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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, September 18, 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. PROCLAMATIONS- **PRESENTED.**

- 6.1. Proclaiming September 18 through September 24, 2023 as Diaper Need Awareness Week. Proclamation to be accepted by The Cotton Bottom Diaper Bank board members Laura Olympo and Courtney Palacios.

Originating Department:

Mayor's Office

- 6.2. Proclaiming September 15, 2023, through October 15, 2023, as National Hispanic Heritage Month. Mayor James and the City Commissioners selected the following community honorees to accept the proclamation:

- Dina Rubio: Mayor James
- Rolando Chang Barrero: Commissioner Warren
- Maricela Torres: Commissioner Ward
- Valerie Neilson: Commissioner Fox
- Sergio Piedra: Commissioner Peduzzi
- Mirta Luaces: Commissioner Lambert

Originating Department:

Mayor's Office

7. 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.

- 7.1. Minutes of the Regular City Commission Meeting of August 7, 2023.

Originating Department:

Mayor's Office

- 7.2. Minutes of the Special City Commission Meeting of August 10, 2023 (RFPs for Financial Audit Services).

Originating Department:

Mayor's Office

- 7.3. Minutes of the Regular City Commission Meeting of August 21, 2023.

Originating Department:

Mayor's Office

- 7.4. Approval of the Internal Auditor's Office FY2024 Audit Plan.

Originating Department:

Internal Audit

Background Information:

Pursuant to Section 2-398(d), the Internal Auditor is required to submit an annual audit plan for the next fiscal year to the Audit Committee. On August 31, 2023, the Audit Committee reviewed the draft FY2024 Audit Plan and unanimously recommended it for approval by the City Commission. The FY2024 Audit Plan was developed with special consideration to the Office's current staffing conditions. The Internal Auditor's Office would like the plan approved, received and filed.

Fiscal Note:

No fiscal impact.

- 7.5. Resolution No. 193-23(F) accepting and appropriating funds in the amount of \$21,227 from West Palm Beach Library Foundation to support programming at the Mandel Public Library of West Palm Beach's Technology and Innovation Center.

Originating Department:

Library

Ordinance/Resolution:

RESOLUTION NO. 193-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2022/2023 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GRANT PROGRAMS SPECIAL REVENUE FUND BUDGET TO PROVIDE APPROPRIATIONS FOR A CONTRIBUTION FROM THE WEST PALM BEACH LIBRARY FOUNDATION TO SUPPORT THE MANDEL PUBLIC LIBRARY'S PROGRAMS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

To assist in funding enhanced services at the Mandel Public Library of West Palm Beach, in Resolution No. 6-10, the Commission authorized the Mayor to execute an agreement between the City of West Palm Beach and the West Palm Beach Library Foundation Inc. ("Foundation") allowing the Foundation to solicit donations for the Mandel Public Library of West Palm Beach.

The West Palm Beach Library Foundation recently raised, or was provided funding, in the total amount of \$21,227 to provide additional funding for programming in the library's newly updated Technology & Innovation Center, as well as providing funding to provide parking vouchers to library patrons that attend library programs.

- 7.6. Resolution No. 197-23 approves a Conditional Settlement Agreement totaling \$200,000 in the matter of Keith Rose v. City of West Palm Beach.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 197-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT TOTALING \$200,000 IN THE MATTER OF KEITH ROSE V. CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Keith Rose brought a claim for damages by way of a complaint in the Fifteenth Judicial Circuit in Keith Rose v. City of West Palm Beach for an accident that occurred on October 4, 2021. The City has reached a settlement agreement with Keith Rose and his attorney to resolve the matter for a total of \$200,000. The Plaintiff will sign 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. 197-23 approves the Conditional Settlement Agreement.

Fiscal Note:

This check will be issued on October 1, 2024, so please take out of the 2024 Risk Budget.

