommended Motion:

Approve Resolution No. 180-21.

Background:

On April 23, 2021, the U. S. Department of Transportation issued its Notice of Funding Opportunity to apply for \$1B in Fiscal Year 2021 discretionary grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grants. Up to \$30M will be awarded to planning grants. To ensure that the benefits of infrastructure investments benefit communities large and small, the Department will award an equitable amount, not-to-exceed half of funding, to projects located in urban and rural areas, respectively. Because the City's population is less than 200,000, it is considered a rural area for the purposes of this grant. The federal share of the grant program may not exceed 80% of urban projects. The Secretary may increase the federal share of costs above the 80% for projects located in rural areas.

The application deadline is July 12, 2021. If approved, the City will apply for \$1.3M planning grant, which may require a match of up to \$260,000. Should the City be awarded the grant, the required match funds will be paid from contributions from the Palm Beach County School District and Northend Rise. If awarded, the planning grant will assess and provide designs for improvements and public safety needs for the North Tamarind Corridor of the Coleman Park neighborhood including: engineering plans for replacement of the water and sewer main lines beneath 15th Street; engineering plans to bury power and cable lines; design work to improve stormwater management and provide localized flooding relief; design work, including the design and engineering expenses associated with the following corresponding engineering plans for a pedestrian bridge over an active railroad, as well as gates and corresponding safety measures at the 15th Street grade crossing; planning for the integration of the railroad operating systems with the traffic management systems; planning for installation and deployment of a broadband network concurrent with project construction; street lighting assessment; green infrastructure planning to increase green spaces and use soils and vegetation to manage stormwater; design work to improve pedestrian and bicycle safety through shared bike lanes, sidewalks, clearly marked bicycle and pedestrian facilities, and improved intersection crossings; planning for traffic calming measures and smart traffic signals; and landscape design for green barriers to buffer sidewalks from existing railroad tracks.

The City of West Palm Beach desires to submit an application for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) planning grant. One of the grant criteria requirements is a demonstration of strong collaboration among a broad range of stakeholders, especially equity-focused community outreach and public engagement in the project's planning in underserved communities. With that in mind, the City of West Palm Beach and Northend Rise, a nonprofit community-based organization established to break the cycle of inter-generational poverty that has plagued the historic neighborhood populations occupying northern West Palm Beach, intend to coordinate and collaborate in carrying out the planning activities for the RAISE grant and are working with residents to

improve the safety and livability in the Northend Rise targeted community. For that reason, the City wishes to enter into a memorandum of understanding outlining the responsibilities and expectations of the City and Northend Rise relating to the planning grant should it be awarded. The proposed Memorandum of Understanding is provided.

Approval of Resolution No. 180-21 authorizes the City to enter into a memorandum of understanding with the Northend Rise and to submit a grant application for the RAISE grant.

RESOLUTIONS (14-20):

14. **Resolution No. 147-21 to amend Resolution No. 126-20 in order to extend the deadlines for completing the rehabilitation of the property and approving a conditional release of liens on property located at 717 New York Street.**

RESOLUTION NO. 147-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING RESOLUTION NO. 126-20; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A RELEASE OF CODE ENFORCEMENT LIENS ENCUMBERING CERTAIN REAL PROPERTY LOCATED AT 717 NEW YORK STREET, WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23388

Staff Recommended Motion:

Approve Resolution No. 147-21.

Background:

The City Commission previously approved Resolution No. 126-20 to provide a conditional waiver of code enforcement liens on property located at 717 New York Street. Resolution No. 126-20 required payment of a reduced administrative fine, payment of all assessments and resolution liens, and completion of the property rehabilitation by December 31, 2020. The property owner has requested an extension of time to complete the property rehabilitation and obtain a release of the City's liens. Resolution No. 147-21 would amend the previous resolution to allow the property owner until July 31, 2021 to complete the property rehabilitation.

Fiscal Note:

No fiscal impact.

15. **Resolution No. 159-21(F) appropriating funding in the total amount of \$6,157,000 in Public Utility funds for capital projects, capital equipment, and for additional water and stormwater operating expenses.**

RESOLUTION 159-21(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 SEWAGE SYSTEMS REVENUE FUND, WATER AND SEWER EQUIPMENT REPLACEMENT RESERVE FUND, WATER AND SEWER RENEWAL AND REPLACEMENT FUND, WATER AND SEWER CONSTRUCTION FUND, TOWN OF PALM BEACH RENEWAL AND REPLACEMENT FUND, WATER AND SEWER SERIES 2017C CONSTRUCTION BOND FUND, STORMWATER UTILITY SYSTEM OPERATING FUND, AND STORMWATER RENEWAL AND REPLACEMENT FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR CAPITAL PROJECTS, CAPITAL EQUIPMENT AND FOR ADDITIONAL WATER, SEWER AND STORMWATER OPERATING EXPENSES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23393

Staff Recommended Motion:

Approve Resolution No. 159-21(F).

Background:

The summary of additional appropriations and reappropriation of funds is as follows:

Water and Sewage Systems Revenue Fund 450: \$1,265,000 from operating contingency to the Water Treatment Plant, \$725,000, for staff overtime, engineering services, and chemical expenses related to the Water Treatment Plant advisory; providing an additional \$10,000 for the purchase of reclaimed water for resale to the Haverhill Ball Park; and providing \$530,000 to Sanitary Collections for repair of the existing sanitary sewer system on Southern Boulevard (State Road 80) from Olive Avenue to Washington Road.

Water and Sewer Equipment Replacement Reserve Fund 451: \$125,000 reappropriation of funds from automotive equipment to machinery and equipment to enable replacement of a pump instead of a crane truck.

Water and Sewer Renewal and Replacement Fund 454: \$3,450,000 appropriation from reserve for future projects to three (3) capital improvement projects. (Water \$3,300,000; Sewer \$150,000).

1. Banyan Boulevard Water Main Replacement at the FEC Railroad Tracks: Water \$600,000

The Banyan Avenue Streetscape - Phase 1 construction project, a Community Redevelopment Agency (CRA) project, is currently underway and is 50% complete. The project limits for Phase 1 extend from Australian Avenue to west of Quadrille Boulevard intersection. The scope of work includes a landscaped median, street lighting, mid-block crosswalk enhancement, bike facilities, ADA improvements, traffic signalization, and the City's utility improvements. Due to the proximity with the Palm Beach County Courthouse, traffic control coordination with Palm Beach County for the construction of Phase 1 has been extensive and is one of the project's challenges. The improvements at Quadrille Boulevard intersection is initially included as part of Phase 2 for which construction is planned to begin in the Fall of 2022. The existing water main at the Florida East Coast Railway (FEC) railroad tracks is near the end of its service life and requires replacement (Exhibit A). The water main replacement is in final design and based on close coordination with Palm Beach County, its installation across the Quadrille Boulevard intersection can be accomplished in Phase 1 construction project. The estimated budget amount to accomplish the replacement of approximately 350 linear feet of water main by horizontal direction drill technology is \$600,000. The water main construction is anticipated to begin late July/early August 2021. No general fund dollars are required. The project falls within Commission District 3: Commissioner Christy Fox.

2. Washington Road & Pine Terrace Improvements: \$250,000 (Water \$200,000; Sewer \$50,000)

The Washington Road and Pine Terrace Improvements project is located in the Southend Subdivision (Exhibit C). The purpose of the project is to resolve the ponding that occurs after a rainfall event at the northwest and southwest corners of the intersection. The work involves curb ramp replacement, installation of new inlets, stormwater pipelines, connection to the existing stormwater system on Washington Road, and milling and resurfacing. Within the project corridor, in order to accommodate the proposed drainage improvements, adjustment/relocation of the existing water main and replacement of existing sanitary sewer will be required. Based on engineering cost estimate, the estimated budget amount required to accomplish the water and sewer improvements is \$250,000. The project is currently in final design and construction is anticipated to begin in September 2021. No general fund dollars are required. The project falls within Commission District 3: Commissioner Christy Fox.

