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Mayor Keith A. James
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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
Monday, November 27, 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. State of Education Report by Erica Whitfield.

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. 297-23 authorizing the assessment of City liens in the total amount of \$104,922.04 for unpaid water service, sewer service, and storm water charges for the month of August 2023.

Originating Department:
City Attorney's Office

Ordinance/Resolution:

RESOLUTION NO. 297-23: 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 AUGUST 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. 297-23 are for unpaid water service, sewer service, and stormwater service charges for the month of August 2023. The list of properties to be assessed and the associated charges are provided in Resolution No. 297-23 as EXHIBIT A - Utility Lien List - August 2023.

Fiscal Note:

No fiscal impact.

- 7.2. Resolution No. 299-23 approving the Interlocal Agreement between the City of West Palm Beach and West Palm Beach Downtown Development Authority for the installation of a minimum of eight (8) street trees within the downtown area, promoting the revitalization of the area.

Originating Department:

Public Utilities

Ordinance/Resolution:

RESOLUTION NO. 299-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING INSTALLATION OF A MINIMUM OF EIGHT (8) STREET TREES IN THE DOWNTOWN AREA; APPROVING THE INTERLOCAL AGREEMENT WITH WEST PALM BEACH DOWNTOWN DEVELOPMENT AUTHORITY FOR THE IMPLEMENTATION OF THE INSTALLATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The City of West Palm Beach (the City) is committed to increasing the mobility and walkability of the Downtown area, which is a key factor in supporting a thriving Downtown. An increase in tree canopy will contribute to cooler temperatures for residents to enjoy the Downtown amenities, as well as decrease the heat island effect within the area. Recognizing the importance of increased mobility, the City set aside funding specifically for large canopy trees. The City seeks to aid in reducing heat stress on residents and promoting economic and social success of the area.

Therefore, in partnership with the West Palm Beach Downtown Development Authority (DDA), the City proposes to plant a minimum of eight (8) street trees within the Downtown area. The street trees will provide essential cooling services for our residents. Additionally, the installation of the street trees will beautify the area and provide other ecosystem services such as increased storm water uptake.

The project will use suspended pavement systems and structural soil for the plantings. This will prevent soil from getting compacted around tree roots, allowing them to grow freely without buckling sidewalks. The materials will elongate both the life of the tree and the sidewalk, promoting success of both green and gray infrastructure. During installation, irrigation and/or sidewalk replacement may be required and is included in the total costs of the project.

The City will utilize and disperse \$100,000 from the Large Canopy Fund, which will be matched by the DDA, for total project cost of \$200,000. The DDA will manage the project, including hiring a contractor to complete the installation of the trees, and all other aspects of project management including updating the City, where appropriate.

The project is anticipated to commence shortly after commission approval of this interlocal agreement (ILA). The ILA will remain effective until project completion.

Commission District 3: Commissioner Christy Fox.

- 7.3. Resolution No. 301-23 authorizing the new gymnasium in Coleman Park at 1116 21st Street be named the Paul G. Blackshear Gymnasium.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 301-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DECLARING THAT THE NEW COLEMAN PARK GYMNASIUM LOCATED AT 1116 21ST STREET BE NAMED THE "PAUL G. BLACKSHEAR GYMNASIUM"; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

A new gymnasium building is being built in Coleman Park and is scheduled to open in early 2024.

On October 17, 2023, the Parks and Recreation Advisory Committee (PRAC) received and reviewed for recommendation a request from the Coleman Park Neighborhood Association to name the new gymnasium in recognition of and to honor Mr. Paul Blackshear. Mr. Blackshear was a City parks and recreation employee for over 39 years.

PRAC unanimously voted in favor of recommending the City Commission consider the naming of the new Coleman Park gymnasium, the "Paul G. Blackshear Gymnasium".

During the November 6, 2023 Mayor/Commission Work Session, the Coleman Park Neighborhood Association representatives and Mr. Blackshear's family presented their request for the naming of the new gymnasium. Commissioner discussions, based on the history of Mr. Blackshear's service to the City and the community, was positive and supportive of the naming to move forward in the process.

Mr. Blackshear was passionate about coaching and was loved by all he coached. He was adept at holding the attention of students, while he used his skill to model and teach character, integrity, how to be a team player, win gracefully, and remain stoic when the results were not favorable. He motivated and guided students to excel academically and dream big. Mr. Blackshear always encouraged students to give their best and reminded them that they never knew who was watching and who could provide unbelievable opportunities. Parents observed him and emulated his techniques with their own children. It was not unusual for one to see Mr. Blackshear simply listening patiently long after the workday was over. Usually that was all that was needed.

