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Mayor Keith A. James  
Commission President Shalonda Warren (District 2)  
Commissioner Cathleen Ward (District 1)  
Commissioner Christy Fox (District 3)  
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  
Agenda  
Monday, June 12, 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.
- Any person desiring to address the Commission **shall** file a written request with the city clerk prior to consideration of the matter by the Commission or prior to the public comment portion of a meeting. The person wishing to speak **shall** complete a comment card for each agenda item the person wishes to address, which **shall** include the person's full name, address, and the numbered agenda item. The person will not be recognized if the comment card is not completed.

## 5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA

## 6. PROCLAMATION

- 6.1. Proclaiming June 2023 as LGBTQ Pride Month. Proclamation to be accepted by Melissa P. Anderson, Senior Assistant City Attorney; and Michael Riordan, Director of Media and Communications for Compass LGBTQ+ Community Center.

**Originating Department:**  
Mayor's Office

## 7. PRESENTATION

- 7.1. Palm Beach County Commission on Ethics overview presentation.

**Originating Department:**  
Mayor's Office

## 8. RECEIVED / FILED

- 8.1. Submittal of the following two (2) reports from the Internal Auditor's Office: (1) Post Audit Report of Parks and Recreation, PAR23-02; and (2) Post Audit Report of Finance, Cash, Banking, and Investments, PAR23-03.

**Originating Department:**  
Internal Audit

**Background Information:**

The two (2) reports were presented to the Audit Committee on May 25, 2023, where they were approved by the Audit Committee Members. Copies of the reports have been provided to the Mayor and the City Commissioners.

**Fiscal Note:**  
No fiscal impact.

## 9. APPOINTMENTS

- 9.1. City Commission approval is requested for the Mayor's reappointment of Beverly Elliot Morrison to the Criminal Justice Advisory Committee for a term of two (2) years to expire on July 19, 2025. Ms. Morrison has served over the maximum allowed number of terms (3), and it is required that the City Commission confirms her reappointment.

**Originating Department:**  
Mayor's Office

**Staff Recommended Motion:**

Ms. Morrison's reappointment is supported. As a retired Lieutenant with the PBSO, she has valuable experience and expertise, and has been a dedicated Committee member.

- 9.2. City Commission approval is requested for the Mayor's reappointment of Kristin H. Kellogg to the Historic Preservation Board for a term of three (3) years to expire on July 18, 2026. Ms. Kellogg has served over the maximum allowed number of terms (3), and it is required that the City Commission confirms her reappointment.

**Originating Department:**

Mayor's Office

**Staff Recommended Motion:**

Ms. Kellogg's reappointment is supported. Her background in design gives her insight with relevant questions for the projects as the Board's Vice Chair.

- 9.3. City Commission approval is requested for the Mayor's appointment of Timothy K. Harris to the Downtown Development Authority for a term of three (3) years to expire on July 1, 2026. Mr. Harris will fill the seat of Ms. Cynthia Nalley. It is required that the Commission confirms this appointment.

**Originating Department:**

Mayor's Office

## 10. 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.

- 10.1. Resolution No. 100-23 consenting to the installation of improvements in the rights-of-way and approving a Right-of-Way Maintenance Agreement and related easements for the development at 200 Arkona Court known as La Clara.

**Originating Department:**

Engineering

**Ordinance/Resolution:**

RESOLUTION NO. 100-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, CONSENTING TO THE INSTALLATION OF IMPROVEMENTS WITHIN THE PUBLIC RIGHTS-OF-WAY ADJACENT TO THE LA CLARA RESIDENTIAL PLANNED DEVELOPMENT AT 200 ARKONA COURT; APPROVING A MAINTENANCE AGREEMENT BETWEEN 1515 FLAGLER CONDOMINIUM ASSOCIATION, INC. AND THE CITY OF WEST PALM BEACH FOR MAINTENANCE OF THE IMPROVEMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The La Clara (originally The Modern) includes the widening of Arkona Court, along with the installation of the public sidewalk and public parking spaces on the La Clara property. The development regulations included in Ordinance No. 4245-09 requires that the Developer, its successors or assigns, are responsible for the maintenance of the sidewalk and public parking. Additionally, La Clara has installed Royal Palm trees within the South Flagler Drive right-of-way. The Developer needs to enter into a maintenance agreement with the City for the Arkona Court sidewalk, public parking, and associated landscape, irrigation, and pavers that are located in the right-of-way as well as the landscape and irrigation located within the South Flagler Drive right-of-way.

Resolution No. 100-23 will allow for the maintenance of the improvements within the rights-of-way and public access to the sidewalks.