3. Northmore Neighborhood Utility Improvements: \$2,600,000 (Water \$2,500,000; Sewer \$100,000)

The Northmore Neighborhood is centered around Northmore Elementary School. Through the Florida Department of Transportation (FDOT) and Palm Beach Transportation Planning Agency (TPA), the City received a Local Agency Program Grant to accomplish the Northmore Elementary Safe Routes to School Project ("LAP Project"). The LAP Project, which extends from 39th Court to 44th Street between Windsor Avenue and Greenwood Avenue, will provide the necessary ADA improvements of pedestrian safety (Exhibit B). The scope of work for the LAP Project involves sidewalk and curb ramp construction, pedestrian crosswalk pavement marking and signage, and milling and resurfacing. Within the limits of the LAP Project, replacement of approximately 7,700 linear feet of the City's aging and undersized water mains, post-construction televising of existing sanitary collection system, and incidental replacement of existing stormwater pipelines will be required. The estimated budget amount to accomplish the construction phase of the City's water distribution system is \$2,600,000. The bidding and construction phase of the City water main improvements is planned for summer 2021 and early 2022, respectively. No general fund dollars are required. The project falls within Commission District 1: Commissioner Kelly Shoaf.

Water Sewer Construction Fund 456: \$917,000 reappropriation of funds for the Lift Station #23 Force Main Improvements project to cost center 097330 Sanitary Collections from cost center 097320 Pumping Operations.

Town of Palm Beach Renewal and Replacement Fund 457: \$50,000 appropriation from reserve for future projects. The construction of the water main replacement on State Road 80/Southern Boulevard in the Town of Palm Beach was completed in late 2021. The scope of work involved replacement of the City's aging water main at the intersection of Southern Boulevard and South Ocean Boulevard. This is the final phase of the Southern Boulevard Subaqueous Water Main Replacement within the FDOT's Southern Boulevard Bridge reconstruction project limits, which began in 2016. Additional appropriation in the amount of \$50,000 is needed to provide funding necessary to close out the water main replacement project. Funding for this project is paid for by the Town of Palm Beach Renewal & Replacement Fund 457. Fund 457 is to be used for water main improvements in the Town of Palm Beach pursuant to the Water Franchise Agreement executed on June 16, 1999, between the City of West Palm Beach and Town of Palm Beach. No general fund dollars are required.

Water and Sewer Series 2017C Construction Bond Fund 45A: \$50,000 appropriation from reserve for future projects. The 7th Street Water Main Improvements construction project is being accomplished under Phase 1 of the CRA's Tamarind Avenue Improvements project and is 15% complete. The purpose of the project is to provide connectivity of the water distribution system by looping the pipe network on 7th Street between Carver Avenue and Tamarind Avenue. The project involves installation of approximately 850 linear feet of 24-inch water main including a new encased pipe crossing across the South Florida Regional Transportation Authority's (SFRTA) railroad tracks. The construction is anticipated to complete in September/October 2021. Additional appropriation in the amount of \$50,000 is needed to accomplish the project. No general fund dollars are required. The project falls within Commission District 3: Commissioner Christy Fox.

Stormwater Utility System Operating Fund 481: \$210,000 from operating contingency. The Roosevelt Estates neighborhood has experienced some flooding issues along the roadways and driveways, which can impede normal traffic flow and some residents' ability to get to their mailboxes or receive deliveries. Funding in the amount of \$210,000 will be appropriated from Stormwater operating contingency to remove the existing sod, de-muck, regrade, and re-sod the swales in the impacted locations to help mitigate flooding issues.

Stormwater Renewal and Replacement Fund 485: \$90,000 from reserve for future projects to two (2) capital projects.

1. The Elizabeth Avenue Improvements project extends from Blanche Street to Caroline Street in the Jefferson Terminal District. The project involved roadway reconstruction to improve the pavement condition and provide drainage improvements. Construction was completed in May 2021. Additional appropriation in the amount of \$15,000 for the drainage component is needed to provide funding necessary to close out the project. No general fund dollars are required. The project falls within Commission District 5: Commissioner Christina Lambert.
2. Northmore Neighborhood Utility Improvements: \$75,000 appropriation for incidental replacement of existing stormwater pipelines. No general fund dollars are required.

The project falls within Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

Post approval, balances will be approximately:

- \$2.7M Water & Sewer Fund 450 Operating Contingency
- \$520K Water & Sewer Fund 451 Equipment R&R Reserve for Future Projects
- \$4.5M Water & Sewer Fund 456 Construction Fund Reserve for Future Projects
- \$2.0M Town of Palm Beach Fund 457 R&R Reserve for Future Projects
- \$15K Water & Sewer Series 2017C Construction Bond Fund Reserve for Future Projects
- \$583K Stormwater Fund 481 Operating Contingency
- \$257K Stormwater Fund 485 R&R Reserve for Future Projects

16. **Resolution No. 153-21 approving amendments to the City's Consolidated Annual One-Year Action Plans for fiscal years 2010/11, 2014/15, 2015/16, 2016/17, 2017/18, 2018/19, and 2019/20 to reprogram and award CDBG and NSP1 Program funds to specific eligible activities.**

RESOLUTION NO. 153-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING AMENDMENTS TO THE CITY'S CONSOLIDATED ANNUAL ONE-YEAR ACTION PLANS FOR FISCAL YEARS 2010/11, 2014/15, 2015/16, 2016/17, 2017/18, 2018/19, AND 2019/20 FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND THE NEIGHBORHOOD STABILIZATION PROGRAM TO REPROGRAM AND AWARD PROGRAM FUNDS TO SPECIFIC ACTIVITIES; AUTHORIZING AND DIRECTING THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO SUBMIT THE PROPOSED AMENDMENTS TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR REVIEW; AUTHORIZING THE MAYOR TO EXECUTE ALL AGREEMENTS AND DOCUMENTS NECESSARY FOR SUBMISSION OF THE AMENDMENTS AND THE USE OF SUCH FUNDS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23394

Staff Recommended Motion:

Approve Resolution No. 153-21.

Background:

On an annual basis, the City of West Palm Beach is an entitlement recipient of federal funds from the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG) Program to support various housing and community development initiatives. In addition, for Grant Year 2008, the City was awarded program funds under the Neighborhood Stabilization Program 1 (NSP1). NSP1 funds were appropriated to provide emergency assistance to stabilize communities with high rates of abandoned homes and to redevelop vacant or demolished properties in those areas.

In accordance with HUD regulations under 24 CFR 91.505, the City of West Palm Beach is submitting a substantial amendment proposing the following changes:

- Reallocate or Program CDBG funds or program income in an amount of \$478,876 in their respective Annual Action Plans to fund eligible public facilities project; and
- Reallocate or Program NSP1 funds or program income in an amount of \$604,925 to fund eligible public facilities project.

These funds will be used to support the redevelopment of new community center located on N. Australian Ave. The facility will provide much needed expansion of services, including services to homeless individuals, consisting of permanent housing, supportive housing, rapid rehousing, food assistance, relocation assistance, assessments, job placement, and other referral services. The facility will be occupied by various non-profits providing eligible services to the community, will be available during normal operating hours, and will be located in an area of low- and moderate-income concentration. The activity is eligible under 24 CFR 570.201(C) and will benefit low- and moderate-income persons as qualified under 24 CFR 570.208(a)(1) – Area Benefit Activities or Limited Clientele Activities and under eligible Use E: Redevelop demolished or vacant properties.