Mr. Blackshear also served as a member of the Lincoln/Coleman Park Culture and History Committee where he worked to ensure that the history and legacy of the community would be preserved.

The Blackshear Family were pioneers of the Lincoln Park (now Coleman Park) community, and his father was a distinguished player with the Negro Baseball League (NBL). The home base for all NBL games and events was located at the historic Lincoln Park.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

No fiscal impact.

- 7.4. Resolution No. 306-23 approving an Interlocal Agreement with Palm Beach County for on-water law enforcement for manatee protection; and

Resolution No. 317-23(F) appropriating funds in an amount up to \$16,660 for on-water law enforcement for manatee protection, which costs will be reimbursed by Palm Beach County in accordance with an Interlocal Agreement.

Originating Department:

Police

Ordinance/Resolution:

RESOLUTION NO. 306-23:A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH REGARDING INCREASED MARINE LAW ENFORCEMENT SERVICES TO PROVIDE MANATEE PROTECTION THROUGH MARCH 2028; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 317-23(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 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE RECEIPT OF A PALM BEACH COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCE MANAGEMENT GRANT FOR MANATEE PROTECTION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The listed item is a renewal of an existing five (5) year term contract for

manatee protection. Since 2007, the City of West Palm Beach has provided increased law enforcement presence in the County's waterways in partnership with the Board of County Commissioners of Palm Beach County, as approved in a Manatee Protection Plan and as one of the thirteen (13) "key" manatee counties identified by the Florida Governor and Cabinet in October 1989. Studies by the Florida Fish and Wildlife Conservation Commission have demonstrated that increased law enforcement presence is the most effective means to gain compliance with boater speed zones and manatee protection speed zones, and reduce the risks to manatees and members of the public.

In accordance with the Interlocal Agreement for Law Enforcement Services for manatee protection between Palm Beach County and the City dated August 22, 2018 (WPB Contract No. 21861.001), the West Palm Beach Police Department will enforce State statutes, administrative rules, and local and County ordinances related to vessel control, marine resource protection, and manatee protection and assist in educating boaters in the enforcement area about manatee and boater safety issues.

The County will reimburse the City for all labor, supervision, equipment, insurance, and supplies at a rate of \$87.50 per hour, up to the awarded amount of \$16,660 for services provided from November 15, 2023 through March 31, 2024, in accordance with the Interlocal Agreement.

Resolution No. 306-23 provides for the approving of an interlocal agreement between the City and Palm Beach County for on water law enforcement for manatee protection.

Resolution No. 317-23(F) provides the accounts for the expense and reimbursement of the funds in the amount of \$16,660.

Fiscal Note:

Reimbursement of \$16,600 in total expenses.

- 7.5. Resolution No. 308-23(F) approving the receipt and appropriation of funds from the interlocal agreement between Palm Beach County and the City of West Palm Beach in an amount not to exceed \$38,687.11 for reimbursement of Fire Emergency Medical Equipment.

Originating Department:

Fire

Ordinance/Resolution:

RESOLUTION NO. 308-23(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 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM

BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GRANTS PROGRAMS SPECIAL REVENUE FUND TO RECOGNIZE A GRANT FROM PALM BEACH COUNTY FOR REIMBURSEMENT OF COSTS TO PURCHASE A ZOLL EKG MONITOR (EMS EQUIPMENT); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

On July 10, 2023, Resolution No. 153-23 approving an interlocal agreement between Palm Beach County and the City of West Palm Beach to receive grant funding for the purchase of one (1) Zoll X Series Advanced Monitor/Defibrillator (“EMS Equipment”) was approved and executed by the Mayor.

Palm Beach County has awarded the City a grant in an amount not to exceed \$38,687.11 for the purpose of purchasing Fire Emergency Medical Equipment. The West Palm Beach Fire Department will utilize the grant funds to purchase one (1) Zoll X Series Advanced Monitor/Defibrillator (“EMS Equipment”) in order to treat patients with cardiac arrhythmia's and provide life-saving electrical therapy (defibrillation) for patients in cardiac arrest. This Defibrillator will improve our ability to serve and treat the community by saving lives, reducing mortality rate secondary to cardiac arrest, and recognizing immediate cardiac threats like STEMI (Heart Attacks), dysrhythmia's, and arrhythmia. It is the City's priority to promote a safe and secure community and the Fire Department strives to meet and exceed those expectations.

The Grant funds will be provided to the City by the County on a reimbursement basis once the medical equipment has been purchased. The Fire Department currently uses said device on existing EMS units; therefore, training of personnel will not be needed, as it is a monitor with which personnel are already proficient.

Resolution No. 308-23(F) recognizes and appropriates the funds to purchase one (1) Zoll X Series Advanced Monitor/Defibrillator.