Commission District 5: Commissioner Christina Lambert.

**Fiscal Note:**

No fiscal impact.

- 10.2. Resolution No. 131-23 authorizing the assessment of City liens in the total amount of \$21,708.77 for unpaid water service, sewer service, and storm water charges for the month of March 2023.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 131-23: 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 STORM WATER SERVICE CHARGES FOR THE MONTH OF MARCH 2023; 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. 131-23 are for unpaid water service, sewer service, and storm water service charges for the month of March 2023. The list of properties to be assessed and the associated charges totaling \$21,708.77 are provided in Resolution No. 131-23 as EXHIBIT A - Utility Lien List - March 2023.

**Fiscal Note:**

No fiscal impact.

- 10.3. Resolution No. 132-23 authorizing and approving a conditional workers' compensation settlement agreement and release in the case of Floyd v. City of West Palm Beach, OJCC No.: 14-021849BKC, filed in the state of Florida, Division of Administrative Hearings.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 132-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT AND RELEASE DATED MAY 9, 2023, IN THE AMOUNT OF \$52,306.42 IN THE MATTER OF WALTER FLOYD v. CITY OF WEST PALM BEACH AND CORVEL CORP., PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

Walter Floyd was injured while in the course and scope of his employment with the City of West Palm Beach on or about July 1, 2014. The City, including its workers' compensation Servicing Agent, CORVEL Corp., have reached a conditional settlement with the claimant, and his attorney, per a mediation conducted in August 2022.

The conditions of settlement included obtaining approved Workers' Compensation Medicare Set-Aside Arrangement (MSA) from the Centers for Medicare and Medicaid Services (CMS). The settlement was further conditioned upon Commission approval of the settlement. The settlement amount is \$52,306.42.

Per the City of West Palm Beach Code of Ordinances Section 2-268(g)(4), settlement amounts in excess of \$30,000 require Commission approval. This amount of \$52,306.42 includes monies to the claimant, and monies specifically to fund the MSA, which provides for future related medical treatment. This settlement is the result of negotiation between the parties and is a compromise of the full amount of the cost of the workers' compensation claim had it remained an open claim as allowed by law.

In addition, the settlement includes a general release of all other potential claims and all other prior known claims, including any prior workers' compensation claims against the City.

If Commission approval is provided, the settlement documents are then submitted to the Judge of Compensation Claims for the judge's specific

approval. It is at that point, where the Servicing Agent then issues the settlement check(s) and the case is officially concluded.

- 10.4. Resolution No. 143-23(F) accepting and appropriating funding in the amount of \$5,000 from The Walter & Adi Blum Foundation, Inc. to reimburse the Department of Parks and Recreation for the funds used to purchase presents for school-aged children who attend schools and program that serve the Pleasant City Community.

**Originating Department:**

Parks and Recreation

**Ordinance/Resolution:**

RESOLUTION NO. 143-23(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 2022/2023 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 BUDGET TO RECOGNIZE THE DONATION OF \$5,000 FROM THE WALTER & ADI BLUM FOUNDATION, INC. FOR THE PURCHASE OF PRESENTS IN 2023 FOR CHILDREN AT THE YOUTH EMPOWERMENT CENTER AT PLEASANT CITY COMMUNITY CENTER; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Walter & Adi Blum Foundation, Inc. has generously donated \$5,000 to reimburse the Department of Parks and Recreation Youth Empowerment Center for the purchase of presents for school-aged children who attend the local elementary, middle, and high schools, aftercare, and childcare programs that serve the Pleasant City Community. Programs include Tyson's Tiny Tots and Pleasant City Youth Empowerment Center.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

Approval of this item will provide \$5,000 of reimbursable funds that were used to purchase presents for school-aged children who attend schools and program that serve the Pleasant City Community.

- 10.5. Resolution No. 147-23 approving an interlocal agreement between the City of West Palm Beach and the Community Redevelopment Agency for the funding of the Chase Street and Trinity Place Streetscape project.

**Originating Department:**

Community Redevelopment Agency

**Ordinance/Resolution:**

RESOLUTION NO. 147-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH APPROVING A PROJECT FUNDING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE FUNDING OF THE CHASE STREET AND TRINITY PLACE STREETScape PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The CRA's Strategic Finance Plan for the Downtown/City Center CRA District Amendment No. 17 identifies improvements of mobility and connectivity along Okeechobee Boulevard as a main goal for the Okeechobee corridor target area. The CRA is proposing improvements to Chase Street and Trinity Place to support mobility and connectivity within this target area.

