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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  
**PASS/FAIL Agenda**  
Monday, August 21, 2023  
5:01 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- PRESENTED

- 6.1. Proclaiming August 2023 as Black Business Month. Proclamation to be accepted by Joseph Sanches, President of the Black Chamber of Commerce, and Frank Hayden, Director of the Office of Small and Minority Business Programs.

**Originating Department:**  
Mayor's Office

## 7. APPOINTMENTS- APPROVED

- 7.1. Commission approval is requested for the Mayor's reappointment of Polly Daugherty to the Sustainability Advisory Committee for a term of two (2) years to expire August 25, 2025. Ms. Daugherty 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. Daugherty's reappointment is supported due to her passion for the issues and commitment to the Committee.

- 7.2. Commission approval is requested for the Mayor's reappointment of Myles Schack to the Water Advisory Board for a term of two (2) years to expire August 7, 2025. Mr. Schack has served over the maximum allowed number of terms (3), and it is required that the City Commission confirms his reappointment.

**Originating Department:**  
Mayor's Office

**Staff Recommended Motion:**

Mr. Schack's reappointment is supported due to his professional background and institutional knowledge.

## 8. CONSENT CALENDAR- ALL ITEMS WERE APPROVED

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.

- 8.1. Minutes of the Regular City Commission Meeting of July 10, 2023.

**Originating Department:**  
Mayor's Office

- 8.2. Minutes of the Special City Commission Meeting of July 20, 2023 (Set Not to Exceed Rate).

**Originating Department:**

Mayor's Office

- 8.3. Minutes of the Special City Commission Meeting of July 20, 2023 (Fire & Chronic Nuisance Proposed Assessments).

**Originating Department:**

Mayor's Office

- 8.4. Minutes of the Regular City Commission Meeting of July 24, 2023.

**Originating Department:**

Mayor's Office

- 8.5. Resolution No. 180-23 approving participation of additional City of West Palm Beach electric accounts in FPL's SolarTogether shared solar program.

**Originating Department:**

Public Utilities

**Ordinance/Resolution:**

RESOLUTION NO. 180-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING INCREASED PARTICIPATION IN THE FLORIDA POWER & LIGHT COMPANY SOLAR TOGETHER – SHARED SOLAR PROGRAM; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The City of West Palm Beach has made a commitment to Climate Resilience, not only to adapt (prepare) for climate change, but also to mitigate (reduce) our Greenhouse Gas Emissions. This includes a goal of Net Zero Greenhouse Gas Emissions by 2050. Utilizing renewable energy will move us closer to those goals.

Florida Power & Light's (FPL) shared solar program, SolarTogether, leverages the economies of scale by building universal solar to bring efficiencies to the cost and availability of solar power. SolarTogether is a service that allows FPL customers to subscribe to a shared solar program and receive credits from the solar produced on their monthly bill.

Resolution No. 18-19 authorized the City of West Palm Beach to subscribe up to 12,305 kW with the subscriptions becoming active in Quarter 2 of Fiscal Year 2022; actual amount subscribed at the time was 12,129 kW. Since initial enrollment, we are seeing the projected net bill impact

(subscription minus credits earned) provided by FPL at the time. We have now been given the opportunity from FPL to add the remaining eligible City electric accounts of 7,689 kW to the SolarTogether Program. This would bring the total amount subscribed to 19,818 kW. New subscriptions will appear on the first billing cycle following enrollment. After the first billing cycle following enrollment, customers can unsubscribe from the program and will not be able to re-enroll for a 12-month period. Customers may also elect to reduce their subscription following the first billing cycle. Additional subscriptions will be available in the future; however, there will be a waitlist, which currently is at capacity.

Enrolling in the program will have no impact on the City's existing electric rate structure, time of use charges, and/or demand charges. In addition, enrolling will not change the number of kWh consumed on a monthly basis.

The monthly subscription rate is fixed at \$6.76/kW. The subscription rate reflects the costs related to construction, ownership, and operation of the solar fields FPL builds to serve participants in the program. The monthly subscription rate does not change over time. The subscription credit is based on the actual monthly solar generation of our subscription share multiplied by the subscription credit rate. The subscription credit rate will increase over time, if the City remains in the program, escalating annually at 1.45%. On an annual basis, program participants can expect a net bill reduction within three (3) to five (5) years and achieve a simple payback within five (5) to seven (7) years.

Resolution No. 180-23 approves the additional participation of the City of West Palm Beach in FPL's SolarTogether Program for 7,689 kW for a total participation of 19,818kW and have the Renewable Energy Credits (REC) retired on its behalf.

**Fiscal Note:**

Little fiscal impact expected for the remainder of FY2023. FY 2024 will budget an estimated \$24,000 for initial cost, which will go down to \$0 after the third year, when the City will be earning funds for the electricity.

- 8.6. Resolution No. 192-23 for the execution of a Utility Work by Highway Contractor Agreement (UWHCA) with the State of Florida Department of Transportation (FDOT) for City Utility Work in conjunction with State Road No. A1A Milling & Resurfacing (Lake Avenue to Ibis Way) in the Town of Palm Beach.

**Originating Department:**

Public Utilities

**Ordinance/Resolution:**

RESOLUTION NO. 192-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

APPROVING A UTILITY WORK BY HIGHWAY CONTRACTOR AGREEMENT (UWHCA) BETWEEN FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE CITY OF WEST PALM BEACH RELATING TO THE FDOT'S MILLING AND RESURFACING PROJECT ON STATE ROAD A1A FROM LAKE AVENUE TO IBIS WAY IN THE TOWN OF PALM BEACH; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

In June 2024, the Florida Department of Transportation (FDOT) will be soliciting bids for the improvements of State Road No. A1A Milling & Resurfacing on S. Ocean Boulevard from Lake Avenue to Ibis Way in the Town of Palm Beach ("FDOT Project"). The FDOT Project involves milling and resurfacing, sidewalk replacement, lighting, and signalization improvements. Within the 1-1/2 mile length FDOT Project corridor, incidental improvements of City's existing utilities will be required (Utility Work). The Utility Work involves adjustment of water valve boxes and relocation of a fire hydrant. The construction by FDOT is anticipated to begin in October 2024 for a duration of approximately nine (9) months.

FDOT and the City have determined that it is in the best interest of the public, and to the economic advantage for both parties, to enter into a Utility Work by Highway Contractor Agreement (UWHCA) to accomplish the City's utility improvements ("Agreement"). Accordingly, the City's related utility work will be competitively bid as part of the FDOT project and constructed by FDOT Contractor. Under the terms of the Agreement, the City shall reimburse FDOT a total estimated amount of \$49,140 for the cost of the Utility Work. This amount includes the cost of utility items plus ten percent (10%) construction contingency and two percent (2%) CEI (Construction Engineering & Inspection).

