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Mayor Keith A. James
Commission President Christy Fox (District 3)
Commissioner Cathleen Ward (District 1)
Commissioner Shalonda Warren (District 2)
Commissioner Joseph A. Peduzzi (District 4)
Commissioner Christina Lambert (District 5)

City Administrator Faye W. Johnson
City Attorney Kimberly Rothenburg
City Clerk Shaquita Edwards

**City of West Palm Beach
City Commission
DRAFT Agenda
Monday, March 20, 2023
5:00 PM**

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, FL 33401, (561) 822-1210.

1. CALL TO ORDER

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

4. 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.

5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA

6. PROCLAMATION

- 6.1. Proclaiming March 31, 2023 as The Lord's Place SleepOut to End Homelessness Awareness Day. Proclamation to be accepted by Diana Stanley, The Lord's Place CEO.

Originating Department:
Mayor's Office

7. CONSENT CALENDAR

All items listed under the consent calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items.

- 7.1. Resolution No. 57-23 approving a Sponsorship Agreement between the City of West Palm Beach and the Historical Society of Palm Beach County to produce "Evening on Antique Row" on April 1, 2023, from 6:00 p.m. to 10:00 p.m.

Originating Department:
Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 57-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING SPONSORSHIP OF THE HISTORICAL SOCIETY OF PALM BEACH COUNTY'S "EVENING ON ANTIQUE ROW" TO BE HELD ON APRIL 1, 2023; WAIVING CERTAIN FEES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The Historical Society of Palm Beach County will host Evening on Antique Row on April 1, 2023 from 6:00 p.m. to 10:00 p.m. on South Dixie Highway between Southern Boulevard and Monroe Drive. General admission ticket prices are \$75 in advance and \$100 at the door. VIP, including after party admission, is \$150 in advance and \$175 at the door. There will also be live entertainment, access to evening shopping, and food trucks along the street. This event is to raise awareness of and benefit educational programs of the Historical Society of Palm Beach County.

Resolution No. 57-23 approves a Sponsorship Agreement between the City and the Historical Society of Palm Beach County. The Historical Society of Palm Beach County will provide the City with a sponsorship valued at \$5,000; which includes marketing, public relations, and admission benefits associated with "Evening on Antique Row." The Historical Society of Palm Beach County will provide the City with a \$1 million general liability insurance policy and a \$1 million liquor liability

insurance policy naming the City as additionally insured. In return, the City will waive the Special Event Permit Fee of \$2,640 and dumpster fees of \$587.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 7.2. Resolution No. 59-23 authorizing submittal of a grant application to the Florida Department of Economic Opportunity's Federally-Funded Community Development Block Grant Coronavirus Relief Fund in the amount of \$567,974 to be used for the Fire Department's Community Paramedic Program.

Originating Department:

Housing and Community Development

Ordinance/Resolution:

RESOLUTION NO. 59-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY IN THE AMOUNT OF \$567,974 FOR THE FIRE DEPARTMENT'S COMMUNITY PARAMEDIC PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

By Resolution No. 272-21, the City Commission of the City of West Palm Beach authorized the submittal of an application to the Florida Department of Economic Opportunity for a Community Development Block Grant - CV (CDBG-CV) under the Small Cities and Entitlement program; in the amount of \$567,974; to be used for the Clear Lake Multipurpose Trail project.

The City applied for the funds in October 2021, but the grant agreement was not received until September 2022. Due to expenditure deadlines associated with the DEO funding (funds must be expended by September 30, 2023) and expenditure deadlines for other funding committed to the Clear Lake Trail project to complete the project timely, the Housing and Community Development Department is proposing to use the DEO grant funds for an alternative project, which is the Community Paramedic Program.

On January 17, 2023, City staff presented the Community Paramedic Program to the City Commission as part of a Mayor/Commission Work Session, and the City Commission determined that it was in the best interest of the City to use the grant funding for this Program.

The Community Paramedic Program will provide services to underserved populations throughout the City by targeting individuals with chronic diseases that contribute to the susceptibility of COVID-19. Through home visits, telehealth appointments, home safety checks, and telephone check-ins, the Community Paramedic Program will enable individuals to manage their condition(s) at home. This will result in decreasing hospitalizations from COVID-19 and improved health outcomes among the individuals suffering from chronic diseases.