On May 15, 2023, the City Commission approved the change on face of the City through Resolution No. 87-23. The proposed improvements will include new landscape and lighting, as well as wider paver sidewalks and travel lanes with a curb-less design.

The project funding for \$8,510,000 has been allocated in CRA FY 22/23 budget. The companion CRA Resolution No. 23-17 authorizes the use of the CRA funds by the City for the construction of the project and is included in the CRA agenda for June 12, 2023 as a companion item to this Resolution.

Resolution No. 147-23 approves the interlocal funding agreement between the City and the CRA for the City management of the construction of the project.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

Funds already allocated in CRA FY22/23 budget. No City funds will be utilized for this project.

- 10.6. Resolution No. 149-23 accepting the donation of one (1) 2010 20-foot cargo trailer with a value of \$10,000 from the Big Heart Brigade to be used by the West Palm Beach Police Department (WPBPD) Traffic Motor Unit.

**Originating Department:**

Police

**Ordinance/Resolution:**

RESOLUTION NO. 149-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A DONATION OF A CARGO TRAILER WITH AN

ESTIMATED VALUE OF \$10,000 FROM BIG HEART BRIGADE, TO BE USED BY THE WEST PALM BEACH POLICE DEPARTMENT TO TRANSPORT ITS MOTORCYCLES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The West Palm Beach Police Department (WPBPD) Traffic Unit operates marked police motorcycles for enforcement duties, parade and motorcade escort, and various other uses that traditional police vehicles are not conducive for. Police motorcycle operations and usage has a history dating back to the 1920s in the United States of America. The police motorcycle is an integral component and method of transportation for police traffic unit operations. The operation of the police motorcycle requires a high degree of skill through long hours of training and experience. The police motorcycle operator requires annual training in all matters of police motorcycle operations.

The WPBPD Motor Unit participates in various police motorcycle skills competitions during the year, which requires the trailering of the motorcycles throughout the State of Florida. Additional trailering is required when traveling to and participating in various parade functions, honor guard escorts, and police memorials and/or funeral services.

Resolution No. 149-23 approves the acceptance of a donated 2010, 20-foot cargo trailer with an estimated value of approximately \$10,000 from the Big Heart Brigade, a local non-profit charity organization for the purposes of trailering police motorcycles.

**Fiscal Note:**

No fiscal impact.

- 10.7. Resolution No. 150-23 amending Resolution No. 125-23 an approved project funding interlocal agreement between the City of West Palm Beach and the City of West Palm Beach Downtown Development Authority for the purchase of equipment for the City of West Palm Beach Police Department to use exclusively in the Entertainment District.

**Originating Department:**

Police

**Ordinance/Resolution:**

RESOLUTION NO. 150-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING A PROJECT FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE CITY OF WEST PALM BEACH DOWNTOWN DEVELOPMENT AUTHORITY FOR THE PURCHASE OF EQUIPMENT FOR THE CITY OF WEST PALM BEACH POLICE DEPARTMENT TO USE EXCLUSIVELY IN THE



ENTERTAINMENT DISTRICT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

THIS RESOLUTION AMENDS THE PREVIOUSLY APPROVED RESOLUTION NO. 125-23 UPDATING THE DONATED EQUIPMENT AND REVISING THE INTER-LOCAL-AGREEMENT.

The West Palm Beach Police Department (WPBPD) is seeking to modernize and upgrade its current inventory of alternative transportation equipment utilized by officers in the downtown area. The downtown area is commonly referred to as the Entertainment District. The WPBPD has full-time dedicated personnel assigned to the Entertainment District Unit (EDU). EDU is comprised of one (1) Lieutenant, two (2) Sergeants, and twelve (12) officers. Additionally, several members of the Community Response Team (CRT), one (1) Sergeant and five (5) officers, also operate within the downtown area. Numerous officers also work in an overtime and/or off-duty capacity in the downtown area, which offers police services to local businesses and City functions. The number of officers working in this capacity varies by day and time of week.

The downtown area is comprised of major roadways, secondary local surface streets, alleyways, service roads, and a variety of public and private parking structures. As the City's downtown area continues to develop and grow in both size and population, it is critical that the WPBPD has the ability to continue to provide the highest level of public safety services. The increase in downtown development and daytime/nighttime population growth presents a challenging work environment in navigating the area. Providing high level public safety services requires law enforcement to traverse the downtown area rapidly, efficiently, and safely. Ideally this should be accomplished without adding further to traffic and/or parking congestion. Traditionally, law enforcement has utilized full-sized marked police vehicles in the downtown area as the primary means for officer transportation. Given the stated challenges, the WPBPD is seeking to modernize its current inventory of equipment and implement new alternative modes of officer transportation. The implementation of alternative modes of transportation in the downtown area addresses several areas, such as minimizing parking and traffic congestion by decreasing the number of full-size marked police vehicles. The utilization of alternative modes of transportation also has a positive sustainability and environmental impact by decreasing the use of fossil fuel vehicles. Traditional vehicles will be supplemented with electric rechargeable lithium-ion battery powered carts and Ebikes.