Resolution No. 192-23 approves the UWHCA with FDOT for the City's incidental utility relocation within State Road No. A1A Milling & Resurfacing from Lake Avenue to Ibis Way.

This project is located in the Town of Palm Beach.

**Fiscal Note:**

Post approval, the available budget balance will be approximately \$164,000.

- 8.7. Resolution No. 194-23 approving submittal to the State of Florida Department of Environmental Protection multiple applications to the Resilient Florida Grant Program.

**Originating Department:**

Public Utilities

**Ordinance/Resolution:**

RESOLUTION NO. 194-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING SUBMITTAL TO THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF MULTIPLE APPLICATIONS UNDER THE RESILIENT FLORIDA GRANT PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Resilient Florida program includes various grants that are available to counties, municipalities, water management districts, flood control districts, and regional resilience entities. To effectively address impacts of flooding and sea level rise facing the state, eligible applicants may apply to receive funding assistance to analyze and plan for vulnerabilities, as well as implement adaptation and mitigation projects. Florida Statutes Section 380.093 provides more information on available grant programs and requirements.

Proposals for FY 2023-24 projects are being accepted by the Resilient Florida grant program, with a grant application deadline of September 1, 2023.

Under the Resilient Florida program, two (2) types of grant applications are being accepted by the State for: (1) Planning grants; and (2) Implementation grants.

Approval is requested for the City to submit up to eight (8) grant applications under the two categories noted above as follows:

Planning Grants: One (1) Planning grant. Planning grants do not require a funding match.

- Resilient Waterfront/Seawall Project Planning: The scope of work relates to resiliency planning specific to adapting the City's waterfronts to sea level rise and storm surge. Changing water levels, combined with the long-term lifecycle of waterfront infrastructure, require forward thinking adaptation approaches today and pursuit of grant opportunities to achieve them. The coastal resiliency planning effort may include adaptations to seawalls, marine structures, and public/critical infrastructure near waterfronts, as well as possible ordinances and policy development. The project scope would be sufficiently broad and phased to be applicable for an array of future grant funding opportunities and will be a planning level project to focus on adaptation of the City's waterfront areas subject to flooding/waves/surge (seawalls, marine structures, public/critical infrastructure), and an opinion of probable costs. Public engagement would be vital to this effort. Estimated grant request is up to \$250,000.

Implementation Grants: Up to seven (7) Implementation Grants for the following potential projects:

- Flagler Drive Lift Station Retrofit (additional funding): The City received a grant from Resilient Florida in 2021 for \$405,000 (\$810,000 total project cost) for this project; however, due to the recent construction cost escalation, additional funding is required. An additional \$1,000,000 is requested. If selected, a 50% match (\$500,000) will be provided by the Public Utilities Department.
- WPB Tidal Valve Adaptation (additional funding): The City received a grant from Resilient Florida in 2022 for \$800,000 (\$1,600,000 total project cost) for this project; however, due to the recent construction cost escalation, additional funding is required. An additional \$1,500,000 is requested. If selected, a 50% match (\$750,000) will be provided by the Public Utilities Department.
- Flagler Drive Underground Hardening Phase 3: This requests expands on the Resilient Florida grant awards for Phase 1 and 2 and continues the work within the area. Estimated grant project request is \$4,000,000. If selected, a 50% match (\$2,000,000) will be provided by the Public Utilities Department.
- Stormwater Underground Hardening (30" Dia & Larger): The project includes pipe rehabilitation of approximately 200,000 LF of vitrified clay pipe (VCP) and corrugate metal pipe (CMP) stormpipe City-wide. These pipe segments have been identified to have high likelihood of failure and high consequence of failure. Estimated grant project request is \$5,000,000. If selected, a 50% match (\$2,500,000) will be provided by the Public Utilities Department.
- WPB Tidal Valve Adaptation (small): The project includes design and installation of tidal valves on a minimum of fifteen (15) small stormwater outfalls. Estimated grant project request is \$1,500,000. If selected, a 50% match (\$750,000) will be provided by the Public Utilities Department.
- Lift Station Rehabilitation Phase 1: Lift stations are critical assets of a wastewater conveyance/transmission system. The 2019 wastewater master plan identified lift stations in the City's wastewater system that require critical rehabilitation and repairs, short-term and long-term. Up to twenty (20) lift stations have been identified by City staff for the LS Rehab program for the next three (3) years. The work includes, but is not limited to, wetwell rehab, emergency pump out connection replacement, riser pipe and discharge pipe, and valving replacement. This project will include up to ten (10) lift stations. Estimated grant project request is

\$10,000,000. If selected, a 50% match (\$5,000,000) will be provided by the Public Utilities Department.

- Australian Avenue Water & Sewer Improvements (Banyan Blvd to 45th Street): Palm Beach County (County) received a grant for the drainage improvements and total roadway reconstruction of Australian Avenue from Banyan Boulevard to 45th Street. Within the County's 3.5 mile project limits, the City's existing water distribution and sanitary sewer collection and transmission systems are in conflict with the proposed improvements by the County and will require adjustments and/relocation and improvements of aging infrastructures. These proposed improvements to and upgrade of the City's water and wastewater infrastructure will minimize the occurrence of future damage to the County's proposed roadway and stormwater infrastructure improvements. The work will involve resolution of conflicts throughout the project corridor and replacement of the City's system as required. Estimated grant project request is \$10,000,000. If selected, a 50% match (\$5,000,000) will be provided by the Public Utilities Department.

These potential projects will adapt critical assets to the changing conditions we all are experiencing. Implementation grants require a 50% funding match (50/50 cost share). At this time, it is unknown when and how the City will have to demonstrate proof of a match, but it is estimated that a partial match would have to be provided in the FY 2024-25 fiscal year, with additional matches required over the two remaining years of the grant term.

Resolution No. 194-23 authorizes the submittal of the grant applications and commits that matching funds will be appropriated if the Implementation Grants are awarded.

**Fiscal Note:**

Post approval, balances will be approximately \$60,000,000 in Water Sewer General Reserve Fund 459 Reserve for Future Projects and \$14,000,000 in Stormwater General Reserves Fund 484.

- 8.8. Resolution No. 196-23 approves a Conditional Settlement Agreement totaling \$70,000 in the matter of Rodlin Coeurvil and Bina Coeurvil v. City of West Palm Beach.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 196-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT TOTALING \$70,000 IN THE MATTER OF RODLIN COEURVIL AND BINA COEURVIL



V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE;  
AND FOR OTHER PURPOSES.