Fiscal Note:

Approval will provide appropriations for the purchase of a Zoll X Series Advanced Monitor/Defibrillator (EMS Equipment).

- 7.6. Resolution No. 320-23(F) authorizes the amendment of the General, Capital Acquisition, and Fleet Replacement Fund budgets, recognizing cash carryforward, and providing appropriations for various City needs.

Originating Department:

Finance

Ordinance/Resolution:

RESOLUTION NO. 320-23(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 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL, CAPITAL ACQUISITION, AND FLEET REPLACEMENT FUND BUDGETS TO PROVIDE APPROPRIATIONS FOR VARIOUS CITY NEEDS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

Resolution No. 320-23(F) recognizes cash carryforward and provides appropriations from these funds for the following one-time funding items, as presented at the July 31, 2023, Mayor/Commission Work Session.

Vehicle Replacements: \$2,000,000

\$5.0M is included in the FY24 Adopted General Fund operating budget and \$1.0M in the Fire Assessment Fee Fund Budget. This additional \$2.0M from one-time funding will enable the City to stay on schedule with its \$8M annual vehicle replacement plan.

Henrietta Avenue Housing Development: \$1,000,000

Funding would enable the \$6.6M project to be fully funded.

Parks Trails & Field Renovations: \$725,000

The trail in Dreher Park South needs to be milled and re-paved. There are numerous areas where the trail is in disrepair (\$275,000).

Bill Moss Park fields are currently unusable for athletic programs and leagues and need to be renovated (\$450,000).

Median-Traffic Calming-Landscape Maintenance: \$375,000

Bollards in the right of way are frequently damaged and require constant repair and replacement to maintain the aesthetics in the downtown area (\$50,000).

City-wide traffic calming devices need pressure washing, painting and minor repairs in several locations (\$300,000).

The landscape at City Center must also be maintained (\$25,000).

Facilities-HVAC System Repairs-Roof Replacements: \$866,050

Various community centers and recreational facilities built between 2000 and 2006 are experiencing end of life issues requiring replacement of items such as HVAC systems (\$150,000).

Repair of several Variable Air Volume (VAV) systems is required at Police

Headquarters (\$40,050).

City Center HVAC systems need to be refurbished and upgraded to optimize energy performance and improve the efficiency of the equipment (\$238,000).

The DX units that cool elevator, chiller, electrical, and facilities maintenance rooms and offices in the parking garage are in need of replacement, as repair parts for current units are obsolete (\$200,000).

City Complex bathroom is in need of upgrades (\$40,000).

Fire fleet repair shop needs a roof replacement as it has reached end of life (\$105,000).

Fleet fuel canopy needs repairs as it is showing signs of excessive wear and tear and is also leaking (\$45,000).

Design work for City Complex is needed to identify building and service area upgrades (\$48,000).

Public Safety Equipment Replacement: \$481,000

Replacement of Police drone equipment (\$25,000).

Purchase of less lethal devices and/or systems to provide officers with alternatives to use of force situations (\$16,000).

Replacement of Police Crime Scene Investigations laboratory hoods (\$100,000).

Purchase of ballistic shields (\$40,000).

Police gun range air handling system upgrades and maintenance to ensure proper air circulation and air quality (\$300,000).

Laptop Replacements: \$484,000

Police laptop computers have started reaching end of life, and IT has implemented a replacement schedule to replace them on a rotating basis based on age. As part of the FY24 Police laptop replacement cycle, eighty-eight (88) laptops will need to be replaced (\$484,000).

Office Furniture-Carpet Replacement: \$736,000

Several areas of carpet in City Hall are worn, stained and in need of replacement. There are also several workspaces and offices at City Hall that have water damaged carpets due to heavy storm related water intrusion. This funding will also include replacing the remaining original

carpet in the Commission offices, which are showing signs of excessive wear and tear (\$320,000).

Carpets in the Mandel Public Library are heavily worn and stained. Phase I of this project would replace the carpet in public areas that show the most heavy use and wear and tear (\$416,000).

City Center-City Complex Repairs and Upgrades: \$5,000,000

This funding will be utilized as we assess the infrastructure and building needs and repairs at the City Center and City Complex.

Fiscal Note:

Approval authorizes the amendment of the General, Housing Trust, Capital Acquisition and Fleet Management Fund budget, recognizing Transfer of Development Rights sale proceeds, and providing appropriations for various City needs.