The grant funds will be used for:

- Salary and benefits for a Lieutenant;
- Purchase of four (4) vehicles;
- Medical supplies, vaccine distribution and health education, telehealth services; and
- Operational/administrative costs.

Resolution No. 59-23 authorizes the Mayor to sign all necessary documents and authorizes the Housing and Community Development Department to submit the amended application to the Florida Department of Economic Opportunity.

Fiscal Note:

No fiscal impact.

- 7.3. Resolution No. 76-23 authorizing the assessment of City liens in the total amount of \$13,922.88 for unpaid water service, sewer service, and storm water charges for the month of December 2022.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 76-23: 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 CHARGES FOR THE MONTH OF DECEMBER 2022; 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.

Background Information:

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. 76-23 are for unpaid water service, sewer service, and storm water service charges for the month of December 2022. The list of properties to be assessed and the associated charges totaling \$13,922.88 are provided in Resolution No. 76-23 as EXHIBIT A - Utility Lien List - December 2022.

Fiscal Note:

No fiscal impact.

8. PUBLIC HEARING

- 8.1. Public Hearing and Second Reading of Ordinance No. 5036-23 amending Chapter 54, Article III, by creating Division III, regulating the projection of unauthorized images.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5036-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 54 (OFFENSES), ARTICLE III (OFFENSES AGAINST PROPERTY) BY CREATING DIVISION 3 (UNAUTHORIZED PROJECTION OF IMAGES) REGULATING PROJECTION OF IMAGES ONTO BUILDINGS OR OTHER PROPERTY; PROVIDING FOR CRIMINAL PENALTIES AND CIVIL INJUNCTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5036-23.

Background Information:

Pursuant to Article VIII, Section (2)(b), of the Florida Constitution and Chapter 166, Florida Statutes, the City of West Palm Beach has broad home rule powers to adopt ordinances to protect the health, safety, and welfare of the City's inhabitants and visitors.

The United States Supreme Court in the *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), has recognized "[t]he private citizen's interest in controlling the use of his own property," and property owners have the right to use and enjoy their property in ways that satisfy their aesthetic preferences. Accordingly, projections of images onto buildings and structures without the property owner's consent disrupt the owner's use and control of the

property. Likewise, projections of images onto buildings and structures without the property owner's consent cause harm to the property owner by diminishing the property owner's use, as well as affronting the property owner's dignity and privacy interests. Such projections without the owner's consent cause embarrassment and damage to the property owner's reputation.

The City Commission recognizes that light projections onto buildings and structures within the City cause human health issues by interrupting sleeping patterns.

To rectify these issues, the City Commission desires to amend the City's Regulations to prohibit the projection of images onto buildings and structures absent written permission of the property owner. In so doing, the City Commission recognizes the rights of its citizens to free speech on public streets, sidewalks, parks, and other public fora and has taken into account these rights when drafting the applicable legislation.

Adoption of Ordinance No. 5036-23 amends the City's code to address these concerns and to provide for regulations that achieve the compelling government interest of protecting the City's inhabitants and visitors from the unauthorized projection of images onto buildings and structures by employing narrowly tailored regulations that leave open ample alternative channels of communication.

In addition, Ordinance No. 5036-23 deems a violation of the Ordinance to be punishable as a misdemeanor, and the violator may be sentenced to pay a fine of no more than \$500 and up to sixty (60) days in jail.

Ordinance No. 5036-23 also permits civil action against any violator by the City, property owner, lessee, or person in lawful possession of the property to enjoin the activities prohibited by the Ordinance.

Fiscal Note:

No fiscal impact.

- 8.2. Public Hearing and Second Reading of Ordinance No. 5037-23 amending special events permitting to provide a mechanism in which the City is notified of large group feeding events or social service food sharing events of twenty-five (25) or more people.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5037-23: 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 78 (STREETS, SIDEWALKS AND PUBLIC PLACES); ARTICLE VI (SPECIAL EVENTS); DIVISION 1 (GENERALLY); SECTION 78-151 (DEFINITIONS); SECTION 78-152 (TYPE OF EVENTS AND PERMIT REQUIRED FOR SPECIAL EVENTS AND SPECIAL EVENT ADVERTISING), SECTION 78-155 (RESERVATION OF DATES, APPLICATION FEE AND DEPOSIT); AND ARTICLE XVI (PUBLIC PLACES), SECTION 78-468 (PUBLIC EXPRESSION ACTIVITIES) TO CLARIFY PERMITTING OF LARGE GROUP FEEDING EVENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5037-23 on Second Reading.

