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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
DRAFT Agenda
Tuesday, September 5, 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. PRESENTATION

- 6.1. Legislative update by State Representative Sheila Cherfilus-McCormick.

Originating Department:

Mayor's Office

- 6.2. Why West Palm Presentation by Imran Gunes.

Originating Department:

Mayor's Office

7. CONSENT CALENDAR

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

- 7.1. Resolution No. 184-23 accepting a grant from the U.S. Department of Transportation Federal Highway Administration in the amount of \$280,000 to fund implementation of the City's Safe Streets and Roads for All / Vision Zero Action Plan; and

Resolution No. 185-23(F) providing for receipt and appropriation of grant funds.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 184-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A SAFE STREETS AND ROADS FOR ALL GRANT FROM THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, IN THE AMOUNT OF \$280,000 TO FUND THE CITY'S SAFE STREETS FOR ALL / VISION ZERO ACTION PLAN; APPROVING THE GRANT AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 185-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF 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 GRANT PROGRAMS SPECIAL REVENUE AND CAPITAL ACQUISITION FUND BUDGETS TO RECOGNIZE THE RECEIPT OF A U.S DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION SAFE STREETS AND ROADS FOR ALL GRANT AND MATCHING FUNDS,

PROVIDING APPROPRIATIONS FOR SAFE STREETS AND ROADS FOR ALL ACTION PLAN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

On September 6, 2022, the City Commission approved Resolution No. 211-22 for the City to apply for a Safe Streets and Roads for All (SS4A) grant, offered by the US Department of Transportation Federal Highway Administration to develop a comprehensive safety action plan.

In March, 2023, the City was notified the application was accepted to develop a comprehensive safety action plan. The estimated cost to develop the comprehensive safety plan is \$350,000. The grant award is for \$280,000 with a \$70,000 match by the City of West Palm Beach. The match funding will be provided from Engineering Services General fund budget for \$56,604 and from the Capital Acquisition Fund for \$13,396.

The estimated plan completion is December 31, 2024.

Fiscal Note:

The total project amount is \$350,000. The SS4A grant will fund \$280,000. The City will provide a \$70,000 match covered by using \$56,604 from the Vision Zero project from Engineering Services General Fund Budget and \$13,396 from the Capital Acquisition fund budget for roadway improvements.

- 7.2. Resolution No. 209-23 authorizing and approving a conditional workers' compensation settlement agreement and general release in the amount of \$47,000, in the case of Emily Vasquez v City of West Palm Beach, OJCC No.: 22-027872TAH, filed in the State of Florida, Division of Administrative Hearings, Office of the Judge of Compensation Claims.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 209-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT AND GENERAL RELEASE, IN THE AMOUNT OF \$47,000, IN THE MATTER OF EMILY VASQUEZ v. CITY OF WEST PALM BEACH AND CORVEL CORP., PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Emily Vasquez was injured while in the course and scope of her employment with the City of West Palm Beach on or about July 28, 2022. The City, including its workers' compensation Servicing Agent, CORVEL Corp., have reached a conditional settlement with the claimant and her

attorney per a mediation conducted in June 2023. The settlement amount is \$47,000.

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 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.

Fiscal Note:

Work Comp/Risk budgeted settlement.

- 7.3. Resolution No. 212-23 authorizing the assessment of City liens in the total amount of \$21,528.90 for unpaid water service, sewer service, and storm water charges for the month of June 2023.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 212-23: 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 JUNE 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. 212-23 are for unpaid water service, sewer service, and stormwater service charges for the month of June 2023.

The list of properties to be assessed and the associated charges totaling \$21,528.90 are provided in Resolution No. 212-23 as EXHIBIT A - Utility Lien List - June 2023.

Fiscal Note:

No fiscal impact.

- 7.4. Resolution No. 213-23 authorizing and approving a conditional workers' compensation settlement agreement and release in the case of Leroy Johnson v. City of West Palm Beach, OJCC No.: 13-022616TAH, filed in the State of Florida, Division of Administrative Hearings, Office of the Judge of Compensation Claims.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 213-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT AND RELEASE DATED, IN THE AMOUNT OF \$196,613 IN THE MATTER OF LEROY JOHNSON v. CITY OF WEST PALM BEACH AND CORVEL CORP., PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Leroy Johnson was injured while in the course and scope of his employment with the City of West Palm Beach on or about September 5, 2013. 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 November 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 \$196,613. 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. The settlement amount of \$196,613 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 will be submitted to the Judge of Compensation Claims for the judge's approval.