**Background Information:**

Rodlin and Bina Coeurvil brought a claim for damages by way of a complaint in the Fifteenth Judicial Circuit in Rodlin Coeurvil and Bina Coeurvil v. City of West Palm Beach for an accident that occurred on March 13, 2021. The City has reached a settlement agreement with Rodlin and Bina Coeurvil and their attorney to resolve the matter for a total of \$70,000. The Plaintiffs have signed a general release that releases the City from all claims arising from this incident, which ends all of the claims for damages, including all attorneys' fees and costs, against the City of West Palm Beach.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims over \$30,000 shall require the approval of the City Commission by formal resolution. Resolution No. 196-23 approves the Conditional Settlement Agreement.

**Fiscal Note:**

Risk budget.

- 8.9. Resolution No. 201-23 approves a Conditional Settlement Agreement totaling \$59,500 in the matter of Delores Davis v. City of West Palm Beach.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 201-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT TOTALING \$59,500 IN THE MATTER OF DELORES DAVIS V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

Delores Davis brought a claim for damages by way of a complaint in the Fifteenth Judicial Circuit in Delores Davis v. City of West Palm Beach for an accident that occurred on May 23, 2019. The City has reached a settlement agreement with Ms. Davis and her attorney to resolve the matter for a total of \$59,500. The Plaintiff has signed a general release that releases the City from all claims arising from this incident, which ends all of the claims for damages, including all attorneys' fees and costs, against the City of West Palm Beach.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims over

\$30,000 shall require the approval of the City Commission by formal resolution. Resolution No. 201-23 approves the Conditional Settlement Agreement.

**Fiscal Note:**

Risk budget.

- 8.10. Resolution No. 206-23 authorizing the assessment of City liens in the total amount of \$151,517.59 for unpaid water service, sewer service, and storm water charges for the month of May 2023.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 206-23: 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 MAY 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. 206-23 are for unpaid water service, sewer service, and stormwater service charges for the month of May 2023. The list of properties to be assessed and the associated charges are provided in Resolution No. 206-23 as EXHIBIT A - Utility Lien List - May 2023. If not paid, these liens may be foreclosed by the City.

**Fiscal Note:**

No fiscal impact.

- 8.11. Resolution No. 220-23 providing Transit Village, LLC, sixty (60) additional days to record the plat approved by Resolution No. 144-23, entitled "Transit Village Subdivision" for the property generally located at 134 Clearwater Drive.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 220-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, EXTENDING THE TIME TO RECORD THE PLAT APPROVED BY RESOLUTION NO. 144-23, ENTITLED "TRANSIT VILLAGE SUBDIVISION" CONSISTING OF THREE (3) DEVELOPMENT TRACTS TOTALING APPROXIMATELY 5.765 ACRES (251,133 SQUARE FEET) GENERALLY LOCATED AT 134 CLEARWATER DRIVE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The subject property and project entitled "Transit Village", consisting of a total gross building area of 1,277,545 square feet with 182,720 square feet of office, 49,395 square feet of retail, a 108 room hotel, a total of 986 units within an approximately 6.6 acre property, between Clearwater Drive, Banyan Boulevard, and Tamarind Avenue is generally located at 134 Clearwater Drive.

On June 26, 2023, in accordance with the development approval requirements for "Transit Village," the City Commission adopted Resolution No. 144-23, approving the subdivision and replat of real property to create the plat entitled: "Transit Village Subdivision. Section five, of Resolution No. 144-23 provided that Transit Village, LLC, "shall record the Plat within sixty (60) days from approval of the Plat by the City. Failure to timely record the plat will nullify the Plat approval by the City Commission."

Transit Village, LLC, is seeking an additional sixty (60) days from the date of approval of this Resolution to record the Plat that was approved by Resolution No. 144-23. To avoid re-hearing the request, staff recommends approval of Resolution No. 220-23 extending the time for recording the plat sixty (60) days from the date of approval of this resolution.

Commission District 3: Commissioner Christy Fox.

**9. RESOLUTIONS- ALL ITEMS WERE APPROVED**

- 9.1. Resolution No. 190-23 relating to the ratification of a successor collective bargaining agreement between the City of West Palm Beach and the Service Employees International Union (SEIU), Florida Public Services Union (FPSU), CTW, CLC Certified Unit No. 401, for the period of October 1, 2023 through September 30, 2026.

**Originating Department:**

Human Resources

**Ordinance/Resolution:**

RESOLUTION NO. 190-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA RATIFYING A COLLECTIVE BARGAINING AGREEMENT BETWEEN

THE CITY OF WEST PALM BEACH AND THE SERVICE EMPLOYEES INTERNATIONAL UNION ("SEIU"), FLORIDA PUBLIC SERVICES UNION, CTW, CLC, CERTIFIED UNIT NO. 401 FOR THE PERIOD OCTOBER 1, 2023 to SEPTEMBER 30, 2026; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 190-23.

**Background Information:**

For the Commission's consideration is Resolution No. 190-23, which ratifies a Collective Bargaining Agreement (CBA) between the City and the Service Employees International Union (SEIU), Florida Public Service Union (FPSU), CTW, CLC Certified Unit No. 401.

The City and SEIU have reached a tentative agreement on a successor three (3) year CBA for the period of October 1, 2023 through September 30, 2026. The tentative agreement will provide SEIU employees with both a 5% cost of living salary adjustment (COLA) and a historic Market Adjustment of their salaries of up to 15%.

The agreement was ratified on August 11, 2023 by SEIU members 257 to 5 (98% in favor - 2% opposed).

If this tentative agreement is ratified, once the COLA and Market Adjustments are implemented the average SEIU employee salary will go from being **8.18% below** market to **7.91% above** market.

Highlights of some of the changes over the current agreement are summarized below; exact language of all terms is provided (in redline and in final form) for a more comprehensive review.

1) Article 6, Dues Deduction: To ensure compliance with Florida Statutes Section 447 as amended effective July 1, 2023, language related to City deduction of union dues from employee pay was deleted and language referring to the newly amended F.S. Section 447 was added to clarify that the City will no longer collect union dues on behalf of the union.

2) Article 18, Leaves of Absence: Language was added to update how SEIU employees accrue annual leave to ensure the 2023-2026 CBA language matches the new, higher, annual leave accruals which were approved by the Commission through the June 1, 2022, Memorandum of Agreement between the City and SEIU.