8. PUBLIC HEARING

- 8.1. Public Hearing and Second Reading of Ordinance No. 5073-23 amending the Downtown Master Plan Urban Regulations to provide new language and text cleanups to the definitions, signage requirements, and the North Railroad Avenue (NoRA) subdistrict requirements.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5073-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ARTICLE IV - DOWNTOWN MASTER PLAN URBAN REGULATIONS, SECTION 94-109 - DEFINITIONS AND MINIMUM REQUIREMENTS, SECTION 94-110 - SIGNAGE REQUIREMENTS, SECTION 94-124 - NORTH RAILROAD AVENUE DISTRICT, AND SECTION 94-132 - TRANSFER OF DEVELOPMENT RIGHTS PROGRAM; TO PERMIT NEWLY DEFINED COVERED STRUCTURES ON ROOFTOPS, TO EXCLUDE AN INTERSTITIAL NON-ACTIVE PARKING GARAGE LEVEL FROM OVERALL STORY COUNTS, TO EXTEND MIXED-USE SIGNAGE PROVISIONS TO COMMERCIAL PROPERTIES FRONTING NORTH RAILROAD AVENUE, AND TO REVISE NORA GROUND-LEVEL SETBACKS FOR THE NEW STREETScape DESIGN; DECLARING THESE PROPOSED ZONING TEXT AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE ZONING AND LAND DEVELOPMENT REGULATIONS OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5073-23 on Second Reading.

Background Information:

In 2021, the City sought to incentivize and spur development within a stagnating and underdeveloped zoning subdistrict formerly known as Industrial Chic District (ICD) in the northeast portion of the downtown area.

On February 2, 2022, the City Commission adopted Ordinance No. 4985-21 and Ordinance No. 4986-21, which rezoned the ICD districts into what is now known as the North Railroad Avenue District (NoRA) and established the corresponding Zoning and Land Development Regulations (ZLDRs).

On February 22, 2022, the City Commission adopted Resolution No. 29-22 for a Face of the City approval of a new streetscape design and infrastructure improvements along North Railroad Avenue within the newly established NoRA district.

On July 11, 2023, Meredith Leigh of Shutts & Bowen LLP, on behalf of Place Projects and NDT Development LLC had submitted a downtown development application for a series of Zoning and Land Development Regulation amendments.

City planning staff, in conjunction with the applicant, held several meetings and work sessions to evaluate the existing and proposed regulations for both the NoRA district and DMP as a whole, cooperatively altering the applicant's original application and refining the end code language of Code Revision Case 23-04. The proposed language effectively corrects language missed during the ZLDR process and allows newly defined covered structures on rooftops, excludes an interstitial non-active parking garage level from overall story counts, extends mixed-use signage provisions to commercial properties fronting North Railroad Avenue, and revises NoRA ground-level setbacks for the new North Railroad Avenue streetscape design.

The Downtown Action Committee recommended approval (4-0) of the Code Revision Case No. 23-04 to the City Commission after a Public Hearing on October 11, 2023.

The Planning Board recommended approval (6-0) of the Code Revision Case No. 23-04 to the City Commission after a Public Hearing on October 17, 2023.

The subject code changes and language updates will affect properties throughout the Downtown Master Plan Area within Commission District 3: Commissioner Christy Fox.

- 8.2. Public Hearing and Second Reading of Ordinance No. 5075-23 amending the Code of Ordinances at Chapter 78, Streets, Sidewalks and Public Spaces, Article XVIII: Parklets to revise regulations, standards, and guidelines for the design, construction, and operation of parklets within the Downtown Master Plan area and Northwood Mixed-Use village; and

Resolution No. 296-23 amending the Comprehensive Fee Schedule for Parklets permits.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5075-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA AMENDING THE CODE OF ORDINANCES, AT CHAPTER 78, STREETS, SIDEWALKS, AND PUBLIC SPACES, TO AMEND AND REPLACE ARTICLE XVIII, PARKLETS, TO REVISE REGULATIONS, STANDARDS, AND GUIDELINES FOR THE DESIGN, CONSTRUCTION, AND OPERATION OF PARKLETS WITHIN THE DOWNTOWN MASTER PLAN AREA AND NORTHWOOD MIXED-USE VILLAGE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 296-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE COMPREHENSIVE FEE SCHEDULE FOR PARKLET FEES; PROVIDING FOR THE EXPIRATION OF EXISTING PARKLETS PERMITS AND RENEWAL UNDER THE REVISED REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5075-23 amending the Code requirements for Parklets.

Approve Resolution No. 296-23.

Background Information:

A parklet is a seating platform that converts curbside parking spaces into vibrant community spaces that may provide amenities such as: seating, landscaping, bicycle parking, art, among others. Ordinance No. 4667-16 established Chapter 78, Article XVIII, of the Code of Ordinances, which allowed the creation of parklets in compliance with the regulations.