A detailed summary of the proposed changes, broken down by funding source, funding year, and type is available. A detailed description of the proposed substantial amendment including specifics on budgetary changes is in this resolution as "Exhibit A".

Federal regulations, 24 CFR 91.10, require the City to provide the public with reasonable notice of and an opportunity to comment on any substantial amendments. A detailed description of the substantial amendment was posted on the City's website and was available for inspection in the Department of Housing and Community Development (HCD) for a 30-day comment period prior to the public hearing of July 12, 2021.

Resolution No. 153-21 approves the substantial amendment to the City's Consolidated Annual One-Year Action Plans for various fiscal years for the CDBG and the NSP programs.

17. **Resolution No. 164-21(F) transferring \$1,816,924 from the Community Development Fund and \$604,925 from the Neighborhood Stabilization Fund to the Grant Capital Project Fund to provide appropriations for the construction of the community resource hub to be located at 1580 N. Australian Ave.**

RESOLUTION NO. 164-21(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 COMMUNITY DEVELOPMENT FUND, NEIGHBORHOOD STABILIZATION PROGRAM FUND AND THE GRANT CAPITAL PROJECT FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR THE DEVELOPMENT OF A COMMUNITY RESOURCE CENTER LOCATED AT 1540 N. AUSTRALIAN AVE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23395

Staff Recommended Motion:

Approve Resolution No. 164-21(F).

Background:

Governmental Accounting Standard Board (GASB) Statement Number 54 restricts the use of Special Revenue Funds to account for revenue and expenditures for purposes other than capital projects. It is acceptable for Special Revenue Fund 110, the Community Development Fund, and the Neighborhood Stabilization Fund 111 to provide funds for eligible capital improvement projects. However, capital purchases cannot be expensed in Fund 110 or Fund 111 per government accounting requirements. Therefore, it is required that funds be transferred out from Fund 110 and Fund 111 to the Grant Capital Project Fund 399 so the capital payments can be expensed and reported properly in financial statements.

Fiscal Note:

Approval will reappropriate funds from Fund 110 (\$1,816,924) and Fund 111 (\$604,925) to Fund 399 and provide appropriations for capital purchases/improvements.

18. **Resolution No. 160-21 establishing the proposed Fire Service Assessment rate for 2021, directing an update to the assessment roll, and setting the date for a public hearing on August 23, 2021.**

RESOLUTION NO. 160-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DETERMINING THE FIRE SERVICE ASSESSED COSTS AND THE SERVICES, FACILITIES OR PROGRAMS TO BE PROVIDED; ESTABLISHING THE ESTIMATED RATES FOR THE FIRE SERVICE SPECIAL ASSESSMENT FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2021; DIRECTING THE PREPARATION OF A PRELIMINARY ASSESSMENT ROLL; SETTING THE DATE AND TIME OF A PUBLIC HEARING; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23396

Staff Recommended Motion:

Approve Resolution No. 160-21 and set a public hearing for August 23, 2021.

Background:

Fire suppression, prevention, and other fire services provide a special benefit to properties by protecting the value and integrity of improvements to real property and protecting the use and enjoyment of such property. The availability of comprehensive fire services reduces the cost of fire insurance and enhances the market perception and property values. In 2008, the City Commission adopted Ordinance No. 4141-08, Resolution No. 212-08, and Resolution No. 332-08, establishing an annual recurring Fire Services special assessment program for properties within the City, to fund the assessable costs of providing fire services, excluding Emergency Medical Services (EMS). In 2019, the City Commission adopted Resolution No. 228-19 and amended the apportionment methodology for the Fire Service Special Assessment.

Pursuant to the procedure established in Ordinance No. 4141-08, the City Commission annually passes a preliminary rate resolution describing the services, facilities, or programs to be funded, determining the cost to be assessed, establishing the assessment rates, establishing any exemptions, and following all procedural requirements required by law and Ordinance No. 4141-08.

Resolution No. 160-21 is the Preliminary Rate Resolution and proposes no increase of the Fire Service Assessment rates. The proposed Fire Service Assessment rate for 2021/2022 is, as follows:

- RESIDENTIAL: \$100
- NON-RESIDENTIAL PROPERTY
Rate Per Building Square Foot
 - Commercial: \$0.103
 - Industrial/Warehouse: \$0.018
 - Institutional: \$0.123
 - Nursing Home: \$0.372

The special assessment will be collected by the County Tax Collector through the property tax bill.

A public hearing on the assessment rates will be scheduled for August 23, 2021.

Resolution No. 160-21: (1) determines that the Fire Service Assessed Cost to be assessed for the upcoming Fiscal Year 2021/22 is approximately \$7.7 million; (2) establishes the assessment rate for the upcoming Fiscal Year as shown above; (3) sets the date for the public hearing; and (4) directs the Finance Director to update the Assessment Roll and provide notice by first class mail and directs the City Clerk to provide notice by publication.

Fiscal Note:

Revenues of approximately \$7.7 million are expected after a buy down of 100% of the governmental assessment and 80% of the not-for-profit assessment for Fiscal Year 2021/2022.

19. **Resolution No. 161-21 directing the development of the preliminary assessment roll for the Chronic Nuisance Assessments for 2021 and setting the date for a public hearing for final adoption of the Chronic Nuisance Assessment roll on August 23, 2021.**

RESOLUTION NO. 161-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DIRECTING THE DEVELOPMENT OF A PRELIMINARY ASSESSMENT ROLL FOR THOSE NON-AD VALOREM ASSESSMENTS WHICH MAY BE LEVIED FOR THE COST OF PROVIDING LOT MOWING AND DEBRIS REMOVAL SERVICES, BOARDING AND SECURING OF VACANT OR UNSAFE STRUCTURES, DEMOLITION AND REMOVAL OF UNSAFE STRUCTURES, CALLS FOR SERVICE AND INSPECTIONS TO ELIMINATE NUISANCE CONDITIONS ON PRIVATE REAL PROPERTY, AND OTHER PROPERTY MAINTENANCE SERVICES TO ELIMINATE NUISANCE CONDITIONS ON PRIVATE REAL PROPERTY WITHIN THE INCORPORATED AREA OF THE CITY AND WHICH REMAINED DELINQUENT AND UNPAID; ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23397

Staff Recommended Motion:

Approve Resolution No. 161-21 and set a public hearing for August 23, 2021.

Background:

September 2011, the City of West Palm Beach adopted a series of Ordinances intended to change the way the City deals with chronic nuisance properties and chronic nuisances in general. These ordinances were intended to recognize that the work that City staff provides to chronic nuisance properties is of direct benefit to the affected property. Through the adoption of Ordinance Nos. 4350-11, 4361-11, and 4362-11, the City Commission declared that any unpaid chronic nuisance service charges, unpaid Code Enforcement re-inspection assessment charges, or unpaid costs incurred for the abatement of code violations that remained delinquent and unpaid should become a special assessment against these properties as a non-ad valorem assessment equal in rank and dignity to a lien for ad valorem taxes.

Pursuant to Section 54-422 of the City Code of Ordinances, the Finance Director must prepare an initial assessment roll of the proposed assessments, which are unpaid as of June 1st.

Approval of Resolution No. 161-21 will schedule the public hearing for final adoption of the Chronic Nuisance Assessment roll on August 23, 2021.

Fiscal Note:

No fiscal impact, since revenues generated from the Chronic Nuisance Program is a reimbursement of expenditures incurred by the City to abate the nuisance.