3) Article 19, Holidays: "Juneteenth National Independence Day" was added to the list of City Observed Holidays.

4) Article 26, Alcohol and Substance Abuse: To ensure all SEIU employees uniformly follow the City's substance abuse policy, substance abuse policy language in the current CBA was deleted and new language was added to clarify that SEIU represented employees will follow and shall be governed by the City's Substance Abuse Policy 4-16.

5) Article 24, Compensation: Provides SEIU represented employees a 5% across the board COLA pay increase and a Market Adjustment pay increase of up to 15%, in FY24. FY24 COLA and Market Adjustment increases will be effective on the first full pay period on or after October 1, 2023. Employees that have not passed their new hire probation by October 1, 2023 are not eligible for the COLA or Market Adjustment. The amount of COLA and Market Adjustment each employee will receive is limited to the maximum allowed salary corresponding to their position pay range.

For FY25, a 3% COLA will be provided to SEIU represented employees, and another 3% COLA will be provided in FY26.

Costs associated with providing the FY24 5% COLA and Market Adjustments is accounted for in the proposed balanced budget for FY24.

**Fiscal Note:**

Costs associated with this agreement have been included in the City's proposed balanced budget for FY2024.

- 9.2. Resolution No. 191-23 relating to the ratification of a successor collective bargaining agreement between the City of West Palm Beach and the Professional Managers and Supervisors Association Certified Unit No. 1073 (PMSA), for the period of October 1, 2023 through September 30, 2026.

**Originating Department:**

Human Resources

**Ordinance/Resolution:**

RESOLUTION NO. 191-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RATIFYING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE PROFESSIONAL MANAGERS AND SUPERVISORS ASSOCIATION, CERTIFIED UNIT NO. 1073 (PMSA) FOR THE PERIOD OCTOBER 1, 2023 to SEPTEMBER 30, 2026; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 191-23.

**Background Information:**

For the Commission's consideration is Resolution No. 191-23, which ratifies a Collective Bargaining Agreement (CBA) between the City and the

Professional Managers and Supervisors Association Certified Unit 1073 (PMSA).

The City and PMSA have reached a tentative agreement on a successor three (3) year CBA for the period of October 1, 2023 through September 30, 2026. The tentative agreement will provide PMSA employees with both a 5% cost of living salary adjustment (COLA) and a historic Market Adjustment of their salaries of up to 15%.

The agreement was ratified on August 8, 2023 by PMSA members 69 to 2 (97% in favor - 3% opposed).

If this tentative agreement is ratified, once the COLA and Market Adjustments are implemented the average PMSA employee salary will go from being **8.18% below** market to **7.91% above** market.

Highlights of some of the changes over the current agreement are summarized below; exact language of all terms is provided (in redline and in final form) for a more comprehensive review.

1) Article 6, Dues Check-Off: To ensure compliance with Florida Statutes Section 447 as amended effective July 1, 2023, language related to City deduction of union dues from employee pay was deleted and language referring to the newly amended F.S. Section 447 was added to clarify that the City will no longer collect union dues on behalf of the union.

2) Article 18, Leaves of Absence: Language was added to update how PMSA employees accrue annual leave to ensure the 2023-2026 CBA language matches the new, higher, annual leave accruals, which were approved by the Commission through the June 1, 2022, Memorandum of Agreement between the City and PMSA.

3) Article 19, Holidays: "Juneteenth National Independence Day" was added to the list of City Observed Holidays.

4) Article 27, Compensation: Provides PMSA represented employees a 5% across the board COLA pay increase and a Market Adjustment pay increase of up to 15%, in FY24. FY24 COLA and Market Adjustment increases will be effective on the first full pay period on or after October 1, 2023. Employees that have not passed their new hire probation by October 1, 2023 are not eligible for the COLA or Market Adjustment. The amount of COLA and Market Adjustment each employee will receive is limited to the maximum allowed salary corresponding to their position pay range.

For FY25, a 3% COLA will be provided to PMSA represented employees, and another 3% COLA will be provided in FY26.

Costs associated with providing the FY24 5% COLA and Market Adjustments is accounted for in the proposed balanced budget for FY24.

**Fiscal Note:**

Costs associated with this agreement have been included in the City's proposed balanced budget for FY2024.

- 9.3. Resolution No. 53-23 approves the proposed art concepts for Icon Marina Village by the Related Group at 4444 North Flagler Drive to satisfy the public art requirement. One percent (1%) of the total construction costs escrowed is \$1,074,437.

**Originating Department:**

Mayor's Office

**Ordinance/Resolution:**

RESOLUTION NO. 53-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MAKING FINDINGS AND APPROVING INSTALLATION FOR LIGHTHOUSE BY EMMETT MOORE AND SIMBIOSIS BY GLENDA LEON TO BE INSTALLED AT ICON MARINA AT 4444 NORTH FLAGLER DRIVE IN COMPLIANCE WITH THE PUBLIC ART ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 53-23.

The proposed public art concepts are for Icon Marina Village. This motion is based on the findings that the proposed artwork meets the criteria set forth in Section 78-125 of the City Code as reviewed by the ArtLife WPB Committee.

**Background Information:**

On February 1, 2023 at their regularly scheduled meeting, the ArtLife Committee voted unanimously to recommend to City Commission two (2) large-scale sculptures to be installed on two (2) different open spaces within the publicly accessible areas of Icon Marina Village located at 4444 North Flagler Dive.

The artworks for Icon Marina Village were inspired by the project's location and natural setting where land meets water. Because of its unique setting between North Flagler Avenue and the Lake Worth Lagoon, two (2) sculptures are proposed. The first site will exhibit "Symbiosis" by Glenda Leon to be installed along North Flagler Drive on the pedestrian walkway. The second, "Lighthouse" by Emmett Moore, is on the east facing Promenade along the intracoastal waterway. Both locations are publicly accessible.

## ABOUT THE ARTIST

Emmett Moore is a Miami-based artist and designer known for a technically rigorous interdisciplinary approach that challenges notions of functionality and fluctuates seamlessly between design and art by examining our relationship with the built environment. His work has been shown institutionally at the RISD Museum, the Frost Art Museum, the Miami Art Museum, the Bass Museum of Art, and is in the permanent collection of the Perez Art Museum Miami.

Glenda León is a Cuban artist born in Havana, in 1976. She studied Classical Ballet and Philology at the University of Havana, where she received a B.A. in Art History. León graduated from the Academy of New Media, Cologne, Germany in 2007. She has received prizes such as The Pollock-Krasner Foundation Award and residencies like Couvent des Recollets, in Paris and Fonderie Darling, in Montreal. She was part of the Cuban Pavilion in the 55th Venice Biennial with the sound installation Music of the Spheres (2013).