In concert with the Governor's Executive Order, on May 19, 2020, the City of West Palm Beach issued a Declaration of Emergency, which allowed expanded outdoor seating for restaurants under a Temporary Outdoor Dining (TOD) Program to ensure businesses had the greatest ability to operate successfully during the COVID-19 economic recovery. The TOD

program allowed expanded seating on sidewalks and for parklets. After the City's Declaration of Emergency expired, the TOD Program expired, but many businesses desired to retain their expanded outdoor seating.

On March 22, 2021, Ordinance No. 4936-21 updated the regulations for sidewalk café seating to reflect lessons learned from the pandemic and provide additional flexibility for business owners and comfort for pedestrians. However, in the case of the parklets, the regulations have not yet been updated. On November 29, 2021, the City Commission declared a Zoning in Progress for parklets (Ordinance No. 4921-21) in order to facilitate the development and adoption of revised regulations and standards for parklets. On January 9, 2023, Ordinance No. 5030-22 declared an extension to the Zoning in Progress with an expiration date as of 11:59 p.m. on November 29, 2023, or as of the date that newly proposed regulations governing parklets are adopted by the City Commission.

The City, in conjunction with the Downtown Development Authority, worked on developing revised regulations to the City's code regarding the utilization of parklets for businesses within the City. In 2023, the City gathered feedback on parklet revisions during engagement activities with Northwood Village merchants on August 29, 2023, and downtown merchants on August 30, 2023, as described on the Community Engagement Report - Attachment I.

Ordinance No. 5075-23 amends the regulations regarding parklets.

All current parklet permits will expire January 1, 2024. New applications will need to be submitted under the revised regulations.

Resolution No. 296-23 revises the fees for parklets.

The fee adjustments proposed, reflect the required permit review and compliance monitoring of parklet regulations and update the Metered Parking Space Fee based on the City's current meter rates and parking demand zones.

The revised Parklet Fee Schedule is presented, as part of the revisions to the parklet regulations (Ordinance No. 5075-23) also on this agenda. City staff received input on the proposed regulations and fees with Northwood Village merchants on August 29, 2023 and downtown merchants on August 30, 2023.

The new fee schedule shall become applicable City-wide on December 1, 2023, but will primarily impact those parklets located within the Downtown and Northwood Village, District 1 (Ward) and District 3 (Fox).

The revised Parklet Fee Schedule will include the following:

- * Location Review Fee - \$50
- * Application Review Fee - \$250
- * Metered Parking Space Fee - Zone A (Clematis Street) - \$400/month
Zone A outside of Clematis Street and Zone B - \$275/month
Zone C - \$180/month

Commission District 1: Commissioner Cathleen Ward.

Commission District 3: Commissioner Christy Fox.

- 8.3. Public Hearing and Second Reading of Ordinance No. 5076-23 granting an Aerial Pedestrian Bridge Easement to KJWPB1,LLC across Eucalyptus Street, a City right-of-way, between 740 and 840 N. Dixie Highway.

Originating Department:

Engineering

Ordinance/Resolution:

ORDINANCE NO. 5076-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AN AERIAL PEDESTRIAN BRIDGE EASEMENT TO KJWPB1, LLC, ACROSS EUCALYPTUS STREET IN THE AREA BETWEEN 840 N. DIXIE HIGHWAY AND 740 N. DIXIE HIGHWAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5076-23.

Background Information:

In September of 2021, Cielo, now known as Tortoise One, received site plan approval for its mixed-use project on either side of Eucalyptus Street just East of Dixie Highway.

The buildings are planned to have an aerial pedestrian bridge over the City property to connect and provide pedestrian access between the buildings, which are currently under construction.

In order to facilitate KJWPB1's construction of the Aerial Pedestrian Bridge Facility, it is necessary for KJWPB1 to obtain from the City an easement over portions of the City's Right-of-Way.

Pursuant to Section 22-31(27) of the Code of Ordinances, the granting of an interest in City property shall be approved by ordinance and such ordinance shall be approved by a super majority (4/5) vote of the City Commission at either First or Second Reading.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

- 8.4. Public Hearing and First Reading of Ordinance No. 5078-23 amending the definition of special event to specifically include large group feeding, adding a time to process a large group feeding special event application, providing for waiver of the permit application fee, and making other minor modifications.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5078-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 78 (STREETS, SIDEWALKS AND PUBLIC PLACES); ARTICLE VI (SPECIAL EVENTS); DIVISION 1 (GENERALLY); SECTION 78-151 (DEFINITIONS); AND SECTION 78-155 (RESERVATION OF DATES, APPLICATION FEE AND DEPOSIT); PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Staff Recommended Motion:

Approve Ordinance No. 5078-23.

Background Information:

Ordinance No. 5037-23 was enacted by the Commission in early 2023 and amended the City's Special Events Permits Process to regulate permitting large group feedings.

