



**City of West Palm Beach
City Commission**

**DRAFT
AGENDA**

**July 26, 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:

APPOINTMENT (1):

1. **Commission approval is requested for the Mayor's appointment of Varisa Lall Dass to the Downtown Development Authority for a term of three years (3) to expire on July 1, 2024. Ms. Lall Dass will fill the seat of Lisa Gerard. It is required that the City Commission confirms her appointment.**
Agenda Cover Memorandum No.: 23410

CONSENT CALENDAR (2-9):

2. **Minutes of the Regular City Commission Meeting of June 28, 2021.**
Agenda Cover Memorandum No.: 23411

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of June 28, 2021.

3. **Minutes of the Special City Commission Meeting of July 12, 2021.**
Agenda Cover Memorandum No.: 23420

Staff Recommended Motion:

Approve the Minutes of the Special City Commission Meeting of July 12, 2021.

4. **Minutes of the Regular City Commission Meeting of July 12, 2021.**
Agenda Cover Memorandum No.: 23421

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of July 12, 2021.

5. **Resolution No. 156-21 accepting a donation/funding from The Related Companies to the City of West Palm Beach for the hotel costs estimated at \$1,800 for three (3) Police Department members to travel to New York for training on emerging strategies and technologies related to the public-private security arrangements; and**

Resolution No. 157-21 accepting a donation/funding from Brosnan Risk Consultants to the City of West Palm Beach for the airfare costs, estimated at \$1,000 for three (3) Police Department members to travel to New York for training on emerging strategies and technologies related to the public-private security arrangements.

RESOLUTION NO. 156-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A DONATION TO THE CITY OF THE EXPENSE OF TRAVEL AND TRAINING FOR THREE (3) POLICE DEPARTMENT MEMBERS FROM BROSAN RISK CONSULTANTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 157-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A DONATION TO THE CITY OF THE EXPENSE OF TRAVEL AND TRAINING FOR THREE (3) POLICE DEPARTMENT MEMBERS FROM BROSAN RISK CONSULTANTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23412

Staff Recommended Motion:

Approve Resolution No. 156-21 and Resolution No. 157-21.

Background:

The Related Companies provide security services for Rosemary Square, which includes public streets and sidewalks, and requires coordination between their private security firm and the West Palm Beach Police Department. With increased development within the City, the Police Department anticipates the need for more coordination with private security firms serving office and condominium properties. There are emerging trends in the public-private security partnership arrangements, including new technologies and methods of personnel deployment.

Related Companies and Brosnan Risk Consultants have offered, as a donation to the City of West Palm Beach, to make the arrangements and pay the travel related expenses for three (3) members of the West Palm Beach Police Department – Criminal Investigation Division to travel to New York for training and dialogue on integrated approaches to security challenges. The travel related expenses will be paid directly by The Related Companies and Brosnan Risk Consultants.

The West Palm Beach Police Department believes such training and dialogue will benefit the provision of police services within the City.

Resolution No. 156-21 accepts a donation from The Related Companies for the lodging and other travel related expenses for three (3) police officers estimated at \$1,800.

Resolution No. 157-21 accepts a donation from Brosnan Risk Consultants for the airfare and other travel related expenses for three (3) police officers estimated at \$1,000.

Fiscal Note:

Donation for airfare costs from Brosnan Risk Consultants estimated at \$1,000, and donation for hotel costs from Related Companies estimated at \$1,800.

6. **Resolution No. 162-21 approving the Interlocal Agreement between Palm Beach County and the City of West Palm Beach providing grant funding in the amount of \$17,000 to the City to purchase a digital narcotic and medication tracking system; and**

Resolution No. 163-21(F) providing for the receipt and appropriation of the grant funding.

RESOLUTION NO. 162-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH ACCEPTING A GRANT IN AN AMOUNT NOT-TO-EXCEED \$17,000 FOR REIMBURSEMENT OF THE PURCHASE OF A DIGITAL NARCOTIC AND MEDICATION TRACKING SYSTEM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 163-21 (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 RECOGNIZE RECEIPT OF A GRANT FROM PALM BEACH COUNTY FOR REIMBURSEMENT OF COSTS TO PURCHASE OF A DIGITAL NARCOTIC AND TRACKING SYSTEM AND TO PROVIDE APPROPRIATIONS FOR THE EXPENDITURES; PROVIDING AN EFFECTIVE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23413

Staff Recommended Motion:

Approve Resolution No. 162-21 and Resolution No. 163-21(F).