## ABOUT THE ARTWORKS

For centuries, lighthouses have served as beacons of light to provide safe passage to mariners. Emmett Moore's proposed "Lighthouse" is a contemporary interpretation of these historic structures. It is a large-scale 20' x 5' sculpture made of faux coral rock, which is the material that over hundreds of thousands of years became the limestone underlying South Florida. The surfaces are embellished with found objects becoming contemporary fossils, and various hues of color built up to resemble years of paint that accrues on architectural ruins. The resulting artwork is crowned by a circular light bulb that serves as our very own beacon of light. It is a nod to our South Florida heritage and landscape, but also is a functioning lighthouse.

Symbiosis is a term used to describe the relationship between two organisms. In the context of this project, the sculpture is a visual interpretation of a river becoming a tree and a tree becoming a river. Passersby on North Flagler Street will encounter a large-scale aluminum installation with circumference of nearly 18' that takes the viewer on a visual journey where blue water converges with brown and green foliage. Each detail is intricately created by hundreds of cast aluminum sections welded together as seamless as the natural transition of the elements.

## MATERIALS

Lighthouse: Aluminum skeletal structure composed of a 3" aluminum tube welded to a ½" aluminum plate. Installed on to an 8' x 8' pad.



Simbiosis: Aluminum structure with square tubes 2.5" x 2.5" inside the diameter of the sculpture. Joined by welding points and screw system, two (2) 6" x 6" aluminum square tube connected to the internal structure and the metallic plaque (approximately 1") anchored to a concrete foundation.

Based on the findings that the proposed artworks meet the criteria set forth in Section 78-125 of the City Code as reviewed by the ArtLife WPB Committee, Resolution No. 53-23 approves two (2) sculptures: "Lighthouse" by Emmet Moore and "Simbiosis" by Glenda Leon for Icon Marina Village to satisfy the developers public art requirement.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

No fiscal impact.

**10. PUBLIC HEARING- ALL ITEMS WERE APPROVED**

- 10.1. Public Hearing and Second Reading of Ordinance No. 5053-23 amending Chapter 94, Article XV - Parking Regulations, Section 94-486, Table XV-6 - Citywide Parking Requirements to amend the minimum parking requirements for the warehousing facilities for families and small businesses use category.

The above-referenced request is a privately initiated proposed text amendment made by Jon Schmidt of Schmidt Nichols, on behalf of 2500 N. Florida Mango LLC.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5053-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ARTICLE XV – PARKING, SECTION 94-486, TABLE XV-6; TO AMEND THE MINIMUM PARKING REQUIREMENTS FOR WAREHOUSING FACILITIES FOR FAMILIES AND SMALL BUSINESSES USE CATEGORY; DECLARING THIS PROPOSED ZONING TEXT AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5053-23 amending the City's Zoning and Land Development Regulations at Article XV - Parking Regulations, Section 94-486, Table XV-6 - Citywide Parking Requirements. This motion is based upon the factual testimony presented, the staff report, the recommendation

of the Planning Board, and the findings that the proposed amendment complies with all the amendment standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

**Background Information:**

A request by Jon Schmidt of Schmidt Nichols, on behalf of 2500 N. Florida Mango LLC, seeking an approval for the privately initiated proposed text amendment modifying Chapter 94, Article XV - Parking Regulations, Section 94-486, Table XV-6 - Citywide Parking Requirements. Specifically, to replace the current minimum parking requirements language for the Warehousing Facilities for Families and Small Businesses use category with the proposed text amendment language stating one (1) parking space per 200 storage bays, minimum of five (5) parking spaces.

The applicant also currently has a rezoning request in review to change the zoning designation of the property located at 2500 North Florida Mango Road from General Commercial to Commercial Planned Development to allow for a 108,292 square foot Warehousing Facility for Families and Small Businesses with a total number of sixteen (16) parking spaces proposed based on the proposed text amendment. However, a total number of thirty-three (33) parking spaces is required for the proposed use under the current minimum parking requirements. Since the property located at 2500 North Florida Mango Road is located outside of the designated areas eligible for parking waivers, the proposed redevelopment project is not eligible to receive a waiver from the current minimum parking requirements.

The City's Planning staff recognizes the request and finds the proposed text amendment will bring the City's Zoning and Land Development Regulations (ZLDRs) up to date and make the ZLDRs more consistent with modern-day parking requirements involving the parking demand generated by Warehousing Facilities for Families and Small Businesses.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

- 10.2. Public Hearing and Second Reading of Ordinance No. 5056-23: A City-initiated request amending Chapter 94, Section 94-302, Fences, hedges, and walls to prohibit fences, hedges, and walls on the east side of Flagler Drive for non-contiguous residential property east of Flagler Drive where the primary residence is west of Flagler Drive.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5056-23: 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 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE X – SUPPLEMENTAL DISTRICT REGULATIONS, SECTION 94-302 – FENCES, HEDGES, AND WALLS TO PROHIBIT FENCES HEDGES AND WALLS ON THE EAST SIDE OF FLAGLER DRIVE FOR NON-CONTIGUOUS RESIDENTIAL PROPERTY EAST OF FLAGLER DRIVE WHERE THE PRIMARY RESIDENCE IS WEST OF FLAGLER DRIVE; 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.

**Staff Recommended Motion:**

Approve Ordinance No. 5056-23 amending Chapter 94, Section 94-302, Fences, hedges, and walls; to prohibit fences, hedges and walls on the east side of Flagler Drive for non-contiguous residential property east of Flagler Drive where the primary residence is west of Flagler Drive. This motion is based upon the factual testimony presented, the staff report, the recommendation of the Planning Board, and the findings that the proposed amendment complies with all the amendment standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

**Background Information:**

When portions of Flagler Drive were constructed in the 1930s, some of the original homeowner's property was split on both sides of Flagler Drive leaving the homeowner with land on the east side of Flagler Drive adjacent to the intracoastal waterway. This not only allowed the City to construct Flagler Drive, but also to construct the existing linear trail/sidewalk along the waterfront for the citizens of the City. The City has maintained this area since Flagler Drive was constructed. The City has recently received an inquiry about installing a fence on the east side of Flagler Drive, adjacent to the intracoastal. In order to maintain the overall character and vista of the waterfront along Flagler Drive, as well as to ensure City access to maintain the Flagler Drive right-of-way, the City is initiating this text amendment to prohibit fences, hedges, and walls east of Flagler Drive for non-contiguous residential parcels located on the west side of Flagler Drive.