On April 3, 2023, the WPBPD received a memorandum of understanding and donation from the City of West Palm Beach Downtown Development Authority. The Downtown Development Authority describes its organization as follows:

The West Palm Beach Downtown Development Authority (DDA) was created in 1967 as an independent special taxing district to promote and enhance a safe, vibrant Downtown for residents, businesses and visitors through the strategic development of economic, social, and cultural opportunities. We improve and maintain Downtown West Palm Beach by offering information and services to visitors, residents and business owners.

The Downtown Development Authority is offering a direct donation of two (2) Gorilla G4LLI electric patrol golf carts, including emergency lights and reflective West Palm Beach Police vinyl graphics; and six (6) Commander Pursuit 1000watt 48V E-Bikes with emergency lighting, reflective West Palm Beach Police vinyl graphics, and safety accessories. The donation carries an approximate value of \$61,891. The donation will support WPBPD Entertainment District Unit Officers within the boundaries of the DDA District. These items will assist officers by increasing maneuverability, decreased response times, and increased public relations.

- 2023 Gorilla, G4LLI, Golf Cart, Vehicle Number 23110032
- 2023 Gorilla, G4LLI, Golf Cart, Vehicle Number 23110043
- Six (6) Commander Pursuit 1000watt 48V E-Bike

Strategic Plan – Pillar 6 – Health and Safety: (A) Maintain a safe City through community-based law enforcement, strong code enforcement, and effective fire prevention and emergency response programs. (B) Measure and address community perception of crime and safety.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 10.8. Resolution No. 152-23 approving an interlocal agreement between the City of West Palm Beach and the Community Redevelopment Agency for the funding of the stopgap transit pilot program.

**Originating Department:**

Community Redevelopment Agency

**Ordinance/Resolution:**

RESOLUTION NO. 152-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH APPROVING A FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE FUNDING OF THE TRANSIT

PILOT PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

On May 30, 2023, by Resolution No. 133-23, the City Commission approved a stopgap pilot program for transportation services to replace the current trolley system and an agreement for stopgap transit services with Circuit Transit Inc.

The Stopgap Pilot Program will provide both fixed route and on-demand transit services via a variety of vehicle types, and explore methods to improve mobility equity, in order to identify the City's needs for future transit operation with the intent of issuing a future procurement solicitation.

The Stopgap Pilot Program will have two (2) phases of transportation improvements. In Phase 1, the Trolley will be replaced by a new fixed-route utilizing electric vehicles (EVs) vans in a modified route and an on-demand service will be expanded with a combination of modified golf carts and Teslas.

The new downtown fixed route will commence in early June, and the on-demand services will start operations by July 1, 2023.

The Stopgap Pilot Program will also provide on-demand transportation services through a mobile application, which will connect riders to nearby vehicles, enabling them to reach their desired destination quickly and efficiently. The program will launch with on-demand zones in several neighborhoods, including Coleman Park, NoRa, Jefferson Terminal District, the Norton Museum, Northwood Village, and along South Dixie just north of Belvedere Road.

Phase 2 of the Stopgap Pilot Program will focus on further expansions of the on-demand service and the potential addition of new fixed routes to improve accessibility and promote equity within underserved areas of the City, with particular attention to moving commuters in and out of downtown and other high demand areas.

The City desires now to enter into an interlocal agreement with the CRA for funding the stopgap pilot transit program as follows:

- FY 22/23: \$377,000
- FY 23/24: \$1,281,000

The CRA companion item is Resolution No. 23-18.

Resolution No. 152-23 approves the funding interlocal agreement with the CRA for a portion of the funding for the transit Stopgap Pilot Program.

The stopgap transit program will operate services within:

- Commission District 1: Commissioner Cathleen Ward;
- Commission District 3: Commissioner Christy Fox; and
- Commission District 5: Commissioner Christina Lambert.

**Fiscal Note:**

Funding will be covered by the CRA.

## 11. RESOLUTIONS

- 11.1. Resolution No. 113-23 amending the Interlocal Agreement Between the School Board of Palm Beach County and the City of West Palm Beach regarding Roosevelt Elementary School parking.