Background:

Palm Beach County is the recipient of grant funds from the Florida Department of Health to improve and expand pre-hospital Emergency Medical Services (EMS) systems in the County. Each grant recipient county is encouraged to disburse funds to EMS providers operating within the County. Palm Beach County offers an EMS grant program, which provides funding for the purchase or replacement of EMS Equipment. The West Palm Beach Fire Department desires to purchase a digital narcotic and medication tracking system.

The Fire Department currently uses an inefficient manual system to track medication/narcotic inventory and use. A digital system would enable the Department to track every transaction for each medication. This protects the City's providers, while ensuring medication is available for patients in need. The digital system is fully Drug Enforcement Administration (DEA) compliant and tracks the life span history for each controlled substance from initial receipt, movement, audit, administration to final disposition, while verifying each action. It can also manage medication expiration dates, incident forms, and safe audits.

The West Palm Beach Fire Department requested funds from Palm Beach County to purchase this digital system. Palm Beach County has awarded the City a grant in an amount not-to-exceed \$17,000 for the purpose of purchasing this system.

Use of the grant funds will improve the City's DEA compliance and create an efficient workflow. It is the City's priority to promote a safe and secure community, and the Fire Department strives to meet and exceed these expectations.

The Grant funds will be provided to the City by the County on a reimbursement basis once the system has been purchased. The Fire Department will ensure proper installation and will continue to train Fire Department personnel on the use of the system.

Resolution No. 162-21 authorizes the Mayor to execute the Interlocal Agreement, and Resolution No. 163-21(F) appropriates the \$17,000 for the purchase.

7. **Resolution No. 175-21 approving the Interlocal Agreement between the City of West Palm Beach, Palm Beach County, the City of Delray Beach, the City of Palm Beach Gardens, and the City of South Bay for the Palm Beach Workforce Development Consortium.**

RESOLUTION NO. 175-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH, PALM BEACH COUNTY, THE CITY OF DELRAY BEACH, THE CITY OF PALM BEACH GARDENS, AND THE CITY OF SOUTH BAY FOR THE PALM BEACH WORKFORCE DEVELOPMENT CONSORTIUM; PROVIDING FOR AN EFFECTIVE DATE; AND OTHER PURPOSES.

Agenda Cover Memorandum No.: 23414

Staff Recommended Motion:

Approve Resolution No. 175-21.

Background:

The parties to this Interlocal Agreement previously formed the Palm Beach County Workforce Development Consortium for the purpose of establishing an Independent Special District and to implement Federal and State workforce development programs and related activities in Palm Beach County, Florida, under the provisions of the Workforce Innovation and Opportunity Act, the Temporary Assistance to Needy Families Act, the Wagner-Peyser Act, and the Florida Workforce Innovation Act of 2000 (“Workforce Programs”). Public Law 113-128 enacted by the congress of the United States effective July 1, 2015, which Act is known as the Workforce Innovation and Opportunity Act (“WIOA”), established a program to provide universal access to workforce development services for the businesses and citizens of Palm Beach County.

The State of Florida’s Workforce Development Board, CareerSource Florida, Inc., created by the Legislature in 2000, has been designated by the Governor to take the lead in designing and directing Florida’s workforce development strategy and to designate Local Workforce Development Areas. Palm Beach County has been designated by the Governor of the State of Florida as Local Workforce Development Area 21 (“LWDA 21”) and the Palm Beach County Board of County Commissioners is designated as the Local Chief Elected Official, the fiscal agent, grant recipient, and administrative entity to administer Workforce Programs and such other funding sources as may be available to support workforce development activities for LWDA 21.

The governing body of the City and of each of the parties to the Interlocal Agreement desire that its county or city be included in regional workforce development initiatives to avail its businesses and citizens of the benefits of Florida's workforce development strategy, including those programs funded through the Workforce Programs and such other funding sources as may be available to support workforce activities. The City, together with Palm Beach County, the City of Delray Beach, the City of Palm Beach Gardens, and the City of South Bay, have come together to form the Consortium to carry out their separate and independent functions described in the Interlocal Agreement in a coordinated and cooperative fashion.

The Interlocal Agreement updates the duties and authority of the Consortium and outlines the duties, rights, and responsibilities of all members of the Consortium.

Fiscal Note:

No fiscal impact.