- 7.7. Resolution No. 219-23(F) accepting a Local Agency Program supplemental grant from the FDOT in the amount of \$514,541 for a revised total amount of \$1,650,222 in funding for the Clear Lake Trail Project.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 219-23(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 GRANT CAPITAL PROJECT FUND BUDGETS TO PROVIDE FOR THE RECEIPT OF FLORIDA

DEPARTMENT OF TRANSPORTATION LOCAL AGENCY PROGRAM (LAP) GRANT SUPPLEMENTAL FUNDS, AND APPROPRIATIONS FOR THE CONSTRUCTION OF A MULTI-USE TRAIL ON THE WEST SIDE OF CLEAR LAKE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

On April 23, 2018, the City Commission approved Resolution No. 83-18 for the City to apply for a Transportation Alternative Projects (TAP) grant with the Palm Beach Transportation Planning Agency (TPA) for the construction of the Clear Lake Project. The TAP grants are Federal Highway Administration funds distributed through FDOT.

In February 2022, FDOT originally awarded funding up to \$1,135,681 as a reimbursable Local Agency Participation (LAP) grant.

On February 22, 2022, the City Commission approved Resolution No. 22-22 and Resolution No. 24-22(F), authorizing execution of the LAP agreement with FDOT and allocation of the grant funding provided.

The total estimated construction cost of the project is \$2,511,734. The City of West Palm Beach was originally responsible for the matching funds of \$1,376,053.

The Clear Lake Trail project is currently underway constructing a 5,720 multi-use path on the west side of Clear Lake from Palm Beach Lakes Boulevard to Okeechobee Boulevard. The construction also includes installation of landscape materials, including littoral shelf wetland plants along the shoreline of the lake. The project is estimated to be completed in January 2024.

In March 2023, FDOT executed a LAP agreement supplement to add \$514,541 of FDOT LAP supplemental grant funds to be used for the construction of the Clear Lake Trail Project. This increases FDOT's grant funding to a total of up to \$1,650,222.

Resolution No. 219-23(F) allocates the \$514,541 of FDOT LAP supplemental grant funds to be used for the construction of the Clear Lake Trail Project.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

FDOT will provide up to \$1,650,222 in funding for this project, which is an increase of \$514,541 to their original funding amount of \$1,135,681.

- 7.8. Resolution No. 229-23 establishing the City's Salary Plan for Fiscal Year 2023-2024.

Originating Department:

Human Resources

Ordinance/Resolution:

RESOLUTION NO. 229-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO THE OFFICES, POSITIONS, TITLES AND COMPENSATION FOR THE UNCLASSIFIED SERVICE AND MEMBERS OF THE CLASSIFIED SERVICE FOR THE CITY OF WEST PALM BEACH; ESTABLISHING THE CITY'S SALARY PLAN AND PROVIDING FOR CLASSIFICATION TITLES AND SALARY RANGES; PROVIDING FOR A MANAGEMENT INCENTIVE PLAN; IMPLEMENTING THE PROVISIONS OF THE CURRENT COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND THE FRATERNAL ORDER OF POLICE, THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, THE SERVICE EMPLOYEES INTERNATIONAL UNION/FLORIDA PUBLIC SERVICES UNION, AND THE PROFESSIONAL MANAGERS AND SUPERVISORS ASSOCIATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

This Resolution has no fiscal impact on the FY 2024 proposed balanced budget. This is a routine item, which is presented to the Commission on a yearly basis for consideration. Its only function is to establish the salary plan that will be in effect during FY 2024.

The annual salary plan establishes which position job classifications (job titles) may be used during the fiscal year and the salary ranges that correspond to each job classification in the City. Authorization for which specific positions will be filled and their corresponding allowable budgeted salary is governed separately in the approved annual budget.

Resolution No. 229-23 sets forth the job classification titles and salary ranges for all positions in the City service authorized by the Commission as required by City Code Section 62-51. This Resolution is adopted annually to reflect employee compensation as negotiated with the various bargaining units (FOP, IAFF, SEIU, and PMSA) and to reflect any changes in job titles and/or new job classifications approved as part of the budget process.