**Originating Department:**

Mayor's Office

**Ordinance/Resolution:**

RESOLUTION NO. 113-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SCHOOL BOARD OF PALM BEACH COUNTY TO MAKE FURTHER IMPROVEMENTS TO THE 15TH STREET PARKING AREA ADJACENT TO ROOSEVELT MIDDLE SCHOOL; APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT WITH THE SCHOOL BOARD; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 113-23.

**Background Information:**

The City and the Palm Beach County School District entered into an interlocal agreement on June 2, 2003 that provided for the use of a City right-of-way along 15th Street to accommodate thirty-four (34) parking spaces and extend parent drop-off and pick-up to alleviate traffic back-ups on Australian Avenue. The agreement is being amended to accommodate installation of a fence with gates along the parking area to enhance security for the school by controlling vehicular and pedestrian access.

Resolution No. 113-23 authorizes the installation of the fence and gates and approves the Amendment to the Interlocal Agreement between the School Board of Palm Beach County and the City regarding Roosevelt Elementary School Parking.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

No fiscal impact.

- 11.2. Resolution No. 160-23 approving a mediated conditional settlement agreement between the City of West Palm Beach, the West Palm Beach Community Redevelopment Agency, and the Photographic Centre.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 160-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL FINAL SETTLEMENT AGREEMENT IN THE MATTER OF CITY OF WEST PALM BEACH AND WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY V. PALM BEACH PHOTOGRAPHIC CENTRE, INC.; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 160-23

**Background Information:**

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.

On July 14, 2008, the Palm Beach Photographic Centre, Inc., (Photo Centre) and the City of West Palm Beach (City) entered into a Lease, leasing approximately 26,000 square feet within the City Centre (Lease); and the City of West Palm Beach Community Redevelopment Agency (CRA) entered into an Assistance Agreement to fund improvements, which included the HVAC and electrical system within the leased premises.

The City and CRA filed a complaint for declaratory relief to determine the parties' rights and duties stemming from the City's Lease and the CRA's Assistance Agreement with the Photo Centre, and the Photo Center filed a Counterclaim for breach of contract and implied duty of good faith and fair dealing under the Lease to wit: *City of West Palm Beach v. Palm Beach County Photographic Centre, Inc.*, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida, Case No.: 502022CA005408XXXMB AG. The parties participated in voluntary mediation beginning on March 9, 2023 and ending on March 15, 2023. The terms reached at mediation and presented to you for your consideration are fully set forth in the conditional Final Settlement Agreement signed by the Photo Centre and provided with this agenda item. The agreement includes the purchase of the remaining fifteen (15) year term of the Lease in the amount of One Million and Ninety Thousand Dollars (\$1,090,000), which would be paid contingent upon:

1. the board's approval;
2. satisfaction of the County Funding Agreement;
3. release of the CRA Assistance Agreement; and
4. approval of the CRA Board, and 5) vacating the leased premises.

If approved and all conditions precedent are met, each party releases the other from all claims arising from the Litigation, including attorney's fees and costs.

Approval of Resolution No. 160-23 authorizes the Mayor to execute the Final Settlement Agreement and triggers conditions contained therein.

The CRA companion item is Resolution No. 23-20.

## 12. PUBLIC HEARING

- 12.1. Public Hearing and Second Reading of Ordinance No. 5047-23 authorizing a long-term lease and expansion of the Palm Beach Rowing Association, Inc.'s Boathouse at Lake Mangonia Park.

**Originating Department:**

Housing and Community Development

**Ordinance/Resolution:**

ORDINANCE NO. 5047-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A LONG-TERM LEASE AND EXPANSION OF THE PALM BEACH ROWING ASSOCIATION, INC.'S BOATHOUSE AT MANGONIA PARK; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5047-23.

**Background Information:**

The City of West Palm Beach owns a boat storage facility located in Lake Mangonia Park adjacent to the Lake Mangonia Boat Ramp specifically at 2957 N. Australian Avenue. The City has leased the existing boat storage facility to the Palm Beach Rowing Association since 1986 for the purposes of providing recreational offerings to City residents as well as serving as the training site for the Association to prepare for competitive rowing regattas.