Additionally, the City has reached its self insured limit due to the amount of payments it has already made on this claim, thus the full amount of the settlement will be reimbursed to the City by the City's Worker's Compensation excess insurance carrier and will not result in any further fiscal impact to the City.

Fiscal Note:

Note: The outlay by the City of \$196,613 is reimbursed back to the City by the work comp excess insurance carrier within fourteen (14) business days or less. Ultimate cost to the City is \$0. All monies for settlement are to be reimbursed.

- 7.5. Resolution No. 215-23 approves a Conditional Settlement Agreement totaling \$70,000 in the matter of Shelia Joy Clarke v. City of West Palm Beach.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 215-23: 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 SHELIA JOY CLARKE V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Shelia Joy Clarke has a claim for damages for an incident that occurred on June 3, 2022. The City has reached a settlement agreement with Ms. Clarke to resolve the matter for a total of \$70,000. Ms. Clarke 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. 215-23 approves the Conditional Settlement Agreement.

Fiscal Note:

Risk Budget / Corvel.

- 7.6. Resolution No. 221-23 calling for a General City Election to be held on Tuesday, March 19, 2024, for the purpose of electing three (3) City Commissioners and calling for a General City Run-off Election to be held on Tuesday, April 2, 2024, if necessary.

Originating Department:

Mayor's Office

Ordinance/Resolution:

RESOLUTION NO. 221-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, CALLING FOR A GENERAL CITY ELECTION TO BE HELD ON TUESDAY, MARCH 19, 2024, FOR THE PURPOSE OF ELECTING THREE (3) CITY COMMISSIONERS; CALLING FOR A GENERAL CITY RUN-OFF ELECTION TO BE HELD ON TUESDAY, APRIL 2, 2024, IF NECESSARY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The City Charter and the Code of the City of West Palm Beach provide for a General City Election to be called by the City Commission on the second Tuesday in March, March 19, 2024, for the purpose of electing three (3) City Commissioners: one residing in District 1, one residing in District 3, and one residing in District 5. These laws also require that a General City Run-off Election be called by the City Commission on the 14th day after the first election, April 2, 2024, if necessary. Adoption of Resolution No. 221-23 establishes the dates of the election and run-off election.

Fiscal Note:

No fiscal impact.

8. RESOLUTIONS

- 8.1. Resolution No. 93-23 establishing the calculation for the historic preservation height bonus assessment applicable in certain sub-districts of the Northwood mixed use district.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 93-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ESTABLISHING THE CALCULATION FOR THE HISTORIC PRESERVATION HEIGHT BONUS ASSESSMENT APPLICABLE IN CERTAIN SUB-DISTRICTS OF THE NORTHWOOD MIXED USE DISTRICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

THIS ITEM IS BEING CONTINUED TO THE NOVEMBER 27, 2023 CITY COMMISSION MEETING.

- 8.2. Resolution No. 214-23 approving a stipulation of parties between the South Florida Regional Transportation Authority, the Florida Department of Transportation, and the City of West Palm Beach to close within the South Florida Rail Corridor, two (2) public railroad crossings at Division Street and 25th Court and to partially close a public railroad crossing at Old Okeechobee Road.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 214-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A STIPULATION OF PARTIES BETWEEN THE SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY, THE FLORIDA DEPARTMENT OF TRANSPORTATION, AND THE CITY OF WEST PALM BEACH TO CLOSE WITHIN THE SOUTH FLORIDA RAIL CORRIDOR TWO (2) PUBLIC RAILROAD CROSSINGS AT DIVISION STREET AND 25TH COURT AND TO PARTIALLY CLOSE A PUBLIC RAILROAD CROSSING AT OLD OKEECHOBEE ROAD; AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL REQUIRED DOCUMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 214-23.