The number of approved City FTE positions, as well as funding for City personnel, are not part of this resolution; those parameters are instead included in the proposed balanced budget for FY 2024. Table A summarizes the City's pay practices for each employee group for FY 2024.

A summary of the resolution is as follows:

- Section One pertains to cost of living adjustment (COLA) pay increases for eligible non-represented (non-union) employees, including the City Administrator during FY 2024. At the discretion of the Mayor, eligible non-represented (non-union) employees, including the City Administrator, may receive a 5.00% COLA increase to their base rate of pay increase during FY 2024, effective the first pay period beginning on or after October 1, 2023. Employees who have not attained regular status as of October 1, 2023 are not eligible for the COLA.
- Section Two pertains to the market adjustment increase for eligible non-represented (non-union) employees. At the discretion of the Mayor eligible, non-represented (non-union) employees, excluding non-represented employees designated as Management I and employees who report directly to the Mayor and are allocated to a pay grade 70 or higher or GM04 or higher, will receive a market adjustment increase to their base rate of pay of up to 15% effective on the first pay period beginning on or after October 1, 2023. Employees who have not attained regular status as of October 1, 2023 are not eligible to receive the market adjustment increase.
- Section Three clarifies that any FY 2023-2024 across the board/cost of living adjustment base rate of pay increases and market adjustment rate pay increases for SEIU and PMSA represented employees are governed by the terms of their respective collective bargaining agreements.
- Section Four governs job classifications that are part of multi-level career progression program.
- Section Five lists position classifications in alphabetical order with their corresponding pay grades that will be in effect for FY 2023-2024. New job classifications are indicated in bold print and changes in pay grades of current job classifications are indicated with a caret ("^").
- Section Six clarifies that compensation for employees represented by FOP, IAFF, SEIU, and PMSA unions is governed by the terms of their respective collective bargaining agreements.
- Section Seven provides for a Management Incentive Program to include management leave days and additional life insurance as indicated in Exhibit I.
- Section Eight provides an effective date.

Fiscal Note:

Funding for this annual salary plan is accounted for in the proposed FY 2024 balanced budget.

- 7.9. Resolution No. 230-23(F) authorizes amending the General Fund and the American Rescue Plan Act Grant Fund budgets for the purpose of amending budget appropriations for changes in revenue and expenditures and to properly record and transfer transactions within the approved eligible grant projects and for transfers necessary to support accounting and reporting purposes for Fiscal Year 2022/2023 ending September 30, 2023.

Originating Department:

Finance

Ordinance/Resolution:

RESOLUTION NO. 230-23(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA AUTHORIZES THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2022/2023 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING BUDGET APPROPRIATIONS FOR CHANGES IN REVENUE AND EXPENDITURES FOR THE GENERAL FUND AND THE AMERICAN RESCUE PLAN ACT GRANT FUNDS AND TO PROPERLY RECORD AND TRANSFER TRANSACTIONS WITHIN THE APPROVED ELIGIBLE GRANT PROJECTS AND FOR TRANSFERS TO SUPPORT ACCOUNTING AND REPORTING PURPOSES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

This F-Resolution is being brought forward to align the budget and accounting procedures with recent actions taken by the Commission and the U. S. Department of Treasury.

On March 6, 2023 by Resolution No. 29-23, the Commission approved the transfer of development rights under the historic property incentive to Nora Holdings LLC for the development of properties within the Nora district and authorized execution of a TDR purchase and sale agreement. This resolution should have been accompanied by an "F-Resolution" to recognize the corresponding revenue funds and subsequent expenditure.

On August 26, 2021 by Resolution No. 232-21, the Commission approved acceptance of \$24,530,823 from the U. S. Department of Treasury (Treasury) under the American Rescue Plan Act of 2021.

The Treasury has had two (2) updates to the Final Rule, which provided more flexibility and broadened the scope for approved project funding. Changes allowed payments for the EMS ambulance transport vehicles to

be reported within the Public Health category due to the fact that they will include new air filtration system and other improvements for better health outcomes. This change resulted in moving funds between projects and funds. This also allowed funds to become available to cover the higher costs to procure vehicles that were funded under the Revenue Loss category. Additionally, the vehicles were budgeted in a Special Revenue Fund and for accounting purposes all budget needs to be moved to a Capital Fund.