Background Information:

The City of West Palm Beach currently regulates special events and activities, which members of the public may wish to hold in various public property areas or private property areas, including in City-owned parks or park facilities, requiring a permit for such activities per a standardized, objective framework to ensure the health, safety, and welfare of the participants of such activities and of the public.

However, during large group feeding activities/events, or social service food sharing events involving twenty-five (25) or more persons, the City is required to expend resources beyond its normal capabilities, including emergency services such as police, fire, and EMTs; and there is increased usage and requirement on the sanitation services and public works. This places the health, welfare, and safety of the City's citizens, residents, and guests at risk. These events not only place stress on City services, but also result in adverse impacts to individual parks and the communities in which they are located.

With approval of Second Reading on March 20, 2023, the effective date of the ordinance, per law, is of ten (10) days thereafter.

9. PUBLIC HEARING - QUASI-JUDICIAL

Disclosure of ex-parte communications, if any*

Swearing-in of witnesses.

- 9.1. Resolution No. 44-23: A request by Harvey E. Oyer, III of Shutts and Bowen, LLP, on behalf of Northwood Enterprises, LLC for an abandonment of a portion of the public alley right-of-way, located between 25th Street to the north, 24th Street to the south, Spruce Avenue to the east, and Broadway to the west, consisting of approximately 0.08 acres (3,600 square feet).

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 44-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING A PORTION OF THE PUBLIC ALLEY RIGHT-OF-WAY, APPROXIMATELY 0.08 ACRES (3,600 SQUARE FEET) IN SIZE, LOCATED BETWEEN 25TH STREET TO THE NORTH, 24TH STREET TO THE SOUTH, SPRUCE AVENUE TO THE EAST, AND BROADWAY TO THE WEST; RESERVING AN ACCESS AND UTILITY EASEMENTS; AUTHORIZING EXECUTION OF A DISCLAIMER OF INTEREST IN THE AFORESAID RIGHT-OF-WAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 44-23.

Background Information:

The subject portion of the public alley is an approximate 15-foot wide right-of-way, located between 25th Street to the north, 24th Street to the south, Spruce Avenue to the east, and Broadway to the west. The alley is encumbered by underground public utilities and overhead FPL powerlines. The applicant, who is also the owner of the tracts of land immediately north and immediately south of the right-of-way, desires to vacate the right-of-way to assemble the tracts for future development of the subject area. A location map of the subject area is provided in EXHIBIT A.

The abandonment of the subject alley is necessary for the petitioner to consolidate adjacent parcels of land for development; specifically, the subject alley and eight (8) parcels will be combined in order to construct a mixed-use project, known as "The Spruce," comprised of 270 multifamily residential units (which includes a portion of affordable residential units), 6,383 square feet of amenities space, and 2,330 square feet of retail and an eight-level parking garage.

Due to the current location and existing condition, the subject right-of-way has very little development potential or use to anyone other than the adjacent property owners as part of an assemblage into their property. The abandonment of the subject portion of the public alley will not result in any negative impact to the surrounding area, since the right-of-way considered for abandonment is incorporated in the development proposal for the subject area.

The development plan for "The Spruce" project also provides for an ingress and egress access easement connection to 24th Street in order to maintain alley access and connection to the existing street network.

The City will retain a utility easement within the abandoned alley, as non-City utilities are located there. The City will also receive a utility easement over the access easement area for relocation of City utilities.

An appraisal for the abandonment of the subject property was prepared by Anderson and Carr Inc. on September 23, 2022. According to the appraisal report, the market value for the subject area with the ingress/egress access and utility easements reservation is \$190,000. The applicant is requesting a waiver of the requirement to pay compensation for the alley abandonment because the project will provide workforce housing.

STANDARDS: Staff has found the requested abandonment complies with the abandonment criteria as established in Sec. 78-217 of the City's Code of Ordinances.

NOTICES: Pursuant to the requirements of Sec. 78-215(b) of the City's Code of Ordinances, individual notices were mailed to property owners within 400 feet of the subject property, the site was posted, and the resolution was advertised in the Palm Beach Post. To date, the City has not received any inquiry regarding the general nature of this request.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

Waiver of \$190,000 consideration requested by the Applicant.