Background Information:

The City initiated plans for a future at grade railroad crossing of the South Florida Rail Corridor (SFRC) tracks at Fern Street in May 2016 and developed the Fern Street Extension Final Feasibility Study (Study), which provided plans for extending Fern Street west from Tamarind Avenue with a new at-grade crossing of the SFRC tracks. The primary purpose of the Fern Street Extension project is to improve east-west vehicle traffic circulation. Currently, Banyan Boulevard/1st Street and SR 704/Okeechobee Boulevard provide two (2) east-west routes that cross both the SFRC and the Florida East Coast Railway ("FECR") corridor within the limits of downtown West Palm Beach. According to the Study, these two (2) roadways currently experience congestion during peak hours due to traffic entering and leaving the downtown area. The project would provide a third east-west through route between Australian Avenue and Flagler Drive, connecting the City's downtown area with the area west of the SFRC. The Florida Administrative Code Section 14-057.012 stipulates the requirement for closure of one or more public railroad-highway grade crossings to offset opening a new crossing.

An application for a new Fern Street railroad crossing was submitted to the Florida Department of Transportation (FDOT) in July 2018. FDOT did not provide a disposition of that application until October 2021 at which time they requested the City to submit an updated application for the railroad crossing at Fern Street in which the City requested that previous rail crossing closures be considered as part of the requirement that for every rail opening there be two (2) rail closures. FDOT rejected the application that included previous rail crossing closures. Subsequently, in August 2022, the City withdrew the application that was submitted back in 2021 in accordance with discussions with FDOT, and FDOT and City staff organized meetings to discuss the logistics of creating an appropriate railroad crossing application starting in September 2022. In January 2023, the City provided a revised draft railroad crossing opening application and included proposed railroad crossing closures on the SFRC tracks at 25th Court and Division Avenue. In subsequent discussions with FDOT staff, it was mutually agreed that the City would also propose a partial closure of the Old Okeechobee Road railroad crossing, which was met favorably with FDOT.

The City and FDOT staff have continued discussions regarding the Fern Street crossing opening and the proposed crossing closures, with regular meetings held at least once a month. Once the details are resolved and agreed to between FDOT and the City, a formal revised application will be submitted to FDOT. In the meantime, a Stipulation of Parties has been prepared by FDOT citing the requirements that the City must adhere to in conjunction with the physical work that will be involved in closing of the subject railroad crossings, which Resolution No. 214-23 addresses and will authorize the Mayor to sign the FDOT provided Stipulation of Parties for execution by FDOT.

The next steps will then be to focus on the requirements necessary for the design work involved in the railroad crossing opening at Fern Street, in which the FDOT will prepare another Stipulation of Parties document to be brought forth to the City Commission for approval to execute that document.

Fiscal Note:

This Stipulation of Parties does not have a direct fiscal impact.

9. PUBLIC HEARING

- 9.1. Public Hearing and Second 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 Second Reading.

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.

- 9.2. Public Hearing and First Reading of Ordinance No. 5059-23 authorizing the execution of a Lease Agreement between the City and the Cox Science Center and Aquarium, Inc.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

ORDINANCE NO. 5059-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE COX SCIENCE CENTER AND AQUARIUM INC.; AUTHORIZING EXECUTION OF THE LEASE AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THESE PURPOSES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5059-23.

Section 2-31(27) of the Code Ordinance provides for approval of a lease of City property by ordinance approved by four-fifths of the membership of the City Commission.

Second Reading will be scheduled for September 5, 2023.

Background Information:

The City of West Palm Beach owns the land in Dreher Park, which the Cox Science Center and Aquarium is located. The Cox Science Center and Aquarium (referred to as the "Science Center") is a cultural facility within the City that offers a unique learning environment specific to natural science and natural history for residents and visitors to West Palm Beach through educational exhibits, programs, and events, and Science, Technology, Engineering and Math (STEM) impact initiatives.

The City and the Science Center originally entered into a Lease Agreement dated January 5, 1995 for the lease of certain real property owned by the City and located within Dreher Park. The lease area has been expanded, and the Lease has been amended several times. The current lease area is currently comprised of two (2) non-contiguous lease area parcels totaling ±6.55 acres.

As the recipient of a large donation in recent years, the Science Center developed a Strategic Plan in 2017 to guide the improvement and expansion of the facility over an eight (8) year period (from 2017 through 2025). The Strategic Plan identifies a multi-phase approach. The first two (2) phases were completed in 2019 and 2020.