8. **Resolution No. 179-21 authorizing submittal of an application up to \$400,000 to the Florida Department of State Division of Library and Information Services for a Florida American Rescue Plan Act grant for providing services to support the West Palm Beach community in its COVID-19 relief and recovery efforts.**

RESOLUTION NO. 179-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE FLORIDA DEPARTMENT OF STATE DIVISION OF LIBRARY AND INFORMATION SERVICES FOR A FLORIDA AMERICAN RESCUE PLAN ACT GRANT FOR AN AMOUNT OF UP TO \$400,000 TO ALLOW THE MANDEL PUBLIC LIBRARY TO PROVIDE SERVICES IN SUPPORT OF COVID-19 RELIEF AND RECOVERY EFFORTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23415

Staff Recommended Motion:

Approve Resolution No. 179-21.

Background:

The American Rescue Plan Act has provided \$6,735,385 to the State of Florida to provide funding to be used by September 30, 2022 to help communities respond directly and immediately to the pandemic, as well as address related economic and community needs through equitable approaches.

Spending priorities are, as follows:

1. First, to support digital inclusion efforts to enable libraries to reach residents, such as through internet hotspots, accessible Wi-Fi, and access to digital content and related resources, particularly in support of education, health, and workforce development needs. The following types of data, among others, can inform efforts to reach under-served populations:
 - Poverty/Supplemental Nutrition Assistance Program (SNAP)
 - Unemployment
 - Broadband Availability
2. Second, to provide rapid emergency relief to libraries across the country, allowing them to safely respond to the pandemic and implement public health protocols;
3. Third, to support library services that meet the needs of communities throughout the U. S., including costs, such as personnel, technology, training, materials, supplies, equipment, and associated indirect costs; and
4. With respect to (1), (2), or (3), reach tribal and museum partners best positioned to assist with pandemic response efforts, in addition to traditionally eligible library entities, where appropriate.

The Mandel Public Library of West Palm Beach wants to provide services to community members who are continuing to recover from the varied effects of COVID-19. For example, the library is considering programs aimed at providing services to the community, such as storytime kits for childcare centers, programs aimed at emotional and healing, providing laptops for checkout by the public, and adding to the library's circulating collection. The Mandel Public Library of West Palm Beach would like to apply for this grant opportunity to assist the West Palm Beach community in its COVID-19 recovery efforts. Cost matching is not required for the grant.

Resolution No. 179-21 authorizes electronic submission of the grant application.

Fiscal Note:

Grant application for award of an amount of up to \$400,000.

9. **Resolution No. 185-21 approving the First Amendment to the Tower Agreement with Palm Beach County regarding the communications tower located on Ernest Street to establish Palm Beach County's annual share of the renewal & replacement costs at \$32,236.47 and that the cost of a previously reserved slot will include 75% of the fees previously paid by the reserving party.**

RESOLUTION NO. 185-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE COMMUNICATION TOWER AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH REGARDING THE COMMUNICATIONS TOWER LOCATED ON ERNEST STREET; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23422

Staff Recommended Motion:

Approve Resolution No. 185-21.

Background:

In the 2014-2015 time frame, the City constructed a 440-foot guyed communication tower and equipment building area on property located at 5801 Ernest Street, West Palm Beach, FL 33409 to replace City's existing communications tower used by City and by public safety and local government agencies.

A Communication Tower Agreement, dated May 5, 2015, was executed by and between the City and County (R2015 0573), pursuant to which the County relocated its Antenna Equipment to the new tower and constructed its own equipment building and appurtenances on a portion of the tower property in order to maintain its public safety and public service communication capabilities.

Subsequently, the parties determined that Exhibit C did not accurately reflect the Antenna Equipment actual locations on the tower. Additionally, the parties determined that Section 6.3.3 of the Agreement incorrectly stated the County's share of the Replacement and Renewal Costs, as it indicated the monthly calculation, not the annual contribution. The County and City desired to amend the Agreement, along with Exhibits C, F, and G to reflect the correct calculations and make clarifications.

The result of these amendments is that Palm Beach County's annual share of the Renewal & Replacement Costs will be \$32,236.47. The cost for a party to obtain a previously reserved slot will be 75% of fees previously paid by the party that previously reserved that slot.

Resolution No. 185-21 approves the First Amendment to the Tower Agreement to make the agreed revisions.