Approving Resolution No. 230-23(F) will allow the Finance Department to align budget and accounting procedures necessary for the annual audit.

Fiscal Note:

No direct fiscal impact; aligns the budget with accounting procedures.

- 7.10. Resolution No. 232-23 updating the Comprehensive Fee Schedule for the City of West Palm Beach for Fiscal Year 2023/2024.

Originating Department:

Finance

Ordinance/Resolution:

RESOLUTION NO. 232-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM - BEACH, FLORIDA, ESTABLISHING THE COMPREHENSIVE FEE SCHEDULE FOR FISCAL YEAR 2023-2024; AMENDING AND REPLACING ALL PRIOR FEE SCHEDULES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

In 2013/2014, the first Comprehensive Fee Schedule was created formally with Resolution No. 290-13. The rationale behind creating a comprehensive fee schedule is to provide efficiency, transparency, consistency, and revenue assurance/enhancement.

Annually, the City undertakes a process of working with Department Directors and Division Managers to review current fees and any suggested proposed fee changes for the upcoming fiscal year. The final version of this information as reviewed and updated by City Departments is in Appendix 1. Items highlighted in green are new items or fees and the items highlighted in pink are changed fees or descriptions.

Below is a summary breakdown by fee category of the changes.

There are no proposed fee changes relating to Building Permits, Business Tax Receipts, Business Registration, Certificate of Use, Code and Chronic Nuisance, City Attorney, City Clerk, Engineering, Fire Inspections, Housing

and Community Development, Industrial Pre-Treatment and Sewer Use, Library, and Procurement.

A comparison of the fees in Appendix 1 with the fees schedule for fiscal year 2022/2023 reveals fee changes or description changes for Land Development Services (Engineering), Finance, Fire and EMS, Grassy Waters, Parks and Recreation, Parking, Police, Sanitation, and Special Events.

New fees included in Appendix 1 include fees in Land Development Services (Engineering), Grassy Waters, Park and Recreation, Parking, Planning and Zoning, and Special Events.

The action of this comprehensive fee schedule consolidates and codifies the fees across City departments. Resolution No. 232-23 will approve the proposed Comprehensive Fee Schedule for fiscal year 2023-2024 as aligned with the 2024 budget.

Fiscal Note:

The estimated revenue impact is reflected in the proposed FY24 budget.

8. RESOLUTIONS- ALL ITEMS WERE APPROVED.

- 8.1. Resolution No. 218-23 approving an interlocal services agreement by which the City will continue to provide fire-rescue services with the Town of Mangonia Park for a fee.

Originating Department:

Fire

Ordinance/Resolution:

RESOLUTION NO. 218-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE PROVISION OF FIRE-RESCUE SERVICES BY THE CITY OF WEST PALM BEACH TO THE TOWN OF MANGONIA PARK FOR A FEE; APPROVING AN INTERLOCAL SERVICES AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approved Resolution No. 218-23.

Background Information:

Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities.

The Town of Mangonia Park formerly maintained its own Fire Department but entered into an Interlocal Agreement with the City in 1997 whereby the City has provided fire rescue services for the citizens of the Town for a fee. Approximately 2% of the City's calls for fire/rescue service are located within the Town.

The prior Interlocal Agreement has expired; the Town desires that the City continue to provide fire/rescue services; and, the City and Town have negotiated a new agreement.

Mangonia Park will pay an annual fee for services in the amount of \$333,313.00 for fiscal year 2023-24. The fee will increase by 5% each year.

It is mutually advantageous and a savings of taxpayers' dollars for the City to continue to provide fire – rescue services within the municipal boundaries of the Town for another five (5) year term.

Resolution No. 218-23 approves the Interlocal Agreement and the continued provision of fire-rescue services within the Town of Mangonia Park for a fee.