- 9.2. Resolution 47-23: A Special Site Plan Review request by Harvey E. Oyer, III of Shutts & Bowen, LLP, on behalf of Northwood Partnership, LLC, for the construction of an eight-story mixed use building with 270 multifamily residential units (which includes a portion of workforce residential units pursuant to Resolution No. 306-22) to be located on Spruce Street between 24th and 25th Streets, and requesting waivers and variances from the City's Zoning and Land Development Regulations.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 47-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A SPECIAL SITE PLAN REVIEW OF THE DEVELOPMENT PROPOSAL CONSISTING OF AN EIGHT-STORY MIXED USE BUILDING WITH 270 MULTIFAMILY RESIDENTIAL UNITS (WHICH INCLUDES WORKFORCE HOUSING UNITS) ON THE SUBJECT PROPERTY FRONTING 25TH STREET TO THE NORTH, 24TH STREET TO THE SOUTH, AND SPRUCE AVENUE TO THE EAST; GRANTING THE WAIVER AND VARIANCE REQUESTS FROM THE PROVISION OF SECTIONS 94-209

AND 94-210 OF THE CITY OF WEST PALM BEACH, FLORIDA ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 47-23 based on the findings that the project, subject to the conditions set forth in the Resolution, complies with the Interim Standards established by Resolution No. 306-22.

Background Information:

The subject site is approximately 1.51 acres located within the Northwood Mixed Use District (NMUD) - Transition subdistrict on the west side of Spruce Avenue between 25th Street and 24th Street. The subject site comprises eight (8) parcels and a portion of the public alley that runs west to east between Broadway and Spruce Avenue. The subject site is currently vacant with the exception of the existing paved public alley that bisects the area.

Specifically, the proposed development includes an eight-story mixed use building with 270 multifamily residential units (which includes 80 affordable/workforce designated residential units), 6,383 square feet of amenities space, and 2,330 square feet of retail and an eight-level parking garage. The development proposal also includes the abandonment of a 3,600-square foot portion of the existing public alley right-of-way.

Additionally, the petitioner requests a waiver to eliminate the required liner building screening along the proposed parking garage structure's south façade facing 24th Street and east façade facing the proposed open space area. The petitioner requests a variance to allow for a 487-foot long building as measured along the north façade facing 25th Street. The petitioner also requests a variance to allow for a proposed building setback of 17 feet and two (2) inches from the south property line (along 24th Street). The petitioner requests a variance to allow for a proposed building with 0% of the south façade (facing 24th Street) located within the minimum and maximum setback area.

The development proposal remains consistent with the mix of uses and development pattern within the subject area and would provide the opportunity for infill development. It is staff's professional opinion that the requests comply with the interim standards established by Resolution No. 306-22 and the applicable standards of the City's Code of Ordinances. Therefore, staff is recommending approval of the requests, subject to the proposed conditions, as identified in the staff report and Resolution No. 47-23.

STANDARDS: Staff has found the requested special site plan review complies with the interim standards as established in Section 4 of Resolution No. 306-22.

NOTICES: Pursuant to the requirements of Sections 94-39(i)(5) and 94-39(j) of the City's Code of Ordinances, individual notices were mailed to property owners within 500 feet of the subject property, the site was posted, and the resolution was advertised in the Palm Beach Post. To date, the City has not received any inquiry regarding the general nature of this request.

Commission District 1: Commissioner Cathleen Ward.

10. COMMENTS FROM THE PUBLIC

Public comments are limited to 3 (three) minutes. Anyone wishing to address the Commission should complete a "Comments by the Public" card and present it to the City Clerk prior to the Public Comments. When you are called to speak, please go to the podium and state your name and address for the record prior to addressing Commission. The Commission will not discuss the matter nor respond to the comment this evening. Comments made will become part of the record and may be addressed at a later date.

11. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

12. 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 2.) written communications shall be placed in the record; and 3) site visits, investigations, etc. shall be disclosed.

NOTICE: If any person decides to appeal any decision made by the City Commission at this meeting, that person will need a record of the proceedings, and that, for such purposes, may need to ensure that a verbatim records of the proceedings be made, which record includes the testimony and evidence upon which the appeal is based. The City of West Palm Beach does not prepare or provide such record.