The final phase of the Science Center's Strategic Plan includes expansion of the lease area by an additional ±3.95 acres to allow for a new 3-story, 66,896 square foot building addition, construction of an operations building, an expansive new pedestrian area and patron courtyard (6,000 square feet), which will include an attractive water feature (ceremonial fountain), along with a new North Parking Lot comprised of a total of 42 parking spaces and four (4) bus parking spaces.

Section 2-31(27)(b) of the Code of the City of West Palm Beach, Florida, requires that prior to the disposition of City property, the City Commission shall: (i) make a legislative finding that the City property is not needed for City purposes and declaring the property surplus; and (ii) select the method of disposition. By Resolution No. 104-22, the City Commission determined that approximately ± 5.37 acres adjacent to the current leased area of the Science Center was not needed for City purposes and hereby declared such Property to be surplus and authorized negotiation of lease terms with the Science Center.

The significant terms of the proposed new long term Lease between the City and the Cox Science Center and Aquarium include the following:

Lease Term: The lease term is fifty (50) years, with an option to extend the term for an additional twenty (20) years.

Expansion: The lease area will be increased by an additional ± 3.95 acres, which will result in once consolidated lease area totaling ± 10.5 acres.

Schedule: The intended schedule contemplates completion of the expansion project within five (5) years, subject to reasonable causes for delay as provided in the Lease.

Base Rent: \$100 per year.

Additional Rent: After the first ten (10) years of the Least term, the Science Center will pay Additional Rent to the City provided that: (i) the endowment of the Foundation is at least \$25 million (as adjusted annually based on CPI per the Lease); (ii) the Science Center has budgeted and reserved for any required capital projects as determined by the Board of Directors of the Science Center; and (iii) the Science Center has a positive net operating income in such year. In such circumstances, Science Center shall pay twenty-five percent (25%) of the net revenue from the Property as Additional Rent.

The City may utilize the Additional Rent to fund: (1) capital improvement projects in Dreher Park; (2) capital improvement projects for intersections and streets adjacent to Dreher Park; or, (3) such other projects or programs as suggested by the City and agreed to by the Science Center.

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 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 9.3. Public Hearing and First Reading of Ordinance No. 5063-23 approving an amendment to the Agreement for Purchase and Sale of 8111 South Dixie Highway between the City of West of West Palm Beach and Woodfield-Flagler Venture, LLC.

Originating Department:

Housing and Community Development

Ordinance/Resolution:

ORDINANCE NO. 5063-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY WITH WOODFIELD-FLAGLER VENTURE, LLC, FOR THE SALE OF CITY PROPERTY LOCATED AT 8111 SOUTH DIXIE HIGHWAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5063-23 on First Reading.

The Ordinance must be approved by four (4) Commissioners at either First or Second Reading.

Second Reading is scheduled for Monday, September 18, 2023.

Background Information:

In the 2020 Florida Legislative Session, the Florida Legislature enacted House Bill 1339, which allowed municipalities to adopt laws, ordinances, and rules to increase the supply of affordable or workforce housing. Subsequently, in 2022, the City of West Palm Beach Commission adopted Resolution No. 306-22, which established interim standards for the review of applications seeking density bonuses as provided by House Bill 1339, codified in section 166.04151, Florida Statutes.

During that timeframe and in accordance with Invitation to Negotiate 20-21-50, the City Commission approved a Purchase and Sale Agreement ("Agreement") with Woodfield-Flagler Venture, LLC ("Developer") for the development and sale of City-owned property located at 8111 South Dixie Highway. The Agreement provided that the Developer will design, develop, and construct a mixed-use project on site, which included up to 210 residential units, including workforce housing.

In accordance with the Agreement and in support of the City's objectives to increase the supply of affordable and/or workforce housing units, the Developer submitted a final concept plan for the project. The final concept plan included a density bonus for the increased number of residential units

and workforce housing units consistent with the standards established under Resolution No. 306-22. This final concept plan, was approved unanimously by the City Commission via Resolution No. 182-23.