Staff has determined that this text amendment will clarify any ambiguity in the City's Zoning and Land Development Regulations (ZLDRs) concerning fences, walls, and hedges on the east side of Flagler Drive. Compliance with the standards of the Zoning and Land Development Regulations are provided in the staff report.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

- 10.3. Public Hearing and First Reading of Ordinance No. 5062-23 amending Boards, Committees, and Commissions to remove provisions allowing advisory board members to hold meetings remotely through communication media technology.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

ORDINANCE NO. 5062-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 2, (ADMINISTRATION) OF THE CODE OF ORDINANCES, ARTICLE III (BOARDS, COMMITTEES AND COMMISSIONS), DIVISION 1 (GENERALLY), REMOVING SECTION 2-65 (MEETINGS BY ELECTRONIC MEANS) TO 2-68; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5062-23 on first reading and schedule second reading for September 5, 2023.

**Background Information:**

The City Commission has the authority to adopt this Ordinance by virtue of its constitutional home rule authority codified in Chapter 166, Florida Statutes. During the pandemic, the City Commission amended its code of ordinances to allow advisory boards to hold their meetings virtually rather than in person. The Attorney General issued an Attorney General Opinion 2020-03, which provided: "if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if: 1) a statute permits a quorum to be present by means other than in person; or 2) the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency. The Federal COVID-19 Public Health Emergency declaration ended on May 11, 2023. Therefore, the need for various City advisory boards and committees to conduct virtual meetings is no longer necessary.

Adoption of Ordinance No. 5062-23 will require the advisory boards to return to in person meetings and removes the provision permitting various advisory boards and committees to meet virtually through use of communication media technology and is in keeping with the opinion of the Attorney General.

**Fiscal Note:**

No

fiscal

Impact.

- 10.4. Public Hearing of Resolution No. 199-23 establishing the rates for the Fire Service Assessment Fee for fiscal year 2023/2024 and approving the assessment roll.

**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 199-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING THE RATES FOR THE FIRE SERVICE SPECIAL ASSESSMENT AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2023; APPROVING THE RATES OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 199-23 with no increase in the Fire Service Assessment Fee.

**Background Information:**

Fire suppression, prevention, and other fire services provide a special benefit to properties by protecting the value and integrity of improvements to real property and protecting the use and enjoyment of such property. The availability of comprehensive fire services reduces the cost of fire insurance and enhances the market perception and property values.

In 2008, the City Commission adopted Ordinance No. 4141-08, Resolution No. 212-08, and Resolution No. 332-08, establishing an annual recurring Fire Services special assessment program for properties within the City to fund the assessable costs of providing fire services, excluding Emergency Medical Services. The City Commission approved a rate increase for the Fire Service Assessment August 27, 2018 for the first time since initially adopted in 2008. In fiscal year 2019/20, it was determined that a further increase in the Fire Assessment rates was necessary to help offset the increase in the operating costs of the Fire Department. Accordingly, by Resolution No. 228-19 on July 15, 2019, the City Commission adopted the Preliminary Rate for 2019/20, which increased the fire assessment rates. The City contracts with Government Services Group (GSG) Inc. for annual Fire Assessment Program services. Studies conducted by GSG Inc. revealed significant increases in firefighters' pensions, building renovations for additional personnel, acquisition and maintenance of fire trucks, equipment, hoses and apparatus, and operating costs over the period 2008 to 2019 justifying the two (2) rate increases.

By Resolution No. 175-23, the City Commission adopted the Preliminary Rate Resolution directing the matters specified in Section 2.08 of the Ordinance, including the updating of the Assessment Roll, the mailing and

publication of notice, and the scheduling of a public hearing. The Preliminary Rate Resolution made no change to the assessment rates.

The preliminary Assessment Roll was updated and made available for inspection by the public, as required by the Ordinance. Notice of this public hearing was published in the Palm Beach Post on July 24, 2023 and was also mailed to each affected property owner.

Based on the discussion at the Commission Meeting held on July 20, 2023, the Fire Service Assessment will remain the same as fiscal year 2023. The current rates are:

RESIDENTIAL: \$100

**NON-RESIDENTIAL PROPERTY**  
(Rate Per Building Square Foot)

Commercial	\$0.103
Industrial/Warehouse	\$0.018
Institutional	\$0.123
Nursing Home	\$0.372

No Fire Services Assessment will be imposed upon Governmental Property. The City will buy down this exemption with non-assessment funds.

Institutional Property, whose use is wholly exempt from taxation under Florida law, shall be assessed, but shall be required to pay only twenty percent (20%) of the Fire Services Assessment imposed against each parcel. The City will buy down this eighty percent (80%) exemption with non-assessment funds.

The Fire Service Special Assessment will be collected by the County Tax Collector through the property tax bill.

Resolution No. 199-23 approves the Fire Service Special Assessment for FY23/24 without change to the assessment rates.

**Fiscal Note:**

Anticipated Revenue to be collected is \$8 Million.

- 10.5. Public Hearing of Resolution No. 200-23 adopting the assessment roll for the Chronic Nuisance Assessment for fiscal year 2023/24, which includes properties with unpaid charges for the abatement of code violations and chronic nuisance.

**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 200-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATED TO THOSE NON-AD VALOREM ASSESSMENTS, WHICH MAY BE LEVIED FOR THE COST OF PROVIDING LOT MOWING AND DEBRIS REMOVAL SERVICES, BOARDING AND SECURING OF VACANT OR UNSAFE STRUCTURES, DEMOLITION AND REMOVAL OF UNSAFE STRUCTURES, CALLS FOR SERVICE AND INSPECTIONS TO ELIMINATE NUISANCE CONDITIONS ON PRIVATE REAL PROPERTY, AND OTHER PROPERTY MAINTENANCE SERVICES TO ELIMINATE NUISANCE CONDITIONS ON PRIVATE REAL PROPERTY WITHIN THE INCORPORATED AREA OF THE CITY; APPROVING THE ASSESSMENT ROLL FOR FISCAL YEAR 2023/24; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

**Staff Recommended Motion:**

Approve Resolution No. 200-23.

**Background Information:**

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

In order to satisfy the statutory requirements for the implementation of special assessments contained in Section 197.3632 Florida Statutes, the City Commission also adopted Resolution No. 17-13, which declared the City's intent to utilize the uniform method of collecting these non-ad valorem assessments.