Fiscal Note:

Palm Beach County's annual share of the Renewal & Replacement Costs shall be \$32,236.47. The cost for obtaining a reserved slot will be 75% of fees previously paid by the party that previously reserved that slot.

RESOLUTION (10):

- 10. Resolution No. 155-21 approving proposed artwork to satisfy the public art assessment in private development projects for the Mercer Park Apartments; a development project located at 1301 and 1321 Alpha Street.**

RESOLUTION NO. 155-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MAKING FINDINGS AND APPROVING INSTALLATION OF PUBLIC ART AT MERCER PARK APARTMENTS LOCATED AT 1301 AND 1321 ALPHA STREET IN COMPLIANCE WITH THE PUBLIC ART ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND OTHER PURPOSES.

Agenda Cover Memorandum No.: 23416

Staff Recommended Motion:

Approve Resolution No. 155-21.

Background:

On June 2, 2021, the ArtLife WPB committee voted unanimously to recommend a proposed artwork concept at Mercer Park Apartments by Artist Andrew Antonaccio for Amato-Millan Development, LLC, the private developer of Mercer Park Apartments. The installation of the artwork valued at \$63,989.15, or one percent (1%) of the total construction costs, will satisfy the City's public art ordinance requirement. The amount of \$63,989.15 has been escrowed for this project.

About the Artist:

Andrew Antonaccio has been commissioned to design and develop murals (the "Artwork") that would reflect the spirit of the development site. Mr. Antonaccio is a celebrated mural artist from the Wynwood Arts District. He works by using digital medium mixed with traditional methods of art application. His work is best described as a combination of archived images manipulated and reinvented to resonate with today's modern spectator. The artist describes his works as "embodied by digital medium mixed with traditional aesthetic." For this project, he relied on South Florida postcards from the 1950s as his inspiration for the final piece.

Artwork Placement:

Three sides of the two buildings as shown in the diagrams.

Materials:

- Montana Black spray paint: Various colors
- Sherwin Williams outdoor paint: Various colors
- Mercer Park Maintenance Plan: Per Developer's contract with the Artist, any maintenance will be coordinated, and work will be carried out by the artist, as required.

The Artlife WPB committee considered the criteria set forth in Section 78-125 of the code and found, as follows:

1. **Complies.** The proposed artwork meets the definition of art contained in this article and will be created by a professional artist as defined in this article.
2. **Master Plan.** The proposed artwork meets the typologies and qualities described in the Public Art master plan.
3. **Historic Significance.** Not applicable as the proposed artwork is contemporary and site-specific.
4. **Cultural Significance.** The proposed artwork will reflect the aesthetic and cultural development of this area and the surrounding neighborhood.
5. **Visual Accessibility.** The proposed artwork will be readily visible to and accessible to the public and meets the location requirements of this article.
6. **Quality.** The artist is a professional with a visual, engineering, and industrial design background. The medium and the proposed artwork seems of high quality and should have an enduring value.
7. **Appropriateness to Site.** The proposed artwork's design, scale, and materials are unique for the site.
8. **Compatibility.** The proposed artwork will be compatible with and add value to the surrounding neighborhood.
9. **Public Welfare.** The proposed artwork will need to meet the structural engineering and any other building code requirements.
10. **Maintenance.** The proposed artwork will not require extraordinary maintenance, and the maintenance plan addresses weathering and the life of the artwork. The maintenance of the artwork is the responsibility of the owner/developer.
11. **Valuation.** The proposed artwork meets the valuation requirements of this article. The amount of \$63,989.15 has been escrowed as required by the public art ordinance.

12. Location. The proposed location of the artwork is in a public space with multiple viewpoints. Any necessary supporting infrastructure will follow applicable City Code and Florida Building Code requirements.

A copy of the artist's resumes, proposal, rendering of the artwork, budget, maintenance, contracts, and supporting documents are available.

As recommended by the ArtLife WPB Committee, Resolution No. 155-21 will approve the proposed art concept at 1301 and 1321 Alpha Street by Artist Andrew Antonaccio for Mercer Park Apartments to be developed by Amato-Millan Development, LLC in compliance with the public art ordinance.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

PUBLIC HEARINGS (11-13):

11. **Public Hearing and Second Reading of Ordinance No. 4955-21 amending the City Code of Ordinances to add exemptions to the prohibition of employment and contractual relationships between certain officials and employees of third parties 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 WITH THIRD PARTIES WHO ARE CONTRACTING WITH THE CITY; ADDING EXCEPTIONS TO THE PROHIBITIONS IN SECTION 2-513; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23417

Staff Recommended Motion:

Approve Ordinance No. 4955-21 on 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. 4955-21 amending Chapter 2, Article VII, Division 2 of the City Ethics Code to specifically include exceptions included in the State Ethics Code.