In its proprietary capacity as property owner (and not its regulatory capacity), the City desires to amend the Agreement to reflect the approved concept plan. The proposed amendment includes a density bonus to increase the number of housing units (from 210 to 358) and increases the number of workforce housing units (from 52 to 90), which is restricted as follows:

- 25% (23 units) for qualified residents at 60% Area Median Income (AMI)
- 25% (23 units) for qualified residents at 80% AMI; and
- 50% (44 units) at 100% AMI.

The Developer acknowledges that an increase in density and the number of housing units will still require regulatory approval in accordance with the process detailed in Resolution No. 306-22. The approval by the City of the proposed amendment shall in no way constitute or be construed as regulatory approval of the density bonus, or increase in the number of units, or issuance of a development order.

The Amendment to Agreement for Purchase and Sale is provided with this agenda item, which provides a detailed description of the amended terms.

Section 2-31 of the City Code of Ordinances provides that the Amendment to Agreement for Purchase and Sale is subject to approval of the City Commission 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 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 9.4. Public Hearing of Resolution No. 207-23: A request by Harvey E. Oyer, III of Shutts & Bowen, LLP, on behalf of Temple Israel of West Palm Beach, Inc., for the abandonment of a 15-foot wide by 15-foot long (225 square feet) parcel of land and remnant portion of an abandoned segment of a platted alley, generally located at the southeast corner of the unnumbered lot south of Lot 11, Block 2, in the plat of "Pinewood Terrace Addition to West Palm Beach, Florida"; and releasing reserved utility easements.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 207-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING A 15-FOOT-WIDE BY 15-FOOT-LONG PARCEL OF LAND AND REMNANT PORTION OF AN ABANDONED SEGMENT OF A PLATTED ALLEY, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE UNNUMBERED LOT SOUTH OF LOT 11, BLOCK 2, IN THE PLAT OF PINWOOD TERRACE ADDITION TO WEST PALM BEACH, FLORIDA, AND CONSISTING OF 225 SQUARE FEET; AUTHORIZING EXECUTION OF A DISCLAIMER OF INTEREST IN THE AFORSAID RIGHT-OF-WAY; RELEASING RESERVED UTILITY EASEMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 207-23.

Background Information:

The subject right-of-way is a 15-foot wide by 15-foot long (225 square foot) remnant parcel of an abandoned segment of a platted alley identified in the plat of "Pinewood Terrace Addition to West Palm Beach, Florida" (Plat Book 2, Page 3, Public Records of Palm Beach County).

In the 1970s, the applicant (Temple Israel of West Palm Beach, Inc.) requested the abandonment of the north-south portion of the platted alley in Block 2, and the east-west portion of the platted alley abutting the unnumbered lot just south of Lot 11 in Block 2. The portions of the alley were deemed to be of no benefit to the City and were subsequently abandoned by Resolution No. 143-76 and Resolution No. 24-78, respectively. It was only recently discovered that the Resolutions for the abandonments had inadvertently omitted the description of the subject right-of-way, resulting in the creation of the remnant land-locked 15-foot wide by 15-foot long portion of the right-of-way between the two (2) abandoned portions of the platted alley. In an effort to clean up the records, it was advised by the City's Engineering Services Department that the applicant file this application for the abandonment of the subject right-of-way.

The abandonment would not result in any negative impact to the surrounding area, nor is there a public benefit to maintaining the subject right-of-way. As noted above, subject right-of-way is a small remnant parcel between two(2) abandoned segments of the platted alley, and it does not provide a connection to the street network. There are also existing utilities within the subject right-of-way; however, the utilities will be relocated at the expense of the applicant.

STANDARDS:

Staff has found the requested abandonment complies with the abandonment criteria of Section 78-217 of the City's Code of Ordinances.

NOTICE:

Pursuant to the requirements of Section 78-215(b) of the Code of Ordinances, individual notices were mailed to all property owners within 400 feet of the subject abandonment, and signs were also posted in the area of the subject abandonment.

UTILITY EASEMENTS:

By Disclaimer dated November 29, 1976, recorded in Deed Book 2611, Page 1138 of the Public Records of Palm Beach County, the City disclaimed its interest in the platted alley running North/South between Lot 11 and Lots 12 and 13, Block 2, Pinewood Terrace Addition to West Palm Beach, Florida, as shown in Plat Book 2, Page 3. The Disclaimer reserved a utility easement for the City; however, the City has no need for this easement and the applicant has requested release of this easement.