As the Palm Beach Rowing Association seeks to expand the existing boat storage facility, City staff has agreed to execute a new lease, with an extended term, to facilitate the expansion. Following the policies detailed in the City's Real Property Lease Management Policy as adopted by

Ordinance No. 4868-19, the proposed lease includes the following significant terms:

- Term: Twenty-Five (25) years, with one renewal options of five (5) years. In the event that the Association does not timely construct the Boathouse Expansion, the lease term will be reduced to five (5) years.
- Boathouse Expansion: The Association will be authorized to construct an expansion of the Boathouse of 2,475 square feet, more or less, which would expand the Boathouse to 3,965 square feet, more or less. The Boathouse expansion will include a new public restroom to replace the existing public restroom.
- Public Service: The Association will provide a public service to the residents and businesses of West Palm Beach by: 1) providing at least one (1) rowing education program to the public on a monthly basis; and 2) providing a rowing education program for the City's summer camp program, or in conjunction with Urban Youth Impact or other not-for-profit organization serving the youth of the City of West Palm Beach. The Association shall discount its program fees for West Palm Beach students and youth. This public service component is required under the Lease Policy to obtain discounted rent.
- Rent: Five Hundred Dollars (\$500.00) per month (\$6,000 annually), which is 35% of the appraised market rent, in compliance with the Lease Policy; adjusted annual based on the consumer price index.
- Security: A security deposit of \$1,000 is required in compliance with the Lease Policy.
- Maintenance: All maintenance obligations will be responsibility of the Association.
- Insurance: Tenant to be responsible for insuring the property.
- Assignment: The Association may not assign the lease.

The Lease agreement is provided with this agenda item, which provides a detailed description of the terms and conditions that were negotiated.

Section 2-31 (27) of the City Code of Ordinances provides for approval of a lease of City property with a term of five (5) years or longer by Ordinance, which requires approval at two (2) readings of the approving Ordinance. One such vote must be by super majority of the City Commission.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

No fiscal impact.

- 12.2. Public Hearing and First Reading of Ordinance No. 5044-23 amending Chapter 94, Article IV: Downtown Master Plan, Sec. 94-106 - General uses with special requirements, and Article IX - Permitted uses, uses permitted with extra requirements, and special uses, Sec. 94-273 - Extra requirements for special uses or permitted uses; to modify and clarify specific regulations regarding Medical Marijuana Dispensaries and Pharmacies.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5044-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ARTICLE IV - DOWNTOWN MASTER PLAN URBAN REGULATIONS, SECTION 94-106 - GENERAL USES WITH SPECIAL REQUIREMENTS (A.), AND ARTICLE IX - PERMITTED USES, USES PERMITTED WITH EXTRA REQUIREMENTS, AND SPECIAL USES, SECTION 94-273 - EXTRA REQUIREMENTS FOR SPECIAL USES OR PERMITTED USES (D.); TO MODIFY AND CLARIFY SPECIFIC REGULATIONS REGARDING MEDICAL MARIJUANA DISPENSARIES AND PHARMACIES; DECLARING THESE PROPOSED ZONING TEXT AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE ZONING AND LAND DEVELOPMENT REGULATIONS OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5044-23 amending the Zoning and Land Development Regulations, Article IV, Downtown Master Plan Urban Regulations, Sec. 94-106 - General uses with special requirements, and Article IX - Permitted uses, uses permitted with extra requirements, and special uses, Sec. 94-273 - Extra requirements for special uses or permitted uses. This motion is based upon the factual testimony presented, the staff report, the recommendations from the Planning Board and the Downtown Action Committee, and 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 Information:**

On June 16, 2014, Florida's Compassionate Medical Cannabis Act of 2014 became law. This act legalized the cultivation, production, and dispensing of a low-THC derivative product of marijuana for "qualified patients."



Between 2016 to May 2018, City staff held discussions and workshops with the Planning Board, Mayor-City Commission, and the Downtown Action Committee on amending the City's Zoning Code to identify Medical Marijuana Dispensaries as a permitted use within certain zoning districts in the City, which resulted in adopting Ordinance No. 4780-18 on June 18, 2018.

Since 2018, eight (8) Medical Marijuana Dispensaries have been established in the City of West Palm Beach, four (4) of which are located within the Clematis Waterfront District.

On November 14, 2022, the Downtown Development Authority (DDA) sent a letter to the Mayor, Commission President Christy Fox and City Commissioners raising concerns regarding medical marijuana dispensaries in Downtown, particularly the latest establishment of Curaleaf located on the ground level of the building at 300 Clematis Street, which is the same building where DDA occupies the 2nd floor.

On February 12, 2023, the Mayor and City Commission held a work session to evaluate existing regulations for Medical Marijuana Dispensaries, review inventory of already established businesses in the City, and potential impacts on adopting additional regulations of Medical Marijuana Dispensaries.