By Resolution No. 176-23, the City Commission directed the Finance Director to prepare an assessment roll for the chronic nuisance service assessments for fiscal year 2023/24 and set August 21, 2023 as the date for the public hearing to adopt a final assessment roll as required by statute. Written notification by first class mail was sent to each affected property owner advising of the total amount to be levied against each parcel of assessed real property; that failure to pay the assessment will cause a tax certificate to be issued against the property; that the property owners have a right to appear at the public hearing and to file written

objections with the City Commission within twenty (20) days of the date of the notice; and providing the date, time, and place of the public hearing. Notice of the assessment was also published in the Palm Beach Post.

**Fiscal Note:**

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

**11. PUBLIC HEARING - QUASI-JUDICIAL-ALL ITEMS WERE APPROVED**

Disclosure of ex-parte communications, if any\*  
Swearing-in of witnesses.

11.1. Public Hearing and Second Reading of Ordinance No. 5051-23 regarding a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily to Commercial; and

Public Hearing and Second Reading of Ordinance No. 5052-23 regarding a Rezoning to change the Zoning designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily Medium Density Residential (MF-20) to General Commercial.

The above-referenced requests are being made by Josh Nichols of Schmidt Nichols, on behalf of 316 Southern Propco LLC and Malvern 511 Inc.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5051-23: 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 ONE (1) PARCEL LOCATED AT 301 MALVERNE ROAD, APPROXIMATELY 0.175 ACRES, FROM MULTIFAMILY (MF) TO COMMERCIAL (C); 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. 5052-23: 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 ONE (1) PARCEL LOCATED AT 301 MALVERNE ROAD, APPROXIMATELY 0.175 ACRES, FROM



MULTIFAMILY MEDIUM DENSITY (MF20) RESIDENTIAL TO GENERAL COMMERCIAL (GC); 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.

**Staff Recommended Motion:**

Approve Ordinance No. 5051-23, a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily to Commercial. 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 meets the "New Issues" standard of Future Land Use Policy 1.1.5 of the City's Comprehensive Plan.

Approve Ordinance No. 5052-23, a rezoning to change the Zoning designation of approximately 0.175 acres located at 301 Malverne Road from Multifamily Medium Density Residential (MF-20) 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.

**Background Information:**

The subject property is comprised of one (1) parcel, with the address of 301 Malverne Road, consisting of approximately 0.175 acres. Specifically, the subject property is located at the northwest quadrant of the South Olive Avenue and Malverne Road intersection. The subject property has frontage along both roadways; however, access to the site is only from Malverne Road. The subject property contains an existing two-family dwelling (duplex).

The applicant is proposing an expansion of the existing car wash use on Southern Boulevard, on the adjacent property to the north, to the subject property. To allow the requests, applications were submitted to change the following:

- Future Land Use designation of the subject property from Multifamily (MF) to Commercial (C); and
- Zoning designation of the subject property from Multifamily Medium Density (MF20) Residential to General Commercial (GC).

While staff has a concern about the conversion of residential property into a commercial use, the benefits of including this parcel into the Mint Eco Car Wash property outweigh these concerns. The limited stacking

available at the car wash site has led to congestion issues on both South Olive Avenue and Southern Boulevard. If the rezoning and land use plan amendments are approved by the City Commission, the applicant will then be required to seek a Class B Special Use permit from the Zoning Board of Appeals for the proposed expansion of the existing car wash use because the proposed use within the GC zoning district requires a Class B Special Use Permit according to the Permitted Use Table found in Section 94-272 of the City's Zoning and Land Development Regulations. Staff will specifically identify that the only allowed use on the subject property is the vehicle use area associated with the existing car wash. Staff will require that vehicular access only be provided from South Olive Avenue and not from Malverne Road. In addition, extensive landscape buffering and screening will be required along the western and southern edge of the subject property as well as along South Olive Avenue.

**PLANNING BOARD:** After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

**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. 5051-23 and Ordinance No. 5052-23 were advertised in the Palm Beach Post.

Commission District 5: Commissioner Christina Lambert.

- 11.2. Public Hearing and Second Reading of Ordinance No. 5054-23: A City-initiated request for a Future Land Use Map Amendment to change the Future Land Use designation of 1.519 acres of land located at 1400 Henrietta Avenue from Community Service (CS) to Multifamily (MF); and

Public Hearing and Second Reading of Ordinance No. 5055-23: A City-initiated request for a rezoning to change the zoning designation of 1.519 acres of land located at 1400 Henrietta Avenue from Coleman Park-Community Service (CP-CS) to Coleman Park- Multifamily Low Density (CP-MF14).

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5054-23: 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 THE PARCEL LOCATED AT 1400 HENRIETTA AVENUE, AND COMPRISED OF 1.519 ACRES FROM COMMUNITY SERVICE (CS) TO MULTIFAMILY (MF); 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 AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE NO. 5055-23: 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 THE PARCEL LOCATED AT 1400 HENRIETTA AVENUE, AND COMPRISED OF 1.519 ACRES FROM COLEMAN PARK- COMMUNITY SERVICE (CPCS) TO COLEMAN PARK- MULTIFAMILY LOW DENSITY RESIDENTIAL (CP-MF14) RESIDENTIAL DISTRICT; 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.

**Staff Recommended Motion:**

Approve Ordinance No. 5054-23, changing the Future Land Use designation of 1.519 acres, located at 1400 Henrietta Avenue, from Community Service to Multifamily. This motion is based on the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the provisions of Chapter 163, Florida Statutes, and the City's Comprehensive Plan.

Approve Ordinance No. 5055-23, to rezone 1.519 acres, located at 1400 Henrietta Avenue, from Coleman Park Community Service (CPCS) to Coleman Park Multifamily Low Density Residential (CP-MF14). This motion is based upon the application submitted, the staff report, the testimony given, the recommendation of the Planning Board, along with the findings that the Rezoning Standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

**Background Information:**

On July 17, 2006, the City of West Palm Beach accepted the conveyance from Palm Beach County, without charge, of property at 1400 Henrietta Avenue. By deed restrictions, use of the Property was initially limited to the development of affordable or workforce housing. In 2011, Palm Beach County agreed to amend the deed restrictions to allow for the utilization of the property to suit other neighborhood needs such as use as an urban market garden, a community center, a recreation center, cultural facility, or park. To facilitate this, the City Commission approved a Future Land Use (FLU) map amendment from Multifamily (MF) to Community Service (CS) and a Rezoning from Multifamily Low Density (MF14) to Coleman Park Community Service (CP-CS) in 2012. From September 2013 to October 2021, the parcel was leased to a third party in attempts to establish an urban market garden for the purpose of providing sustainable farming education, job training, and employment opportunities. However, in 2021 the City ended that lease.