By Disclaimer dated January 30, 1978, recorded in Deed Book 2861, Page 990 of the Public Records of Palm Beach County, the City disclaimed its interest in the part of the 15-foot alley lying South of and adjacent to the East 60 feet of the unnumbered lot, south of Lot 11, Block 2, Pinewood Terrace Addition to West Palm Beach, Florida, as shown in Plat Book 2, Page 3. The Disclaimer reserved a utility easement for the City; however, the City has no need for this easement and the applicant has requested release of this easement.

Resolution No. 207-23 approves abandonment of the the remnant parcel and the reserved utility easements from the prior alley abandonments.

Commission District 1: Commissioner Cathleen Ward.

10. PUBLIC HEARING - QUASI-JUDICIAL

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

- 10.1. Public Hearing and First Reading of Ordinance No. 5061-23: A request by Harvey E. Oyer, III of Shutts & Bowen, LLP, on behalf of Temple Israel of West Palm Beach, Inc., for a rezoning of the ±1.828-acre property at 1901 North Flagler Drive, generally located at the southwest corner of Pine Street and North Flagler Drive, from Currie Mixed Use District – Core II Sub-district to Currie Mixed Use District – Core I Sub-district.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5061-23: 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, BY REZONING APPROXIMATELY 1.828 ACRES AT 1901 NORTH FLAGLER DRIVE, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF PINE STREET AND NORTH FLAGLER DRIVE, FROM CURRIE MIXED USE DISTRICT – CORE II SUB-DISTRICT TO CURRIE MIXED USE DISTRICT – CORE I SUB-DISTRICT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5061-23, changing the zoning designation of the ±1.828-acre property generally located at the southwest corner of Pine Street and North Flagler Drive (at 1901 North Flagler Drive), from Currie Mixed Use District – Core II Sub-district to Currie Mixed Use District – Core I Sub-district. 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 INFORMATION BELOW IS A GENERAL SUMMARY. A FULL ANALYSIS IS INCLUDED IN THE STAFF REPORT.)

The subject property is located within the southern boundary of the Currie Mixed Use District (CMUD) and is comprised of a two-story, 26,367 square foot synagogue with surface parking located at the rear. The synagogue includes a temple, social hall, classrooms, and offices to support the activities within the religious congregation. The subject property also includes a parcel of upland property located on the east side of North Flagler Drive that abuts and has access to the Intracoastal Waterway. Uses surrounding the subject property include the Olara mixed-use project (a 306-foot tall building comprised of 458 residential units and 31,570 square feet of ground level commercial) currently under construction on the north side of Pine Street; the nine (9) story (112 foot-tall), 400-unit Flagler Pointe residential condominium abutting to the south (built in 2001 and located outside the boundaries of CMUD); and one (1) and two (2) story residential buildings abutting to the west. The residential properties immediately to the west are zoned CMUD-Transition and were recently purchased by the Developer of the Olara project for future redevelopment.

In 2021, the City adopted a major amendment to the CMUD regulations and the Official Zoning Map to spur growth and redevelopment activity within the

District (Reference: Ordinance Nos. 4963-21 and 4964-21). The amendments were adopted to provide for additional building height and greater development flexibility. As part of the amendment, the original CMUD Core Sub-district was further categorized into Core IA/I and Core II to address the potential development pattern with the increase in building height. During the amendment process, with its location at the southern boundary of CMUD and next to the 9-story/112-foot Flagler Pointe condominium building, the subject property was assigned a zoning designation of CMUD-Core II, to provide a logical and appropriate height and intensity transition from the center (the “heart”) of the District, to the edge and beyond the District. The building height/intensity within CMUD is at its highest from the center and gradually tapers off towards the edge of the District.