Based on direction provided by the Mayor and City Commission, and additional research done by City staff, staff is recommending amendments to the Medical Marijuana Dispensaries regulations.

This code revision was heard by the Downtown Action Committee (DAC) on April 12, 2023. DAC made a motion of approval to prohibit dispensaries within the Clematis Waterfront District and recommend changing the separation distance between Medical Marijuana Dispensaries to half a mile (2,640 feet) and to correct the language of Article IV, Sec. 94-106 to get rid of the ambiguity in which districts medical marijuana dispensaries are not permitted. The motion passed 5-1.

This code revision was heard by the Planning Board on April 18, 2023. The Planning Board made a motion recommending denial of the staff's request and suggested the market should determine where discrepancies and pharmacies are viable. The Board further moved that the proposal amendment did not comply with the orderly development amendment standard found in Section 94-32 of the Zoning and Land Development Regulations. The motion of denial passed 5-2.

In summary, staff had recommended to both the DAC and Planning Board that dispensaries be prohibited within the Clematis Waterfront District as

there are currently four such businesses in existence today within the four block area. Staff had also recommended that a distance separation of 1/4 mile (1,320') be established for all dispensaries and pharmacies throughout the City. The DAC was supportive of this motion but asked that the separation be increased to 1/2 mile while the Planning Board voted entirely against the amendment.

### 13. PUBLIC HEARING - QUASI-JUDICIAL

Disclosure of ex-parte communications, if any\*

Swearing-in of witnesses.

- 13.1. Public Hearing and Second Reading of Ordinance No. 5041-23 regarding a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.30 acres located at 424 LA Kirksey Street from Multifamily to Commercial East;

Public Hearing and Second Reading of Ordinance No. 5042-23 regarding a Rezoning to change the Zoning designation of approximately 0.30 acres located at 424 LA Kirksey Street from Multifamily Low Density Residential to General Commercial;

Public Hearing and Second Reading of Ordinance No. 5043-23 regarding a Rezoning to change the Zoning designation of approximately 1.47 acres located at 424 LA Kirksey Street, 1501 North Dixie Highway, and 1515 North Dixie Highway from General Commercial to Commercial Planned Development; and

Resolution No. 116-23 regarding the development regulations and conditions for the Kirksey Commons Commercial Planned Development, and granting waiver and variances of the Zoning and Land Development Regulations.

The above-referenced requests are being made by Joseph Verdone of Carlton Fields, on behalf of WIRE F2 WPB SELF STORAGE LLC, to create the Kirksey Commons Commercial Planned Development.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5041-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF TWO (2) PARCELS LOCATED AT 424 LA KIRKSEY STREET, APPROXIMATELY 0.30 ACRES, FROM MULTIFAMILY (MF) TO COMMERCIAL EAST (CE); DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND

USE MAP TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5042-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, FLORIDA, BY REZONING TWO (2) PARCELS LOCATED AT 424 LA KIRKSEY STREET, APPROXIMATELY 0.30 ACRES, FROM MULTIFAMILY LOW DENSITY (MF14) RESIDENTIAL TO GENERAL COMMERCIAL; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5043-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH, FLORIDA, BY REZONING FOUR PARCELS LOCATED AT 424 LA KIRKSEY STREET, 1501 NORTH DIXIE HIGHWAY, AND 1515 NORTH DIXIE HIGHWAY, APPROXIMATELY 1.47 ACRES, FROM GENERAL COMMERCIAL TO COMMERCIAL PLANNED DEVELOPMENT TO CREATE THE KIRKSEY COMMONS COMMERCIAL PLANNED DEVELOPMENT; PROVIDING FOR THE ESTABLISHMENT OF DEVELOPMENT REGULATIONS BY SEPARATE RESOLUTION; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 116-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING THE DEVELOPMENT REGULATIONS, INCLUDING THE SITE AND LANDSCAPE PLANS AND BUILDING ELEVATIONS, FOR THE KIRKSEY COMMONS COMMERCIAL PLANNED DEVELOPMENT LOCATED AT 424 LA KIRKSEY STREET, 1501 NORTH DIXIE HIGHWAY, AND 1515 NORTH DIXIE HIGHWAY; GRANTING WAIVER AND VARIANCES TO THE ZONING AND LAND DEVELOPMENT REGULATIONS; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5041-23, a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.30 acres located at 424 LA Kirksey Street from Multifamily to Commercial East. 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 request complies with the provisions of Chapter 163, Florida Statutes, meets the "Changed Assumptions" standard of Future Land Use Policy 1.1.5 of the City's Comprehensive Plan, and meets the conditions of Future Land Use Policy 2.5.3 of the City's Comprehensive Plan.