Recently, the 15th Judicial Circuit found that the Ordinance No. 5037-23 acted as a prior restraint, as applied to Food Not Bombs.

As a result, the instant Ordinance No. 5078-23 specifically includes large group feedings in the definition of a "special event." The instant ordinance also adds the conjunction "or" between each of the conditions listed to qualify as a special event.

Finally, the instant ordinance adds a timeframe for processing a large group feeding permit applications and provides an alternative permit option.

Adoption of this Ordinance addresses the prior restraint issue raised by the Court and provides other recommended changes.

9. PUBLIC HEARING - QUASI-JUDICIAL

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

- 9.1. Public Hearing and Second Reading of Ordinance No. 5072-23: A request by Josh Martin of Frisbie Group, on behalf of 319 B Renaissance II Asset LLC, for a Future Land Use Map Amendment to change the Future Land Use designation of ±0.65 acres of the overall subject ±1.01-acre parcel, located at the northeast corner of South Dixie Highway and Belvedere Road from Commercial (C) to Commercial East (CE).

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5072-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF 0.63 ACRES OF THE OVERALL 1.01 ACRE PARCEL, LOCATED AT THE NORTHEAST CORNER OF SOUTH DIXIE HIGHWAY AND BELVEDERE ROAD FROM COMMERCIAL TO COMMERCIAL EAST; DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP AMENDMENT TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5072-23, changing the Future Land Use designation of ±0.65 acres of the overall ±1.01-acre parcel located at the northeast corner of South Dixie Highway and Belvedere Road from Commercial to Commercial East. This motion is based on the application submitted, the staff report, factual testimony, the recommendation of the Planning Board and the findings that the request complies with the provisions of Chapter 163, Florida Statutes, and Policies 1.1.5 and 1.1.6 of the City's Comprehensive Plan, based on changed assumptions.

Background Information:

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

The ±1.01-acre subject property is located at the northeast corner of South Dixie Highway and Belvedere Road and is currently comprised of a 15,074 square foot commercial building with surface parking. The property is characterized with a split Future Land Use (FLU) designation of Commercial East (CE) and Commercial (C); the western portion (±0.38

acres) of the property is designated CE and the eastern portion is designated C (± 0.63 acres). Uses in the immediate surrounding area consists primarily of single- and multifamily residential (within the El Cid Historic District), and commercial use to the south and along the South Dixie Highway corridor.

In July of 2022, the applicant purchased the subject property with the intent to redevelop the site. The applicant provides that the area surrounding the subject property is suitable for mixed-use with its proximity to Downtown and its location along the South Dixie Highway corridor. In order to redevelop the site with a cohesive mixed-use project, the applicant is seeking a FLU Map Amendment to consolidate the FLU designation of the parcel to CE, which supports the mixing of uses (i.e. the integration of commercial and residential uses).

Given the subject property's location along the corridor, its close proximity to Downtown, and the City's desire to increase housing stock near its Downtown and transit corridors, a FLU designation of CE would be appropriate for the subject property to benefit from the nearby/surrounding amenities. The mixed-use FLU would also provide for an appropriate land use transition to the adjacent single and multifamily residential use within the immediate area.

LEVEL-OF-SERVICE (LOS) ANALYSIS

Future Land Use Element Policy 1.1.3 of the City's Comprehensive Plan establishes the density/intensity standards of all FLU designations within the City. According to information provided in the Comprehensive Plan, the CE Future Land Use (1.5 F.A.R.) is more intensive than the C Future Land Use designation (0.75 F.A.R.). It is therefore expected that the proposed FLU Map Amendment to CE will generate a greater demand on the public facilities servicing the subject property and the immediate area.

Pursuant to Chapter 163 of the Florida Statutes, any FLU Map amendment must be evaluated to determine if the proposed land use change will have significant impact on the LOS for public facilities that service the subject property and the surrounding area (i.e. drainage, potable water, wastewater, solid waste, public schools, and traffic). The LOS for public facilities is analyzed based on the maximum development potential of the current and proposed FLU of the affected area, and whether or not each public facility has the reserved capacity to accommodate the change in land use. Table 1 below summarizes the maximum development potential for the current and proposed FLU of the affected area.

**Table 1:
Current and Proposed Future Land Use Designation Maximum**

Development Potential for the Affected Area (±0.63 acres)

FLU Designation	Maximum Intensity	Maximum Potential	Development
<i>Existing:</i> Commercial (C)	0.75 F.A.R. 32.27 dwelling units/acre	20,471 sq. ft. 20 dwelling units	
<i>Proposed:</i> Commercial East (CE)	----- 1.5 F.A.R.	----- 40,943 sq. ft.	