For this application, the applicant is seeking approval to rezone the subject property from CMUD-Core II to CMUD-Core I. The applicant provides that the subject property was the only property within the original CMUD Core that was assigned a Core II Sub-District during the 2021 amendment process and desires to be afforded the same development rights as the rest of the original Core Sub-district properties. (The other properties along North Flagler Drive in the original Core sub-district were assigned either a Core IA or Core I designation in the amendment.) At the time of the amendment and during the public hearing process, the applicant made several appeals to City staff, the Planning Board, and City Commission to include the subject property in the Core I sub-district; however, the applicant was informed by City staff that the amendments affecting CMUD was too far along in the process, and that the request could be considered at a later date. As such, the applicant is seeking to follow through with the rezoning of the subject property to the Core I Sub-district. No redevelopment application/proposal has been submitted with the rezoning, but it should also be noted that it is not required of the applicant for the rezoning process.

Analysis

Approval of the proposed rezoning to CMUD-Core I will increase the allowable building height on the subject property. Table 1 below provides a comparison of the current and proposed building heights with the current and proposed sub-district zoning designations.

Table 1:
Comparison of Building Height Allowances between the CMUD-Core I and CMUD-Core II Sub-district Zoning Designations

CMUD Sub-district	Base Height	Maximum Incentive*	Height with
Core I (Proposed)	111 feet	306 feet	
Core II (Current)	111 feet	202 feet	

Within the CMUD sub-district, the application of the height bonus options are provided in Sec. 94-215(k) of the ZLDRs up to the maximum building height specified in Table 1.

As shown in Table 1 above, the current and proposed building base height (building height permitted by-right) in the Core I and Core II Sub-districts are the same at 111 feet; however, the rezoning of the subject property to Core I will allow up to an additional 104 feet in building height with the application of the height bonus options in Section 94-215(k) of the Zoning and Land Development Regulations.

Concerns have been raised by staff regarding the impact of the proposed rezoning on the abutting 9-story/112-foot Flagler Pointe building immediately south of the subject property. The applicant was asked to provide information/studies that could support the proposed rezoning to Core I, which were included as part of the applicant's application. A shadow study of the subject property, comparing the current and proposed zoning at maximum building height, indicate that a building at 202 feet or 306 feet in height on the subject property would not cast a direct shadow on the Flagler Pointe building or to any other buildings to the south, and therefore, the impacts of the rezoning would not be detrimental.

Mayor/Commission Work Session

On May 8, 2023, the Mayor and Commission held a Work Session to discuss building height within CMUD and the proposal to expand CMUD at the southern boundary. The issue was raised due to the increase in development pressure within the City, staff's desire to revitalize North Dixie Highway, and the opportunity to bring back to the table the applicant's desire to rezone the subject property to Core I. The Work Session gave the opportunity for the Mayor and Commissioners to provide feedback to Planning staff on the direction of the rezoning to increase building height on the subject property. There were no major issues raised and at the conclusion of the Work Session, staff was given the directive to proceed with rezoning application for the subject property.

CONCLUSION:

Although it is staff's professional opinion that the building height transition under the current Zoning Map should remain, the proposed rezoning must be evaluated with the Rezoning Standards of the City's Zoning and Land Development Regulations. Based on staff's review of the application with the Rezoning Standards, the application is found to be consistent with the Standards and therefore, staff is recommending approval.

Should the rezoning to Core I be approved, it will be imperative for the applicant/Developer to engage with the community/adjacent property owners on any proposed redevelopment project to address concerns and any potential negative impacts by the proposal, but also to offer a transparent and

inclusionary process with the community members of the area, prior to the submission of a formal redevelopment application to City staff.

PUBLIC COMMENT:

Staff has received a number of support and objection letters for the proposed rezoning.

PLANNING BOARD:

After a Public Hearing on July 18, 2023, the Planning Board recommended approval (5-1) of the rezoning to the City Commission on the condition that the applicant meet with the residents of Flagler Pointe to discuss and answer any questions on the proposed rezoning prior to City Commission.

Shortly after the Planning Board meeting, the applicant reached out to the board members of Flagler Pointe and had also sent out an invitation to all property owners within Flagler Pointe to meet, discuss, and answer questions on the proposed rezoning of the property. This meeting was held on August 24, 2023.

PUBLIC NOTICE:

Individual notices were mailed to all property owners within 500 feet of the subject property, and signs were posted on the property. In accordance with the advertising requirements of the City's Zoning and Land Development Regulations, a legal ad for Ordinance No. 5061-23 will be advertised prior to Second Reading.

Commission District 1: Commissioner Cathleen Ward.

11. 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.

12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

13. 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.