12. **Public Hearing and Second 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.: 23418

Staff Recommended Motion:

Approve Ordinance No. 4959-21 on Second Reading.

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 FY21 fiscal impact. FY22 impact of \$73,700 to General Fund and \$6,000 for Utilities.

13. **Public Hearing and First Reading of Ordinance No. 4962-21 providing for revisions to the dates for candidates to qualify for General Elections in March 2022 and all future elections for City offices.**

ORDINANCE NO. 4962-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 30, ELECTIONS, SECTION 30-1 AND SECTION 30-2 OF THE CODE OF ORDINANCES TO REVISE THE DATE FOR CANDIDATES TO QUALIFY FOR CITY OFFICES; PROVIDING A SEVERABILITY AND CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. Agenda Cover Memorandum No.: 23419

Staff Recommended Motion:

Approve Ordinance No. 4962-21 on First Reading and schedule a public hearing and Second Reading on August 9, 2021.

Background:

Chapter 30 of the West Palm Beach Code of Ordinances contains the elections regulations adopted by the City Commission, which provides the dates and methods for qualifying. The Palm Beach County Supervisor of Elections has requested that municipalities amend their qualifying period, so that their qualifying ends on or before the 95th day before Election Day in order to accommodate vote-by-mail requirements, as further set forth in Section 101.62 of the Florida Statutes. Section 100.3605 Florida Statutes governs the conduct of municipal elections. The Statute authorizes the City to change the dates for qualifying and for the election of members of the governing body by adoption of an ordinance.

Ordinance No. 4962-21 modifies the dates relative to qualifying.

Fiscal Note:

No fiscal impact.

PUBLIC HEARING – QUASI JUDICIAL (14-16):

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

14. **Public Hearing and Second Reading of Ordinance No. 4939-21 approving the Local Landmark district designation of 310 North Olive Avenue, also known as St. Ann's Catholic Church, on the West Palm Beach Local Register of Historic Places.**

ORDINANCE NO. 4939-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING 310 NORTH OLIVE AVENUE AS A HISTORIC LANDMARK PROPERTY ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES; PROVIDING FOR THE TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23287

Staff Recommended Motion:

Approve Ordinance No. 4939-21 for the designation of 310 North Olive Avenue as a Landmark District on the West Palm Beach Register of Historic Places and providing for the transfer of development rights. This motion is based upon the recommendation of the Historic Preservation Board, the factual testimony presented, the application submitted, the staff report, and the finding that the criteria set forth in Sec. 94-48 of the Zoning and Land Development Regulations have been met.

Background:

The proposed St. Ann's Roman Catholic Church Landmark Historic District consists of five (5) properties:

1. The 1895 Church located at the northeast corner of North Olive Avenue and 2nd Street.
2. The 1912 Church located just north of the 1895 Church.
3. The 1925 School located at the southeast corner of North Olive Avenue and 3rd Street.
4. The Rectory built ca. 1903 and substantially rebuilt in 2000-2001.
5. A garage building constructed ca. 1950 and subsequently altered.

The district was placed on the local register in 2003 and is one of the best examples in the Country for the utilization of a TDR program to protect historic resources. The Church would now like to elevate their designated status to landmark.

It is the City staff's recommendation that the Commission approve the applicant's request to designate the buildings at 310 North Olive Avenue, also known as St. Ann's Catholic Church, as a Historic Landmark District. It meets Criteria A, C, D, and E, as defined in Section 94-48(a)(2) of the Zoning and Land Development Regulations. Specifically, the building is at least fifty (50) years old, it is associated with events that have made a significant contribution to the broad patterns of the City's history, it embodies the distinctive characteristics of a type, period or method of construction, and it is associated with a singular location that is unique or possesses singular physical characteristics that make it an established or familiar visual feature. It retains integrity of design, materials, workmanship, and location.

The Historic Preservation Board recommended approval of designation (7-0) on February 23, 2021.

Commission approved 5-0 at First Reading on March 22, 2021.

Commission District No. 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

15. **Public Hearing and Second 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.: 23423

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 Downtown Action Committee and 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.

16. **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 ten (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.

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.