The maximum development potential that could be built within the affected area are twenty (20) dwelling units and 40,943 square feet of building (an increase in 20,472 square feet) with the proposed FLU Map Amendment to CE. This increase in development potential is expected to intensify the demand on public facilities servicing the subject property and surrounding area.

Despite the increase in development potential, the impact on public facilities are not expected to be detrimental. The applicant has provided supporting certification letters from each public facility confirming adequate infrastructure/infrastructure capacity is in place to accommodate the FLU Map Amendment to CE.

CONCLUSION

The purpose of the FLU Map Amendment is to resolve the issue of the split FLU designation of the subject property to enable the property to be redeveloped with a cohesive redevelopment plan. The proposed CE Future Land Use designation of the subject property is suitable, given the development pattern of the South Dixie Highway corridor in recent years. The proposed FLU map amendment is consistent with the land use pattern of the surrounding area, and it would also provide the opportunity to increase the residential housing stock along the transit corridor and in close proximity to Downtown.

It is staff's professional opinion that the request complies with the standards required by the City's Comprehensive Plan; and therefore, staff is recommending approval of the request.

PLANNING BOARD

After a Public Hearing on September 19, 2023, the Planning Board unanimously recommended approval (6-0) of the proposed Future Land Use Map Amendment to the City Commission.

CITY COMMISSION

At First Reading (held on November 13, 2023), the City Commission approved the Future Land Use Map Amendment on the condition that the site plan for the redevelopment of the site shall be approved by the Commission. The following language was suggested by the Law

Department, which has been incorporated in Ordinance No. 5072-23 for Second Reading:

"Site plan approval for development of this property shall be scheduled for hearing before the appropriate review board who will make a recommendation for final consideration by the City Commission. In review of the site plan, the City Commission will make its decision based on the applicable development standards contained in the Zoning and Land Development Regulations (ZLDRs)."

PUBLIC NOTICE

Individual notices were mailed to all property owners within 500 feet of the subject property, and signs were also posted on the property. Per statutory requirement, First Reading of Ordinance No. 5072-23 was advertised in the Palm Beach Post on November 6, 2023, and Second Reading was advertised in the Palm Beach Post on November 22, 2023.

Commission District 5: Commissioner Christina Lambert.

- 9.2. Public Hearing and First Reading of Ordinance No. 5077-23 designating the Locust House, 1225 North Sapodilla Avenue on the West Palm Beach Register of Historic Places.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5077-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING 1225 NORTH SAPODILLA AVENUE AS AN HISTORIC SITE ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5077-33 on First Reading and schedule Second Reading for December 11, 2023.

Background Information:

On September 28, 2021, the Historic Preservation Board (HPB) approved the relocation of this building from 464 Fern Street to 1225 North Sapodilla Avenue under HPB Case Number 21-74. One condition of the relocation was that the building be redesignated at its new location in the Northwest neighborhood.

The Locust House, historically known as 917 Locust Avenue, is a two-story, Mission Revival style structure with one-story components to the

side and rear featuring a flat roof with parapet. A chimney is located to the rear of the structure along with an open-air loggia with arched openings covered by a hip roof surfaced with barrel tile. The front elevation features a wood bracketed hip roof overhang surfaced with barrel tile. Fenestration includes wood multi-light French doors and multi-light windows on the front elevation except for one over one (1/1) sash style windows. The side and rear elevations have sash style one over one (1/1) and casements windows. While it was used as an office downtown, it has now been rehabilitated back into a single-family house.

On August 22, 2023, the Historic Preservation Board unanimously recommended approval (7 - 0) to designate this building.

Commission District 3: Commissioner Christy Fox.

10. APPEALS

- 10.1. Appeal by Prolime Corporation of the denial, by the Procurement Official, of Prolime's Bid Protest of the award of a contract to Devland Site Paving and Utilities, Inc., pursuant to Invitation to Bid 22-23-155 DL, for Lime Sludge Hauling Services from the City's Water Treatment Plant.

Originating Department:

Procurement

Ordinance/Resolution:

N/A

Staff Recommended Motion:

After review of the record and hearing argument of counsel, you may move to either approve or reject the decision of the Procurement Official.

Background Information:

On August 18, 2023, the City issued Invitation to Bid (ITB) 22-23-155 DL, Term Contract for Lime Sludge Hauling Services, to accept bids from qualified and responsible contractors to load, haul, and dispose, at an authorized dumpsite, the lime sludge generated at the City's Water Treatment Plant (WTP). Per the ITB, the dumpsite is to be determined by the contractor and disclosed to the City in advance of hauling. The WTP generates an estimated 100,000 tons of lime sludge annually.