20. **Resolution No. 165-21 approving a Project Funding Interlocal Agreement between the City of West Palm Beach and the West Palm Beach CRA to fund the Phase II architectural and engineering Services for the design of Currie Park in the amount of \$3,247,100; and approving the Fourth Amendment to the Professional Services Agreement with Chen Moore to assign the contract to the City and to authorize the Phase II services.**

RESOLUTION NO. 165-21: A RESOLUTION OF CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A PROJECT FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE FUNDING OF PHASE II ARCHITECTURAL AND ENGINEERING SERVICES FOR CURRIE PARK IN AN AMOUNT NOT-TO-EXCEED \$3,247,100; APPROVING THE FOURTH AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CHEN MOORE AND ASSOCIATES, INC., AUTHORIZING ASSIGNMENT OF THE AGREEMENT TO THE CITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23401

Staff Recommended Motion:

Approve Resolution No. 165-21.

Background:

In 2015, the Parks and Recreation Master plan identified the need for improvement to Currie Park as an important asset to the entire park system and the City. Additionally, the Strategic Finance Plan, Amendment No. 16 for the Northwood/Pleasant City CRA District identifies the redevelopment and activation of Currie Park as an important driver in the redevelopment of the Currie Corridor.

On November 2, 2020 the CRA Board approved Resolution No. 20-57 approving the award under Request for Qualifications No. 17-18-409 of a Professional Services Agreement for Architectural and Engineering Services for the design of Currie Park to Chen Moore and Associates, Inc., with fees of \$534,120 for Phase 1 base services.

The project is organized into two (2) phases:

- Phase I: Information Gathering, Public Engagement, Visioning and Planning
- Phase II: Design, Permitting, and Construction Administration

Phase I commenced in November 2020. During Phase I of the project, the CMA team performed a thorough site investigation, executed a robust public engagement program, developed a master plan for the park, provided cost estimating, provided a strategic funding plan, and provided case studies for governance, operations, and maintenance of the park. The Final Master Plan was brought in front of the CRA Board via Resolution No. 21-24 and the City Commission via Resolution No. 121-21 and was approved unanimously.

Phase II: Design, Permitting, and Construction Administration will be based on the approved master plan and available project funding, which includes \$8M from the City of West Palm Beach Parks and Recreation Bond and \$16.74M awarded from the Florida Department of Opportunity. The anticipated deliverables for Phase II Base Services include:

- Continued Public Engagement
- Marine Resources Survey
- Soil Borings and Geotechnical Report
- Coordination of information necessary for grant administration
- Final Site Plan Documents
- 50% Construction Documents suitable for bidding and environmental resource permits
- 100% Construction Documents suitable for building permits
- Opinion of Probable Cost
- Bid Assistance and Construction Manager coordination
- Coordination with regulatory agencies and utilities service providers for project permits
- Construction Administration

Below is an overview of Tasks and associated costs for Phase II broken down and budgeted by fiscal year by the CRA. A more detailed breakdown is provided in the backup.

FY 2020-2021:

• Task 1: Design Development	\$755,032.50
• Task 2: 50% Construction Documents	\$675,594
• Task 7: Programming and Revenue Strategies	\$225,000
• Task 8: Grant Coordination	\$45,000
• Task 9 Reimbursable Expenses (Printing, travel and permit fees)	\$33,500
• TOTAL:	\$1,734,126.50

FY 2021-2022:

• Task 3: 100% Construction Documents	\$464,708.50
• Task 4: Government Permitting	\$250,528
• Task 5: Bid Assistance	\$67,839.40
• 20% of Task 6: Construction Administration	\$145,979.52
• TOTAL:	\$929,055.42

FY 2022-2023:

- 80% of Task 6: Construction Administration \$583,918.08
- **TOTAL:** **\$583,918.08**

- TOTAL PHASE II SERVICES: \$3,247,100

The City, as owner, should be the beneficiary of Consultant's obligations regarding the construction phase services for the Currie Park improvements. Accordingly, the Chen Moore contract will be assigned to the City.

Resolution No. 165-21 approves the Funding Interlocal Agreement with the CRA for funding of the Chen Moore services in an amount not-to-exceed \$3,247,100. The Resolution also approves the Fourth Amendment to the Agreement with Chen Moore which authorizes the Phase II services and assigns the Agreement to the City, as owner of Currie Park.

There will be a companion item on the CRA agenda as Resolution No. 21-31.

Commission District 1: Commissioner Kelly Shoaf.

Fiscal Note:

No fiscal impact.

PUBLIC HEARINGS (21-24):

21. **Public Hearing and Second Reading of Ordinance No. 4956-21 amending Article IV Section 94-109, 94-132, and 94-133 of the Zoning and Land Development Regulations to allow boutique hotels to be eligible for the Quadrille Business District incentive.**

ORDINANCE NO. 4956-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ZONING AND LAND DEVELOPMENT REGULATIONS AT ARTICLE IV - DOWNTOWN MASTER PLAN, SECTION 94-109 DEFINITIONS, SECTION 94-132 TRANSFER OF DEVELOPMENT RIGHTS, AND 94-133 SPECIAL DISTRICT INCENTIVES, TO ALLOW ADDITIONAL HOTEL TYPES TO BE ELIGIBLE FOR THE QUADRILLE BUSINESS DISTRICT INCENTIVE; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23402

Staff Recommended Motion:

Approve Ordinance 4956-21. This recommendation is based on the factual testimony presented, the staff report, the recommendation of the Planning Board, and upon the findings that the proposed amendment complies with all the amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

Last February 8, 2021, Harvey E. Oyer of Shutts & Bowen LLP, on behalf of Lineaire Group LLC applied for a text amendment to the Zoning and Land Development regulations to allow boutique hotels of at least 100 rooms to be eligible for the existing Quadrille Business District (QBD) incentive.

At the time the applicant submitted the proposed amendment, the City had started discussions about the need to modify the adopted special district incentives, such as the QBD, to reflect the changing conditions in the downtown environment. In the last year, two (2) hotel projects have been completed: the Canopy hotel and the Ben hotel, and two (2) class A office projects are currently under construction: the 360 Rosemary and the One West Palm office and hotel project. In addition, two (2) new class A office project are currently under review along Okeechobee Boulevard, making evident that it is no longer necessary to incentivize the construction of class A office and full service hotels downtown.

As part of the downtown changes in the last years, there has been significant discussions within the City regarding the lack of availability of reasonably priced housing for individuals and families earning a salary around the \$80,100 area median income (AMI based on the Florida Housing Finance Corporation), within the downtown area. It has been identified that as the employment in the downtown increases, the availability of housing for workers has not followed the same pace, forcing workers to commute to downtown every day and increasing traffic congestion. As the discussions for a possible workforce housing incentive program downtown advanced, staff discussed with the applicant the City's intention to modify the current QBD incentive to allow all uses to take advantage of the additional FAR and height offered by the TDR incentive program within the QBD district. The City initiated amendment for the workforce housing started in March this year, and the necessary Comprehensive Plan amendment for the workforce housing were approved in First Reading by the City Commission last April 28, 2021.

Staff is now working on the ZLDRs which include the details of the workforce housing incentive. However, the complexity of the language will require some additional time to draft, and the applicant does not desire to wait for the workforce housing program adoption to move ahead with his proposed changes to allow boutique hotel to be eligible for the QBD incentive. Considering this time constraint, the applicant decided to continue with its initial proposal for a code amendment ahead of the City-initiated amendment.

Staff analyzed the specific language proposed by the applicant, and after discussions with the applicant staff, proposed a simplified version that meets the intent of the changes.