At the December 9, 2022 Mayor/Commission Work Session, the City Commission expressed support of a partnership with the West Palm Beach Housing Authority (WPBHA) for the redevelopment of the 1.519 acres site as an affordable rental housing development for families. In order to facilitate this, the City is processing this City-initiated request to change the subject property FLU from CS to MF and the zoning from CS to CP-MF14 residential zoning district.

*PB Case No. 1956: Future Land Use (FLU) Map Amendment*

The first request is for a FLU Map Amendment to change the FLU designation of the subject property from CS to MF. With regard to land use compatibility, the subject area is bounded by residential uses to the west and the south and L. A. Kirksey and the FEC railroad track are located to the north and east of the property. The proposed MF FLU designation would return the property to its original FLU designation and allow the City to provide affordable housing on the property, which is logical giving the surrounding land uses.

Pursuant to Chapter 163 of the Florida Statutes, any FLU Map Amendment must be evaluated to determine if the proposed land use will have significant impact on the level-of-service (LOS) for public facilities (i.e. drainage, potable water, wastewater, solid waste, schools, and traffic) that service the property and the surrounding area. The LOS for public facilities is analyzed based on the maximum development potential for the current and proposed FLU, and whether each public facility has the reserved capacity to accommodate the change in land use. Table 1 (below) summarizes the maximum development potential for the current and proposed FLU designation for the subject area.

**Table 1  
Current and Proposed Future Land Use Designation Maximum  
Development Potential for the Subject Area**

<u>FLU Designation</u>		<u>Maximum Intensity</u>	<u>Maximum Development Potential</u>
<i>Existing:</i>	Community Service	0.75	49,625 sq. ft.
<i>Proposed:</i>	Multifamily (MF)	32.27 dwelling units/acre	49 dwelling units

Approval of the FLU designation from CS to MF would decrease the development potential and return the property to its original FLU designation to permit multifamily residential development. The LOS analysis for each public facility are provided in the staff report.

It is staff's professional opinion that the request for the FLU Map Amendment has met at least one of the required standards in the evaluation for a FLU change pursuant to Future Land Use Element (FLUE) Policy 1.1.5 of the City's Comprehensive Plan. The evaluation of the required standards for the FLU Map Amendment is provided in the staff report.

PB Case No. 1957: Rezoning

The second request is to rezone the subject area from CS to CP-MF14 Residential. The rezoning to CP-MF14 is consistent with the proposed FLU designation of MF for the subject area. It is also staff's professional opinion that the rezoning of the subject area is compatible with the zoning land use pattern of the immediate area and that the proposed rezoning meets the Rezoning Standards of Section 94-32 of the Zoning and Land Development Regulations (ZLDRs). Staff's analysis of the Rezoning Standards is provided in the staff report.

CONCLUSION: The purpose of the FLU Map Amendment and rezoning is to allow the option of developing multifamily (including townhouse units) residential within the subject area to provide for affordable housing within the Coleman Park Neighborhood. The proposed amendments will also remain consistent with the current residential land use and zoning of the surrounding neighborhood.

It is staff's professional opinion that the request complies with the standards required by the Comprehensive Plan and the ZLDRs, as provided in the staff report.

PLANNING BOARD: After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0) of the Future Land Use Map Amendment and rezoning request.

PUBLIC NOTICE: Individual Notices were mailed to all property owners within 500 feet of the subject property, and signs have been posted on the properties. Per Statutory requirements, Second Reading of the Ordinances were advertised in the Palm Beach Post on August 16, 2023.

Commission District 1: Commissioner Cathleen Ward.

- 11.3. Public Hearing and Second Reading of Ordinance No. 5057-23 regarding a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.60 acres located at 4801 South Dixie Highway from Commercial (C) to Commercial East (CE); and

Public Hearing and Second Reading of Ordinance No. 5058-23 regarding a Rezoning to change Zoning designation of approximately 0.60 acres located at 4801 South Dixie Highway from Single Family High Density (SF-14) to Neighborhood Commercial (NC).

The above-referenced requests are being made by Josh Nichols of Schmidt Nichols, on behalf of 418 South Dixie.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5057-23: 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 ONE (1) PARCEL LOCATED AT 4801 SOUTH DIXIE HIGHWAY, APPROXIMATELY 0.60 ACRES, FROM COMMERCIAL (C) 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. 5058-23: 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 ONE (1) PARCEL LOCATED AT 4801 SOUTH DIXIE HIGHWAY, APPROXIMATELY 0.60 ACRES, FROM SINGLE FAMILY HIGH DENSITY (SF-14) RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL (NC); 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.

**Staff Recommended Motion:**

Approve Ordinance No. 5057-23, a Future Land Use Map Amendment to change the Future Land Use designation of approximately 0.60 acres located at 4801 South Dixie Highway from Commercial (C) to Commercial East (CE). 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 "New Issues" standard of Future Land Use Policy 1.1.5 of the City's Comprehensive Plan.

Approve Ordinance No. 5058-23, a rezoning to change the Zoning designation of approximately 0.60 acres located at 4801 South Dixie Highway from Single Family High Density (SF-14) to Neighborhood Commercial (NC). 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.

**Background Information:**

Located approximately on the west side of South Dixie Highway, the overall subject property consists of 0.60 acres. This property is considered unique and has two (2) separate zoning and two (2) separate future land use designations. The western portion of 0.24 acres of the property is zoned Single Family High Density Residential (SF-14), and 0.36 acres of the eastern portion of the property is zoned Neighborhood Commercial (NC). Regarding the future land use designations, 0.24 acres of the western portion of the property has a future land use of Commercial (C), and 0.36 of the eastern portion of the property has a future land use of Commercial East (CE).

Sitting on the property right now is an existing brick building. The purpose of this request is to allow the property to be properly redeveloped and converted to a high turnover restaurant. Also, this request would allow the property to have (1) one zoning designation and (1) one future land use (FLU) designation throughout the whole property. To allow the requests, applications were submitted to change the following:

- Future Land Use designation of the subject property from Commercial (C) to Commercial East (CE); and
- Zoning designation of the subject property from Single Family High Density (SF-14) Residential to Neighborhood Commercial (NC).

**PLANNING BOARD:** After a Public Hearing on June 20, 2023, the Planning Board recommended approval (5-0).

**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. 5051-23 and Ordinance No. 5052-23 were advertised in the Palm Beach Post.

Commission District 5: Commissioner Christina Lambert.

**Fiscal Note:**

No fiscal impact.

## 12. 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.

## 13. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

#### **14. 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.