Fiscal Note:

Mangonia Park will pay an annual fee for services in the amount of \$333,313.00 for fiscal year 2023-24. The fee will increase by 5% each year.

- 8.2. Resolution No. 227-23 approving the above ground design features ("Face of the City") for the 36th Street Mobility Improvements project on 36th Street from Australian Avenue to North Flagler Drive.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 227-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE ABOVE-GROUND DESIGN FEATURES PRESENTED TO THE CITY COMMISSION FOR 36TH STREET MOBILITY IMPROVEMENTS PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 227-23.

Background Information:

On April 11, 2017, the City Commission approved Resolution No. 120-17 and Resolution No. 121-17 authorizing the submittal of a Local Initiatives (LI) Grant, which would provide bicycle facilities, two (2) multi-use bridges across the Carver Canal, pedestrian scale lighting, roadway resurfacing,

and ADA compliant ramps and sidewalks on 36th Street from Australian Avenue to Flagler Drive.

Florida Department of Transportation (FDOT) awarded grant funds to the City for these two (2) projects for funding up to \$6,969,000.

Because of the structural bridge components, FDOT preferred to administer the design and construction of these two (2) projects on behalf of the City with the requirement that when completed, the City will be responsible for the maintenance of 36th Street and the Northshore Pedestrian Bridge.

On January 20, 2019, the City Commission approved Resolution No. 44-19 authorizing the FDOT to administer the 36th Street Improvements Project on behalf of the City of West Palm Beach.

The project will provide enhancements of pedestrian and bicyclist mobility and improve safety along the corridor. The limits of the Project are on 36th Street from Australian Avenue to North Flagler Drive.

The project will include repaving, providing shared use paths and sidewalks bicycle lanes, installation of two (2) new pedestrian bridges across the Carver Canal adjacent to the existing roadway bridge, upgraded sidewalks and curb ramps to comply with Americans with Disabilities Act (ADA) requirements, and installation of decorative pedestrian lighting.

FDOT has been developing the design for this project over the past 18 months and is nearing completion of those efforts. The City Engineering and Public Utilities staff have been coordinating with FDOT throughout this entire design process.

FDOT conducted public meetings for the project on August 29, 2023 and again on September 7, 2023.

The total cost of the project is estimated to be \$8,198,103 of which the City will be contributing \$1,275,785 towards the construction costs through a Local Funding Agreement brought to the City Commission on September 18, 2023, under Resolution No. 228-23.

Construction is expected to start in the Fall of 2024 and be completed by the Spring of 2026.

Resolution No. 227-23 approves the above ground design features for the 36th Street Mobility Improvements Project being designed and constructed by FDOT on behalf of the City.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

No fiscal impact from the Face of the City.

- 8.3. Resolution No. 228-23 approving a Local Funding Agreement for the City of West Palm Beach and Florida Department of Transportation (FDOT) and a Three Party Escrow Agreement between the City of West Palm Beach, Florida Department of Transportation and the State of Florida, Department of Financial Services, Division of Treasury for the City's participation funding of the 36th Street Mobility Improvements Project.

Originating Department:

Engineering

Ordinance/Resolution:

RESOLUTION NO. 228-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A LOCALLY FUNDED AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF WEST PALM BEACH FOR DECORATIVE LIGHTING AND SIDEWALK IMPROVEMENTS; APPROVING A THREE PARTY ESCROW AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION, THE CITY OF WEST PALM BEACH, AND THE DIVISION OF TREASURY; AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL REQUIRED DOCUMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 228-23.

Background Information:

On April 11, 2017, the City Commission approved Resolution No. 120-17 and Resolution No. 121-17 authorizing the submittal of a Local Initiatives (LI) Grant, which would provide bicycle facilities, two (2) multi-use bridges across the Carver Canal, pedestrian scale lighting, roadway resurfacing, and ADA compliant ramps and sidewalks on 36th Street from Australian Avenue to Flagler Drive.

Florida Department of Transportation (FDOT) awarded grant funds to the City for these two (2) projects for funding up to \$6,969,000.