The proposed changes are as follows:

1. Section 94-109. Definitions: The definition of boutique hotel is modified to reduce the minimum size required for a room from 325 sf to 275 sf. The applicant presented documentation that indicates the market trend for decreasing the average room size for boutique hotels.
2. Section 94-132. Transfer of development rights and Section 94-133. Special district incentives: The QBD incentive currently states that for properties designated as QBD-8(25) and QBD-10(25) TDR receiving sites, the ability to utilize TDRs to increase height and FAR above the by-right designation is restricted to the development of class A office, full service hotels, or residential development. The proposed amendment is to remove the specific TDR eligibility requirement for full-service hotels and replace it for hotels in general for properties designated as QBD-8(25) and QBD-10(25) TDR receiving site.

The language originally proposed by the applicant suggested adding boutique hotels as permitted along with full-service hotels, however it is staff's professional opinion that all type of hotels should be permitted within the district, including regular hotels.

It is staff's professional opinion the proposed changes are in line with the City's desire to remove the current use restrictions for eligibility within the QBD due to the changed conditions of the downtown. Despite the fact that the QBD incentive will allow additional hotels to be eligible for the incentive, it is important to note that the supply of City-owned TDRs is very limited, and it is very likely that the City would not have any City-owned TDRs to offer as incentive for the identified uses. The current Code allows project to buy TDRs in the private market.

The amendments set forth in Ordinance No. 4956-21 were approved unanimously by the Downtown Action Committee (7-0) on May 12, 2021 and by the Planning Board (5-0) on May 18, 2021.

22. Public Hearing and First Reading of Ordinance No. 4955-21 amending the City Code of Ordinances to add exemptions to the prohibition of employment of certain officials and employees who are contracting with the City.

ORDINANCE NO. 4955-21: 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 VII – CITY OF WEST PALM BEACH CODE OF ETHICS, DIVISION 2 – CONFLICTS OF INTEREST, SECTION 2-513 REGARDING THE PROHIBITION OF EMPLOYMENT OF CERTAIN OFFICIALS AND EMPLOYEES WHO ARE CONTRACTING WITH THE CITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23403

Staff Recommended Motion:

Approve Ordinance No. 4955-21 on First Reading and schedule Second Reading.

Background:

The State of Florida Code of Ethics for Public Officers and Employees is codified in Chapter 112 of the Florida Statutes (“State Ethics Code”). Specifically, Section 112.313(3) of the State Ethics Code, regulates conduct related to the purchase, sale, rent, or lease of any realty, goods, or services; and Section 112.313(7) regulates conduct related to employment and contractual obligations of certain public employees and officers with business entities or agencies subject to the regulation of or doing business with the agency of which the person is an employee or officer.

On August 13, 2007, the City Commission adopted Ordinance No. 4023-07 establishing the City of West Palm Beach Ethics Code (“City Ethics Code”), which is codified in Chapter 2, Article VII, Division 2 of the City of West Palm Beach Code of Ordinances. Section 2-501 of the City Ethics Code requires that all officers and employees comply with applicable provisions of state law, including the State Ethics Code and the City Ethics Code. The State Ethics Code provides exceptions to the application of Section 112.313(3) and (7) which are incorporated by reference in Section 2-501 of the City’s Ethic’s Code. To avoid any confusion of the applicability of the exceptions, the Commission should codify the State Ethics Code exceptions in the City Ethics Code.

For the aforementioned reasons, it is being requested that the City Commission approve Ordinance No. 4023-07 amending Chapter 2, Article VII, Division 2 of the City Ethics Code to specifically include exemptions included in the State Ethics Code.

23. **Public Hearing and First Reading of Ordinance No. 4958-21 amending Article IV Downtown Master Plan of the Zoning and Land Development Regulations to create a new Housing Incentive Program and modify existing special incentives.**

ORDINANCE NO. 4958-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ZONING AND LAND DEVELOPMENT REGULATIONS AT ARTICLE IV - DOWNTOWN MASTER PLAN, SECTION 94-109 DEFINITIONS, SECTION 94-131 INCENTIVE PROGRAMS-GENERAL, SECTION 94-132 TRANSFER OF DEVELOPMENT RIGHTS, SECTION 94-133 SPECIAL DISTRICT INCENTIVES, SECTION 94-134 AFFORDABLE HOUSING INCENTIVE PROGRAM, AND SECTION 94-135 OKEECHOBEE BUSINESS DISTRICT TO MODIFY THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM AND CREATE A NEW DOWNTOWN MASTER PLAN HOUSING INCENTIVE PROGRAM; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23404

Staff Recommended Motion:

Approve Ordinance No. 4958-21, amending Article IV - Downtown Master Plan of the Zoning and Land Development Regulations to create a new Housing Incentive Program and modifying existing special incentives. This motion is based on the factual testimony presented, the staff report, the recommendation of the Downtown Action Committee and the Planning Board, and the finding that the proposed amendment complies with all the amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

Over the last few years, there has been significant discussions within the City regarding the availability of reasonably priced housing for individuals and families earning a salary within the \$80,200 area median income range (2021 Palm Beach County AMI according to the Florida Housing Finance Corporation), particularly for those that also work within the downtown area. It has been identified that as the employment in the downtown increases, the availability of housing for workers has not followed the same pace. As a consequence of the lack of housing for workers, people who desire to live close to their employment do not have alternatives and are forced to commute to downtown every day, increasing traffic congestion.

Considering this situation, the City started working on a new Downtown Master Plan (DMP) Housing incentive program to incentivize the construction of housing units below market rate. Last April 19, 2021, the City Commission approved on First Reading the proposed changes to the Comprehensive Plan necessary to implement the new program. The Comprehensive Plan changes simply expanded some of the areas designated as eligible for incentives, paving the path for the DMP Housing program.

For the past several months, the City has been working on the details of the new DMP Housing Incentive Program to be included in the Zoning and Land Development Regulations. Staff has conducted several meetings with developers in the area and received feedback on the proposed concepts. The DMP housing concept has been adjusted based on the feedback received.

One of the goals of the Housing Element of the City's Comprehensive Plan is to make every effort to provide a broad range of housing types and adequate housing supply for all ages, family size, and income level categories in the City. Based on data collected from FHFC and information on the residential needs within the downtown, the City is seeking to create a DMP housing incentive program that aims to provide housing units for families with incomes between 60% to 100% of the AMI. This program will replace the existing DMP affordable housing incentive and create a new program appropriate for the current conditions of the downtown area.

The proposal is revamping the special incentives currently existing in the downtown to reflect the changed conditions. The main changes proposed include:

1. Remove Incentives for Class A Office and Full-Service Hotels within the Quadrille Business District (QBD) and the Quadrille Garden District (QGD)

The 2009 DMP update identified the need to connect CityPlace with Clematis Street, and proposed the creation of a class A office and full service hotel incentive to promote new construction within the area of the QBD located between Rosemary Avenue and Quadrille Boulevard, Datura Street, and Gardenia Street, and the area of QBD north of Banyan Boulevard. The QBD incentive granted a substantial increase in development capacity and height for the area through the transfer of development rights program and offered City-owned TDRs at no cost to further promote the construction of the class A office and full-service hotel uses. In the twelve (12) years since the adoption of the DMP update, the dynamic of the area has been drastically changed. With the construction of the Brightline train station, the Parkline 25-story residential building, and the new 360 Rosemary 18-story class A office building, the gap between Clematis Street and CityPlace (now renamed as Rosemary Square) is disappearing.

The City has identified that the dynamic of the area is strong enough not to necessitate special incentives for the promotion of particular uses. However, the development intensity proposed by the QBD incentive is still important to maximize the development potential of the remaining vacant parcels in close proximity to the train station.

Considering these circumstances, the City is proposing to remove the special incentives that offered City-owned TDRs at no cost for the development of class A office and full-service hotels within the QBD. The class A office and full-service hotel incentive currently existing for the QGD is also identified as no longer necessary. The additional development capacity and height offered through the TDR incentives will remain, making the area still attractive for the construction of class A office uses due to its proximity to the Brightline train station and its development capacity.