Approve Ordinance No. 5042-23, a rezoning to change the Zoning designation of approximately 0.30 acres located at 424 LA Kirksey Street from Multifamily Low Density Residential to General Commercial. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Approve Ordinance No. 5043-23, a rezoning to change the Zoning designation of approximately 1.47 acres located at 424 LA Kirksey Street, 1501 North Dixie Highway, and 1515 North Dixie Highway from General Commercial to Commercial Planned Development. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the Comprehensive Plan and the standards in Sections 94-32 of the City's Zoning and Land Development Regulations.

Approve Resolution No. 116-23 establishing development regulations and conditions for the Kirksey Commons Commercial Planned Development, and granting waiver and variances from the Zoning and Land Development Regulations.

**Background Information:**

(THE INFORMATION PROVIDED BELOW IS A GENERAL SUMMARY. A FULL ANALYSIS IS INCLUDED IN THE STAFF REPORT)

The subject property is comprised of four (4) separate parcels, with the addresses of 1501 and 1515 North Dixie Highway and 424 LA Kirksey Street, consisting of approximately 1.47 acres. Specifically, the subject property is located on the west side of North Dixie Highway, between LA Kirksey Street and 14th Street. The subject property has frontage along all three (3) roadways and access to the site is from all three (3) roadways and the public alley. The subject property consists of an existing multifamily residential building, an existing vacant commercial building, and an existing motor vehicle sales business.

The applicant is proposing a mixed use development consisting of a total gross floor area of 95,600 square feet, including 84,400 square feet of self-storage area, 900 square feet of self storage office area, 9,400 square feet of commercial flex area, and 900 square feet of lobby and utilities area on the subject property. To effectuate their plans and to allow the requests of

certain waivers and variances from the City's Zoning and Land Development Regulations (ZLDRs), applications were submitted to change the following:

- Future Land Use designation of two (2) of the parcels from Multifamily (MF) to Commercial East (CE);
- Zoning designation of two (2) of the parcels from Multifamily Low Density (MF14) Residential to General Commercial (GC); and
- Zoning designation of all four (4) parcels from GC to Commercial Planned Development (CPD).

The applicant is requesting the following waivers and variances (all of which are described and analyzed in the Staff Report):

- Section 94-207(d)(2) – Minimum Land Area
- Section 94-486 – Minimum Number of Parking Spaces
- Section 94-145(3) – Maximum Lot Coverage Area
- Section 94-145(5)(a) – Minimum Open Space Area
- Section 94-485(p) – Minimum Loading/Unloading Space Area

The proposed project will expand upon the existing redevelopment efforts that are happening in the City's north end and continue to help create a catalyst that would help generate the momentum necessary to redevelop areas such as North Dixie Highway and create demand for more desirable businesses around the neighborhood.

It is staff's professional opinion that with the finding that particular circumstances justify the reduction of the planned development acreage to less than five (5) acres and that the requirements for the planned development district zoning and the benefits to be derived from the planned development district zoning can be derived in such a lesser area, the proposed CPD complies with the City's Comprehensive Plan, and that the proposed development, with the waivers and variances granted, will comply with the standards required by the ZLDRs. Planning staff, therefore, is recommending approval, subject to the conditions contained in Resolution No. 116-23.

**PLANNING BOARD:** After a Public Hearing on February 22, 2023, the Planning Board recommended approval (7-0).

**PUBLIC NOTICE:** Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Ordinance No. 5041-23, Ordinance No. 5042-23, Ordinance No. 5043-23, and Resolution No. 116-23 were advertised in the Palm Beach Post.

Commission District 1: Commissioner Cathleen Ward.

- 13.2. Resolution No. 138-23 approving a replat of property to create the plat "The Grand" on approximately 2.54 acres (110,623 square feet) of real property generally located at 609 2nd Street; associated with "The Grand" multi-family residential project and granting a private underground utility easement under a portion of 2nd Street.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 138-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE CONSOLIDATION AND REPLAT OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "GRAND PLAT" CONSISTING OF ONE DEVELOPMENT TRACT TOTALING APPROXIMATELY 2.54 ACRES (110,623 SQUARE FEET) GENERALLY LOCATED AT 609 2ND STREET; GRANTING A PRIVATE UNDERGROUND DRAINAGE EASEMENT ON A PORITON OF 2ND STREET; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

APPLICANT HAS REQUESTED TO CONTINUE THIS ITEM TO THE JUNE 26, 2023 CITY COMMISSION MEETING.

#### 14. 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.

## **15. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS**

## **16. 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.