Because of the structural bridge components, FDOT preferred to administer the design and construction of these two (2) projects on behalf of the City with the requirement that when completed the City will be responsible for the maintenance of 36th Street and the Northshore Pedestrian Bridge.

On January 28, 2019, the City Commission approved Resolution No. 44-19 authorizing the FDOT to administer the the 36th Street Improvements Project on behalf of the City of West Palm Beach.

On November 14, 2022, the City Commission approved Resolution No. 284-22 authorizing the Mayor to sign the Highway Maintenance Memorandum of Agreement (HMMOA) for the 36th Street project.

During the course of the design reviews between FDOT and the City Engineering staff, the City requested some additional sidewalk replacements as well as upgrading of the street lighting to the City's standard decorative light poles and fixtures. These scope changes were not eligible for funding by FDOT, and therefore, the City is obligated to cover those additional costs.

The FDOT construction cost estimate identified that the additional sidewalk work requested by the City would be \$442,948; and the increase in street lighting costs would be \$832,837; for a total estimated cost obligation to the City of \$1,275,785.

The City currently has funds budgeted in the One-Cent Sales Surtax program to cover these costs in the Citywide Roadway Improvements and Citywide Lighting Improvements funds.

FDOT requires that a Local Funding Agreement (LFA) be executed between FDOT and the City wherein the City will remit these funds to FDOT within thirty (30) days of execution of the LFA. FDOT is also requiring that a Three-Party Escrow Agreement be executed between FDOT, the City and the State of Florida Department of Financial Services, Division of Treasury to hold these funds until the project is completed. Any unused funds will be returned to the City at that time.

Approval of Resolution No. 228-23 authorizes the execution of both the Local Funding Agreement and the Escrow Agreement.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

FDOT is funding \$6,922,318 of the project costs, and the City is funding \$1,275,785 of the costs.

9. PUBLIC HEARING- ALL ITEMS WERE APPROVED.

- 9.1. Public Hearing and Second 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 on Second Reading.

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.

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.

- 9.2. Public Hearing and Second 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 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 Second Reading.

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

First Reading was approved unanimously on Tuesday, September 5, 2023.

Background Information:

In the 2020 Florida Legislative Session, the Florida Legislature enacted House Bill 1339 which allowed municipalities to adopt laws, ordinances, 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.

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 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) 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 the 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.

- 9.3. Public Hearing and First Reading of Ordinance No. 5066-23 proposing a ballot question, which if passed, amends Section 2.01 of the City Charter increasing a candidate's residency requirement from six (6) months to twelve (12) months.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5066-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CHARTER OF THE CITY OF WEST PALM BEACH,

SUBJECT TO VOTER APPROVAL, AT SECTION 2.01 "CITY COMMISSION; DISTRICT BOUNDARIES ESTABLISHED FOR RESIDENCY TO QUALIFY FOR CANDIDACY; REAPPOINTMENT" TO INCREASE THE CANDIDATE RESIDENCY REQUIREMENT OF CONTINUOUSLY RESIDING IN THE CITY FROM SIX MONTHS TO TWELVE MONTHS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5066-23 on first reading and schedule second reading for October 2, 2023.

Background Information:

The City Commission of the City of West Palm Beach is authorized to amend its charter pursuant to Section 166.031, Florida Statutes.

Currently, Section 2.01 of the Charter requires that a candidate for the office of the Mayor continuously reside in the City during the six-month period immediately prior to the date of election and that a candidate for the office of City Commissioner continuously reside in the district from which the candidate seeks to qualify for election during the six-month period immediately prior to the date of election. The proposed charter change would increase the six-month residency period to a twelve-month residency period. Any change to the City's Charter requires a vote of electors of the City. The proposed ballot question is as follows:

BALLOT QUESTION:

INCREASE THE RESIDENCY PERIOD REQUIRED FOR ELECTED OFFICIALS TO RUN FOR OFFICE FROM SIX MONTHS TO TWELVE MONTHS

The charter requires a candidate running for Mayor to continuously reside in the City and candidates running for City Commission to continuously reside in their respective district for the six-month period immediately prior to the date of election. Should the six-month period be increased to a twelve-month period?