The City is proposing to maintain the existing Okeechobee Business District (OBD) incentive, where two (2) new class A office buildings are currently proposed. The West Palm Point, including approximately 430,000 sf of class A office, is currently under site plan approval process, and the One Flagler building including approximately 270,000 sf of class A office is expected to start construction by the end of the year.

2. Modify the Affordable Housing Incentive Program

The DMP currently includes 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. The program offered developers the transfer of City-owned TDRs at no cost as an incentive for the construction of the affordable housing units.

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, Flagler Station at 991 Banyan Boulevard, currently under construction, and the Grand at 620 3rd Street, under building permit review. In the case of Evernia Place and Flagler Station, 100% (179) of the units are restricted for families with incomes below 80% of AMI, and the projects received financial assistance from the State through the tax credit program. In the case of the Grand, the project received financial assistance from the City and CRA. The three (3) 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, 2.5% of the total units, the City has decided to create a more aggressive program to ensure that the construction of residential units for families earning at or below 100% of the AMI follows the pace of construction of market rate units.

Recent analysis of the housing prices within the downtown area indicate that the market price of available units is not affordable for families earning 100% of the AMI or below. A comparison between the market price for rental units downtown and the amount of rent a family making 100% of the AMI, or less is able to afford shows a substantial gap between the two. In an effort to expand the program beyond low income housing 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 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 proposed DMP Housing Incentive Program would utilize the TDR Program to allow developers interested in constructing residential uses to purchase TDRs to increase its development capacity above the by-right capacity up to a maximum development capacity permitted by the incentive. In compensation for the incentive, the project would be required to set aside certain number of units for families with incomes between 60% and 100% of AMI.

The program is based on the concept that the additional development capacity offered to developers compensate for the reduction of revenue from the income restricted units.

The main requirements of the program are:

- a. Project shall set aside 27% of the gross building area (GBA) allowed by the incentive for units for families with incomes between 60% and 100% of the AMI.
- b. From the required set aside GBA, a 20% discount will be offered to account for efficiency, and the remainder square footage shall be divided by the project's average unit size to determine the total number of units to set aside.
- c. The total required number of units set aside shall be divided to allocate at least 25% of the total units for households with income at 60% of the AMI or below, and 25% of the total units for households with income at 80% of the AMI or below. The remainder of the units can be allocated to any of the income levels between 60%-100% of the AMI.
- d. The unit types and sizes shall reflect the proposed unit mix and size of the market rate units.

To support the construction of the residential units for families with incomes between 60%-100% of the AMI and recognizing the reduced rent these families can pay, the City is working with the CRA on a complementary program to provide additional financial support to participant projects. The financial support will materialize through a Tax Increment Finance (TIF) program that will reimburse to the developer certain percentage of the County and City portion of the ad valorem property taxes generated by the project. The special TIF program to support the construction of residential units below market rate is currently under draft and subject to adjustments, but the initial concept includes the following elements:

- a. A project participating in the DMP housing program may be eligible to receive a reimbursement of up to 30% of the County and City portion of its ad valorem property tax for ten (10) years.

- b. The maximum reimbursement will be determined by the income of the restricted units as follows:
 - Units at 60% AMI or below \$16,000/ year/10 years
 - Units at 80% AMI or below \$12,000/ year/ 10 years
 - Units at 100% AMI or below \$8,000/year/ 10 years

In addition, the City currently offers incentives that reduce water/waste water capacity fees, engineering fees, and parking requirements for eligible affordable and workforce housing projects. This program will complement those existing incentives for downtown projects.

Compliance with the DMP housing incentive can be provided in three (3) different ways:

- a. On-site: Developer can provide all the income restricted units on site, integrated as part of the project. Units shall be finished, including all the elements considered standard for the market rate units. Units shall not be clustered or segregated for the market rate units.
- b. Off-site: Developer can provide all the income restricted units off-site at an alternative location. Alternative location shall be within the boundaries of the DMP area. Off-site units shall be constructed before or concurrently with the development of the parent project.
- c. Payment in lieu: Developer can provide a monetary contribution to the Housing Trust Fund. The total amount of the payment in lieu shall be based on the per square foot construction cost according to the International Code Council Building Valuation Data table, which establishes the cost of construction per building type.

3. Expansion of the TDR Receiving Sites

The amendment is also proposing the expansion of the TDR receiving sites, specially to designate additional areas within the Transit Development District and the Cultural Arts District as receiving sites. These areas were not designated for increased development capacity originally, but as the pressure for development downtown grows the area located between the two train stations has become a prime area for redevelopment

4. Minor Adjustments

Some minor adjustments are also proposed in some of the incentive building requirements tables to reflect desirable compatibilities for building heights and adjustments to the minimum street frontage setback.

DOWNTOWN ACTION COMMITTEE: The Downtown Action Committee recommended approval (7-0) of the request described herein at their June 9, 2021 public hearing.

PLANNING BOARD: The Planning Board recommended approval (4-0) of the request described herein at their June 15, 2021 public hearing.

COMMISSION DISTRICT: The proposed amendments affect properties located within Commission District 3: Commissioner Christy Fox.

24. Public Hearing and First Reading of Ordinance No. 4959-21 amendment to City Code Section 62-57 to add the recently enacted "Juneteenth National Independence Day" federal holiday to the City's list of observed holidays.

ORDINANCE NO. 4959-21: 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, AT CHAPTER 62 (PERSONNEL AND RETIREMENT), ARTICLE II (PERSONNEL POLICIES), DIVISION 2 (COMPENSATION AND LEAVE POLICIES), SECTION 62-57 - HOLIDAYS TO ADD JUNETEENTH NATIONAL INDEPENDENCE DAY AS AN OBSERVED CITY HOLIDAY; PROVIDING A SEVERABILITY AND CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23405

Staff Recommended Motion:

Approve Ordinance No. 4959-21 on First Reading and schedule a Second Reading on July 26, 2021.

Background:

The U.S. Congress passed, and President signed, the "Juneteenth National Independence Day Act" into law on June 17, 2021. This act makes June 19th, a federal holiday commemorating the end of slavery in the United States. This proposed amendment to City Code of Ordinances Section 62-57 would add this new federal holiday to the list of holidays the City observes.

This change would bring the City's total observed Holidays from 11 to 12 and will make the City's list of observed holidays consistent with observed federal holidays.

Approval will require adding budget for FY 22 in General Fund by \$73,700 and approximately \$6,000 for Utilities.

For reference below is the revised list of holidays the City would observe if this change is approved by the Commission:

- New Year's Day: January first
- Martin Luther King Day: Third Monday in January
- Washington's Birthday: Third Monday in February
- Memorial Day: Last Monday in May
- Juneteenth National Independence Day: June Nineteenth
- Independence Day: July Fourth
- Labor Day: First Monday in September
- Columbus Day: Second Monday in October
- Veterans' Day: November eleventh
- Thanksgiving Day: Fourth Thursday in November
- Thanksgiving Holiday: Friday following Thanksgiving
- Christmas Day: December twenty-fifth

Fiscal Note:

No FY 21 fiscal impact. FY22 impact of \$73,700 to General Fund and \$6,000 for Utilities.