On August 29, 2023, the City held a pre-bid meeting on site at the WTP. At the meeting, the scope of work and the procurement process was discussed with those in attendance.

On or before September 19, 2023, Devland Site Paving Utilities, Inc. and Prolime Corporation submitted timely bid proposals. The following reflects the bid prices received for lime sludge loading, hauling and disposal (including labor, material, equipment, transportation, and

disposal):

	<u>Devland Site Paving</u>	<u>Prolime Corporation</u>
Cost Per Ton	\$21.74	\$24.90
Cost Per Cubic Yard (CY)	\$16.35	\$24.90
Total Est. Annual Cost Per Ton	\$ 2,174,000	\$ 2,490,000
Total Est. Annual Cost per CY	\$ 1,635,000	\$ 2,490,000

On September 20, 2023, Procurement staff initiated review of the minimum requirements (ITB Page 12) and provided the proposals to the City’s WTP Operations Coordinator for review and recommendation of award. On September 21, 2023, the WTP Operations Coordinator recommended award to Devland based on the offered prices and minimum requirements.

On September 22, 2023, Procurement staff emailed reference questions to the customers provided as references for Devland: City of Riviera Beach, Village of Wellington, City of Delray Beach and City of Boca Raton.

On or about September 25, 2023, the Village of Wellington and the City of Riviera Beach provided answers to the reference questions. Each provided a favorable reference and confirmed Devland Site Paving and Utilities, Inc. to have provided the services of loading, hauling and disposal of lime sludge or other solid materials for a period of three or more years and for one to two years, respectively.

The minimum experience requirement states the “Bidder must have three years’ experience either as a prime contractor providing the services or overseeing the services; or as a subcontractor providing the services. Services must include loading, hauling and disposing of lime sludge or other solid materials, which includes only sand, carbon rock or aggregate.”

On September 27, 2023, the Procurement Official issued a Letter of Intent to Award to Devland Site Paving and Utilities, Inc. On October 3, 2023, the City timely received a notice of bid protest from Prolime Corporation asking if the references provided were checked and verified and, questioning the validity of the disposal letter provided with the proposal submitted by Devland Site Paving and Utilities, Inc.

On October 5, 2023, after review of the protest, the Procurement Official provided a written reply finding no procedural or legal error, denying the protest and advising as follows:

“Regarding the first item of Prolime’s protest: “Were the references provided by Mr. Deveau, checked and verified?” “The answer is yes. The

City contacted the references provided in the proposal submitted by Devland Site Paving Utilities.”

“Regarding the second item as to the validity of the disposal letter provided as part of Devland Site Paving Utilities proposal. The Invitation to Bid (ITB) does not require a disposal letter. The ITB states “Provider shall provide all labor, material, and equipment necessary for lime sludge (hereinafter “Sludge”) loading, hauling and disposal from the City of West Palm Beach Water Treatment Plant at 1009 Banyan Boulevard, West Palm Beach, FL 33401 to an authorized dumpsite to be determined by the Provider and disclosed to the City in advance of hauling.” Reference Page 2, Scope of Work”.

The right to protest is intended only to remedy procedural or legal errors committed during the procurement solicitation which, if corrected, would result in the selection of the person or entity filing the protest. (Reference CITY OF WEST PALM BEACH, FL. CODE OF ORDINANCES, § 66-151 (a).

The Procurement Official reviewed the protest, identified no procedural or legal error. Accordingly, the protest was denied.

On October 12, 2023, the City received an appeal to the denial of the bid protest. In accordance with the CITY OF WEST PALM BEACH, FL. CODE OF ORDINANCES, § 66-151 (e-g):

(e) Appeal of the procurement official decision to city commission. The decision of the procurement official may be appealed by filing a written notice of appeal with the procurement official within seven calendar days from the date of the procurement official's written decision.

(f) Hearing by the city commission. On receipt of a timely appeal as provided in subsection (e) above, the procurement official shall schedule a hearing before the city commission. The hearing shall not be a de novo review, but rather shall be limited to the review of the record or evidence on which the procurement official's decision was based.

(g) Decision of the city commission. The city commission will either approve or reject the procurement official's decision. The decision of the city commission shall be deemed final upon execution by the mayor.

At the appeal, Prolime and the City will present their respective legal arguments for consideration by the City Commission. The Commission must review the record attached to this agenda cover memorandum, hear

legal argument, and vote to either approve or reject the decision of the Procurement Official. The Commission's review is limited to the record evidence that was available to the Procurement Official at the time of her decision. The arguments of counsel are legal arguments and may not be considered as evidence. The Commission may not consider any evidence outside of the record attached hereto.

Fiscal Note:

No fiscal impact.

11. COMMENTS FROM THE PUBLIC

Public comments are limited to three (3) 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.