Yes

No

Adoption of Ordinance No. 5066-23 would permit the City to include the proposed question on the ballot to be considered during the March 19, 2024, municipal election.

Fiscal Note:

No fiscal impact.

- 9.4. Public Hearing and First Reading of Ordinance No. 5067-23 proposing a ballot question to amend Section 3.01 of the City Charter to prohibit the Mayor's potential outside employment and limit business relationships.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5067-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CHARTER OF THE CITY OF WEST PALM BEACH, SUBJECT TO VOTER APPROVAL, AT SECTION 3.01 "MAYOR" TO PROHIBIT POTENTIAL OUTSIDE EMPLOYMENT AND LIMIT BUSINESS RELATIONSHIPS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5067-23 on first reading and schedule second reading on October 2, 2023.

Background Information:

The City Commission of the City of West Palm Beach is authorized to amend its charter pursuant to section 166.031, Florida Statutes.

Section 3.01 requires the Mayor to maintain an office in City Hall and devote full time to the duties of that office. However, the charter does not otherwise limit outside employment or financial interests. The proposed amendment would prohibit the Mayor from engaging in outside employment and limit business relationships to only those that would not impair, or could be reasonably expected to impair, the Mayor's independence in judgment or performance of City duties or otherwise violate applicable ethics code regulations. To amend the charter, a vote of the electors is required. The proposed ballot question is as follows:

BALLOT QUESTION:

PROHIBITING MAYOR'S OUTSIDE EMPLOYMENT AND LIMITING BUSINESS RELATIONSHIPS

The charter requires the Mayor to devote full time to city duties but does not otherwise limit outside employment or business relationships. Should the charter be amended to prohibit the Mayor from having outside employment and limit holding a financial interest in any business entity to interests that will not impair the Mayor's independent judgment or conflict with the performance of city duties?

Yes

No

Adoption of Ordinance No. 5067-23, would permit the City to include the question on the March 19, 2024, ballot and if approved by the electors would amend Section 3.01 of the City Charter.

Fiscal Note:

No fiscal impact.

- 9.5. Public Hearing and First Reading of Ordinance No. 5068-23 amending the City's Elections Code to require submission of documentation evidencing a candidate's proof of residency at the time of qualifying for office.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5068-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 30, (ELECTIONS) OF THE CODE OF ORDINANCES, SECTION 30-1, (DATES FOR CANDIDATES TO QUALIFY FOR CITY OFFICES; PROCEDURE FOR QUALIFICATION) TO ADD PROOF OF RESIDENCY REQUIREMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5068-23 on first reading and schedule second reading for October 2, 2023.

Background Information:

Section 2.01 of the City of West Palm Beach Charter provides that "the city commission by ordinance may provide for evidence acceptable to establish domicile or legal residence." The City Commission adopted its Elections Code (Chapter 30) to provide dates for candidates to qualify for City office and a procedure for qualification. However, the Elections Code does not include provisions that provide for evidence acceptable to establish proof of residency as permitted by Section 2.01 of the City Charter.

The proposed changes will require a candidate for office to provide an affidavit that includes the candidate's current address and an affirmation that the candidate has continuously resided or will have resided in the City/district for at least six (6) months prior to election day and submit document(s) that demonstrate that the candidate has or will meet the residency requirements prior to election day. Acceptable documents include:

1. Florida voter's registration card;
2. Florida driver's license; or
3. Florida identification card; and at least one of the following documents: recorded deed or other title instrument, property tax receipt, homestead exemption, lease agreement, Florida vehicle registration, or a utility bill.

Fiscal Note:

No fiscal impact.

- 9.6. Public Hearing and First Reading of Ordinance No. 5070-23 amending provisions of Chapter 62 of the City's Code of Ordinances pertaining to the civil service and other related personnel provisions.