PUBLIC HEARING – QUASI JUDICIAL (25-26):

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

25. **Public Hearing of Resolution No. 140-21 regarding a request by Harvey E. Oyer, III, of Shutts & Bowen, LLP, on behalf of CityPlace Retail, LLC, for the approval of a Major Amendment to the Rosemary Square North and Rosemary Square Center Subareas of the CityPlace Commercial Planned Development. The requested changes to the Rosemary Square North Subarea include increasing the permitted tower height from 15 to 25 stories, a modification to the workforce housing provision and miscellaneous architectural design changes. The requested changes to the Rosemary Square Center Subarea include miscellaneous architectural design changes.**

RESOLUTION NO. 140-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR PLANNED DEVELOPMENT AMENDMENT TO THE CITYPLACE COMMERCIAL PLANNED DEVELOPMENT TO 1) AMEND THE DEVELOPMENT REGULATIONS FOR THE ROSEMARY SQUARE NORTH SUBAREA TO PERMIT AN INCREASE IN THE TOWER HEIGHT FROM 15 TO 25 STORIES, MODIFY THE WORKFORCE HOUSING PROVISION AND MISCELLANEOUS ARCHITECTURAL DESIGN CHANGES; AND 2) AMEND THE DEVELOPMENT REGULATIONS FOR THE ROSEMARY SQUARE CENTER SUBAREA FOR AN ARCHITECTURAL DESIGN CHANGE; DECLARING THIS RESOLUTION CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23406

Staff Recommended Motion:

Approve Resolution No. 140-21 regarding a Major Planned Development Amendment to the Rosemary Square North and Rosemary Square Center Subareas of the CityPlace Commercial Planned Development. This motion is based upon the factual testimony presented, the application submitted, the staff report, the recommendation of the Planning Board, and the findings that the amendment is consistent with the Comprehensive Plan and complies with the standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

Background:

The Rosemary Square Core Regulating Plan depicts the mixed-use portion of the CityPlace Commercial Planned Development that is controlled by CityPlace Retail, LLC. This Major Planned Development Amendment applies to the Rosemary Square North and Rosemary Square Center Subareas.

CityPlace Retail, LLC, would like to amend some of the requirements that were approved as part of the Rosemary Square North Subarea and to add clarification to a provision that was included in the Rosemary Center Subarea. The main requested change is to increase the height of the tower within the Rosemary Square North Subarea from 15 to 25 stories. The request also includes a change to the workforce housing provision and some design changes for the Rosemary Square North Subarea. The Rosemary Center Subarea has a change to permit rooftop gardens or terraces on top of the podium. The full list of changes and staff analysis are included in the Planning Board Report. Staff will cover the major changes to the development regulations below. The changes included as part of Resolution No. 140-21 do not approve a specific project. A specific project based on the Rosemary Square North Subarea development regulations will be reviewed as a Level III Site Plan Review. The Level III Site Plan Review will require Public Hearings before the Planning Board and City Commission.

Tower Height Increase

The primary request as part of this application is to permit the increase in height within the Rosemary Square North Subarea from 15 to 25 stories. As part of the height increase, the applicant is requesting that the maximum permitted FAR increase from 5.00 to 6.50 and the tower height to increase from 188 to 300 feet.

In 2019, when CityPlace Retail, LLC, originally requested to establish the Rosemary Square North Subarea, it included a 20-story height allowance. Planning staff analyzed the request and was not supportive of a 20-story building at this location based on the lower scale CityPlace Townhouses that are across Fern Street and the midrise Metropolitan that is across Sapodilla Avenue from the Rosemary Square North Subarea. Staff recommended 15 stories as a transition to step down from the taller buildings on the east side of South Rosemary Avenue. The City Commission approved the 15-story height limit within the Rosemary Square North Subarea.

The applicant states in their justification that the economics of constructing an urban full-service grocery store to replace the existing Publix requires that the building contain more residential units to offset the costs. In order to facilitate the additional units, the applicant is requesting 10 additional stories within the Rosemary Square North Subarea. Staff's position that a building not exceeding 15-stories is more appropriate than a taller building has not changed. However, staff has heard from residents that a full-service grocery store to replace the existing small Publix is needed.

The existing 26,333 square foot building housing Publix was constructed 20 years ago when the original CityPlace (now Rosemary Square) development was being constructed. It was originally to house a Wild Oats grocery store, but when that brand fell through, the Publix was established. When the original grocery store building was constructed, downtown land values were low, so it made sense to have a stand-alone building with a surface parking lot. In 2001, the small footprint of the building also made sense, since Downtown West Palm Beach had not yet had its residential building boom.

In order to facilitate the construction of a true full-service grocery store following an urban model of concealing the parking within the building, Planning staff can support the requested taller building. Staff has added a development requirement that in order to get the additional 10 stories, a full-service grocery store of at least 40,000 square feet is required as part of the redevelopment. The applicant states in their justification, the development of the site is "...incredibly complex, challenging, and expensive...". Staff acknowledges this as: 1) the potential building housing the full-service grocery store straddles two zoning districts, each requiring a different site plan approval process; 2) crosses an alley, containing overhead power lines and utilities, which would need to be abandoned; 3) the applicant does not own all the parcels; and 4) a full-service grocery store has to commit to the tenant space. If for whatever reason a project containing a 40,000 square foot full-service grocery store does not move forward, then the Rosemary Square North Subarea is not appropriate to contain a 25-story building.

It should be noted that the uses permitted within the Rosemary Square North Subarea include residential, Assisted Living Facility (ACLF) and office, so granting the additional stories does not guarantee that the building will be built as a fully residential project. While office and residential uses have differing impacts, staff's concern is the height and mass of the larger building, regardless of use, within the context of the area. Staff finds that the additional height is only offset by the provision of at least a 40,000 square foot full-service grocery store.

The additional 10 stories are only permitted in a tower located on the eastern 250 feet of the site. This is roughly the eastern half of the site with the tower ending at the western side of the driveway to Fern Street. This locational limit is so that the impact to the townhouse residents is kept at a minimum. Each floor for the additional 10 stories may not be larger than 25% of the ground area of the site within the Rosemary Square North Subarea, to ensure that the building mass above 15 stories is kept at a minimum. For

reference, the tower up to 15 stories may have a floorplate that is 55% of the site. Additionally, the podium and tower setbacks along Fern Street and Sapodilla Avenue will remain the same as under the current Rosemary Square North Subarea regulations.

Grocery Store

As previously stated, the applicant is requesting the increase in height from 15 to 25 stories to offset the cost of constructing a full-service grocery store within a project that is at least partially located within the Rosemary Square North Subarea. After reviewing the request, staff agrees that getting a full-service grocery store in the downtown outweighs the increase in height within the subdistrict. Staff does not support the increase to 25 stories without the development including a full-service grocery store, so staff is including the requirement that a 40,000 square foot full-service grocery store or supermarket is required to exceed the current 15 story height limit. The proposed development regulations include the minimum requirements for a full-service grocery store or supermarket as offering canned and frozen foods; dry groceries and baked goods; beverages; dairy products; fresh fruits and vegetables; and fresh and prepared meats, poultry and seafood.

The current Publix grocery store on the site is 26,333 square feet in size. Staff surveyed the sizes of 14 Publix locations around West Palm Beach and the Rosemary Square location is the smallest. While the Publix on Belvedere Road and the Publix in Manalapan are both under 30,000 square feet, the median size of Publix stores in the area is over 46,000 square feet, including the Palm Beach Publix at 47,783 square feet in size. The two other major grocery stores in West Palm Beach are Winn Dixie on South Dixie Highway at approximately 49,000 square feet and Whole Foods at 41,529 square feet in size. While the development regulations do not specify that the replacement grocery store is the Publix brand, given the number of new residences being constructed in Downtown, staff recommends that the replacement full-service grocery store has at least 40,000 square feet to be eligible to get the additional 10 stories in the Rosemary Square North Subarea. Planning staff consulted with a member of the City's Community Redevelopment Agency (CRA), who agreed with the 40,000 square foot minimum requirement for the additional 10 stories.