Originating Department:

Human Resources

Ordinance/Resolution:

ORDINANCE NO. 5070-23: 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, AT CHAPTER 62, PERSONNEL AND RETIREMENT, ARTICLE II (PERSONNEL POLICIES), DIVISION 2 (COMPENSATION AND LEAVE POLICIES), SECTION 62-51 (CLASSIFICATION AND COMPENSATION OF EMPLOYEES); AMENDING AND RESTATING ARTICLE IV (CIVIL SERVICE), DIVISION 2 (CIVIL SERVICE BOARD) AND DIVISION 3 (CLASSIFICATION) TO REVISE AND CLARIFY PROVISIONS REGARDING THE CLASSIFICATION OF EMPLOYEES AND THE CIVIL SERVICE BOARD; PROVIDING A CODIFICATION CLAUSE; PROVIDING A CONFLICTS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5070-23 at first reading and schedule second reading for October 2, 2023.

Background Information:

Civil Service and related personnel provisions of Chapter 62 of the City's Code of Ordinances have not been updated since 1979. The proposed revisions align the powers and duties of the Civil Service Board and update related personnel administration ordinance provisions to be compatible with the City's current strong Mayor form of governance.

Ordinance Revisions include:

- Clarification that if a Civil Service Board rule or regulation is in conflict with a collective bargaining agreement the collective bargaining agreement prevails.

- Clarification that the Civil Service Board cannot render decisions or adopt rules or regulations, which are in conflict with any city administrative policy, ordinance, resolution, or charter provision.
- Amends Article II (Personnel Policies) and Article IV (Civil Service) of Chapter 62 of the City's Code of Ordinances to reflect current practice that the City Commission, by resolution upon recommendation of the Mayor, adopts an annual salary plan, which governs how positions across the City are classified and which positions are governed by the rules and/or regulations of the Civil Service Board.
- Amends the process by which civil service position promotions and vacancies are filled and requires that it be consistent with current hiring and promotional processes and administrative policies of the City.
- Amends the process by which employees in civil service positions may appeal their demotion, suspension, reduction in pay or discharge such that it is consistent with current processes and administrative policies of the City.

Fiscal Note:

No fiscal impact.

- 9.7. Public Hearing and First Reading of Ordinance No. 5069-23 restating and amending the City's policy establishing expenditure of public funds for donations, contributions, and fundraising events to increase expenditures for events from \$500 per event to \$1,000 per event.

Originating Department:

Mayor's Office

Ordinance/Resolution:

ORDINANCE NO. 5069-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE NO. 3253-99, WHICH AMENDED THE POLICY ESTABLISHING AUTHORITY FOR THE EXPENDITURE OF PUBLIC FUNDS FOR DONATIONS, CONTRIBUTIONS, AND FUNDRAISING EVENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5069-23 on first reading and schedule second reading for October 2, 2023.

Background Information:

The Commission has the authority to adopt the proposed ordinance pursuant home rule powers granted by the Florida Constitution as codified in Chapter 166 of the Florida Statutes.

On August 24, 1998, the City adopted Ordinance No. 3172-98, which established a policy authorizing the Mayor to execute grants pertaining to donations, contributions, and fundraising events without the approval of the City Commission.

On September 7, 1999, the Commission adopted Ordinance No. 3253-99, restating the policy and amending it to allow small expenditures for certain events. The Commission declared contributions for events satisfied a public purpose where the contribution was made by the City as requested by the Mayor or a City Commissioner for certain events not in excess of \$500 per event.

The small expenditures amount established by Ordinance No. 3253-99 has not been increased for 24 years despite the cumulative price increase of the dollar of 83.49% from the year 1999 to today. Adoption of Ordinance No. 5069-23 would increase the possible expenditure from up to \$500 to up to \$1,000 per event.

Fiscal Note:

Funds are accessible in the FY24 budget.

10. PUBLIC HEARING - QUASI-JUDICIAL- APPROVED

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 Height with Incentive*
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, which is scheduled for October 2, 2023.

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.