Workforce Changes

The current Rosemary Square North Subarea development regulations include the provision of workforce housing as part of the original approval to increase the height in the subarea. As part of this amendment, the applicant and staff revisited the provisions that exist within the current regulations and included changes with the amended regulations.

The first change is that it clarifies that residential units for a project encompassing the entire block located within the Downtown Master Plan portion of the site are counted toward meeting the total number of workforce units required. It also adds that if the Level III Site Plan application is submitted after the City adopts a Downtown Master Plan Housing Incentive Program, then the portion of the site outside of the Rosemary Square North

Subarea will follow the requirements of the new program. The amendment is so that in the absence of a Downtown workforce program, the new development will include a full workforce component.

The proposed changes also remove the buyout option and replace it with an option for the applicant to construct the required workforce housing off-site within the Downtown Master Plan area. The replacement of the buyout option with an off-site construction option ensures that it is the developer who constructs the units either in the project or in the DMP. The proposed language is modeled on what staff will be proposing as part of the future Downtown Master Plan Housing Incentive Program. The number of required workforce units and the income level of the residents is not changing as part of the amendment.

The final change related to the workforce housing provisions is that if the entire project is constructed as an ACLF then the workforce buyout is increased from 25 to 40 units. This is to offset the additional units ACLF that can be constructed in a 25-story building. This workforce buyout is an in lieu of payment that does not have an offsite construction equivalency.

STANDARDS: The Planning Division has determined that the Major Planned Development Amendment to the Rosemary Square North and Rosemary Square Center Subareas meets all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations.

Compliance with the above referenced standards is detailed in the Planning Board Staff Report.

PLANNING BOARD: The Planning Board recommended approval (5-0) of the request to the City Commission after a Public Hearing on May 18, 2021. There was public comment both in support and in opposition to the request at the Planning Board Public Hearing.

NOTICE: Individual notices were mailed to all property owners within 500 feet of the Rosemary Square North and Rosemary Square Center Subareas. Signs for the Major Amendment were posted on the property on April 30, 2021.

COMMISSION DISTRICT: The subject property is located within Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

26. **Public Hearing and First Reading of Ordinance No. 4952-21 regarding a request by Stuart M. Ledis, on behalf of Clematis Realty Management, LLC, for a text amendment to Chapter 94 of the Zoning and Land Development Regulations, Article IV, Section 94-106.a.13, “Veterinary clinics, pet grooming, animal daycare, and boarding facilities,” to permit veterinary clinics within the Clematis Waterfront District Conservation District (CWD-CD). The text amendment will include additional City-initiated changes to Section 94-106.a.13 regarding additional locations where the use is permitted, the removal of the requirement that the use be approved with a Class B Special Use permit, and the conditions required as part of the use, as well as an update to Article XIX, Section 94-611, “Definitions”.**

ORDINANCE NO. 4952-21: 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 IV – DOWNTOWN MASTER PLAN URBAN REGULATIONS, SECTION 94-106 – GENERAL USES WITH SPECIAL REQUIREMENTS, SUBSECTION 13 – VETERINARY CLINICS, PET GROOMING, ANIMAL DAYCARE, AND BOARDING FACILITIES, AND ARTICLE XIX – DEFINITIONS TO UPDATE THE VETERINARY CLINICS, PET GROOMING, ANIMAL DAYCARE, AND BOARDING FACILITIES USE WITHIN THE DOWNTOWN MASTER PLAN AREA; 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.: 23407

Staff Recommended Motion:

Approve Ordinance No. 4952-21 regarding a text amendment to Chapter 94 of the Zoning and Land Development Regulations, Article IV, Section 94-106.a.13 and Article XIX, Section 94-611. This motion is based upon the factual testimony presented, the application submitted, the staff report, the recommendation of the Planning Board, and the findings that the amendment is consistent with the Comprehensive Plan and complies with the standards found in Section 94-32 of the City’s Zoning and Land Development Regulations.

Background:

The applicant submitted a building permit for a veterinary clinic at 416 Clematis Street, within the CWD-CD zoning district. Veterinary clinics are not a permitted use within the CWD-CD. Upon notification that the use was not permitted, the applicant applied for a text amendment to remove the prohibition for veterinary clinics within the CWD-CD. Staff agrees with the applicant that veterinary clinics are an appropriate use within the CWD-CD. Staff has further determined that pet grooming is also an appropriate use within the CWD-CD and is including its allowance in the proposed amendment. These uses are

appropriate based on the 2018 change to the DMP, which no longer requires first floor retail use within the district. Veterinary clinics and pet grooming are similar in nature to medical office and personal service uses that are now permitted on the first floor for the entire CWD-CD. Even though retail is no longer required along Clematis Street, staff does not feel that the animal daycare and boarding facilities would contribute to the goal of active storefronts along Clematis Street and is thus recommending that these two distinct uses continue to be prohibited. Additionally, Clematis Street and the parallel alleys are not designed with the space to allow for drop off and pick up that is typically associated with animal daycare and boarding facilities. Drop off and pick up lanes are not conducive to the design vision for the CWD-CD.

Upon review of the applicant's submittal to permit veterinary clinics within the CWD-CD, staff determined that there are additional elements of Section 94-106.a.13 that need to be updated to reflect the current development of Downtown West Palm Beach. The comprehensive amendment to Section 94-106.a.13, "Veterinary clinics, pet grooming, animal daycare, and boarding facilities" will: 1) expand where the use is permitted, 2) remove the requirement for a Class B Special Use Permit approval for the use, and 3) modify the conditions that are required for the use.

Staff determined that the current locations where veterinary clinics, pet grooming, animal daycare, and boarding facilities is too limiting. As the downtown adds full time residents, those residents with pets need veterinary clinics, pet grooming, animal daycare, and boarding facilities. In order to further the City's goals of having downtown residents meet their needs within the downtown, staff is recommending allowing the use in more locations. Staff is recommending that the prohibition of the use along Dixie Highway be removed from the code and that the full use be permitted within the residential enclave planning area, except within the residential (R) subdistricts. Staff is also recommending an update to the process for the establishment of these types of businesses to make it easier for a business to open if it meets a list of additional standards. If the standards are met, then the use no longer requires the approval of a Class B Special Use Permit by the Downtown Action Committee (DAC). There are specific additional standards, that if the applicant is unable to meet, may be waived by the DAC as part of a Class B Special Use permit approval.

While reviewing the applicant's original request for a veterinary clinic, staff reviewed the current definition for clinic found in Section 94-611 which reads as follows:

"Clinic means a facility providing medical, dental, surgical, therapeutic, veterinary and related services on an outpatient basis and not providing overnight accommodations."

Staff noted that this conflicts with the allowance for overnight boarding with treatment for veterinary clinics that are not located within downtown. Since there are instances where veterinary treatment requires overnight observation, staff wanted to ensure that veterinary clinics within the CWD-CD had the same opportunity to provide services as the veterinary clinics not located in downtown. The definition is being updated to permit veterinary clinics to provide overnight boarding with treatment.

STANDARDS: The Planning Division has determined that the text amendment to Chapter 94 of the Zoning and Land Development Regulations, Article IV, Section 94-106.a.13 and Article XIX, Section 94-611 meets all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations.

Compliance with the above referenced standards and a full analysis of the changes to the Zoning and Land Development Regulations is detailed in the Planning Board Staff Report.

DOWNTOWN ACTION COMMITTEE: The Downtown Action Committee recommended approval (7-0) of the requested text amendments after a Public Hearing on April 14, 2021.

PLANNING BOARD: The Planning Board recommended approval (5-0) of the request to the City Commission after a Public Hearing on May 18, 2021.

COMMISSION DISTRICT: The CWD-CD is located within the Downtown Master Plan area, which is located within Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

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.