



**City of West Palm Beach
City Commission**

**DRAFT
AGENDA**

**May 3, 2021
5:00 P.M.**

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, FLORIDA 33401, {(561) 822-1210}

**MAYOR
KEITH A. JAMES**

**CITY COMMISSION
PRESIDENT JOSEPH A. PEDUZZI**

**COMMISSIONER KELLY SHOAF
COMMISSIONER CHRISTY FOX**

**COMMISSIONER SHALONDA WARREN
COMMISSIONER CHRISTINA LAMBERT**

**ADMINISTRATION
ADMINISTRATOR, FAYE W. JOHNSON
CITY ATTORNEY, KIMBERLY ROTHENBURG
CITY CLERK, HAZELINE CARSON**

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

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.

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

PROCLAMATIONS (1-4):

1. **Proclaiming May 2021 as Mental Health Month. Proclamation to be accepted by Jose-Luis Rodriguez, Chief Human Resources Officer.**
Agenda Cover Memorandum No.: 23311
2. **Proclaiming May 2021 as Asian American and Pacific Islanders Heritage Month. Proclamation to be accepted by Hyunjin “Jin” Han and Kristine Techavanich, Children’s Librarians for the Mandel Public Library.**
Agenda Cover Memorandum No.: 23312
3. **Proclaiming May 2-8, 2021 as Gulfstream Goodwill Industries Week. Proclamation to be accepted by Keith Kennedy President and CEO of Gulfstream Goodwill Industries.**
Agenda Cover Memorandum No.: 23313
4. **Proclaiming May 16-22, 2021 as National Public Works Week. Proclamation to be accepted by Josh McDermott, Public Works Director; Roberto Travieso, Public Works Superintendent; Leon Pinder, Sanitation Superintendent; Amy Marks, Public Works Administrative Superintendent.**
Agenda Cover Memorandum No.: 23314

CONSENT CALENDAR (5-13):

5. **Minutes of the Regular City Commission Meeting of April 19, 2021.**
Agenda Cover Memorandum No.: 23315

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of April 19, 2021.

6. **Resolution No. 82-21 approving a First Amendment to the Landscape Maintenance Memorandum of Agreement (MMA) with the Florida Department of Transportation (FDOT) for State Road 704 (Okeechobee Boulevard) for upgraded pedestrian facilities at the intersection of Okeechobee Boulevard and South Rosemary Avenue adjacent to Rosemary Square; and**

Resolution No. 83-21 approving an Amended and Restated Right-of-Way Maintenance Agreement with CityPlace Retail, LLC for assumptions of the City's obligations under the MMA and the First Amendment.

RESOLUTION NO. 82-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR STATE ROAD 704 (OKEECHOBEE BOULEVARD) APPROVED BY RESOLUTION NO. 23-21 TO EXPAND THE AREA TO SAPODILLA AVENUE ON THE WEST AND THE AREA IN FRONT OF 700 SOUTH ROSEMARY TO THE EAST; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 83-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE EXECUTION OF AN AMENDED RIGHT-OF-WAY MAINTENANCE AGREEMENT, ORIGINALLY APPROVED BY RESOLUTION NO. 24-21, WITH CITYPLACE RETAIL, LLC, TO MAINTAIN A PORTION OF STATE ROAD 704 (OKEECHOBEE BOULEVARD); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23316

Staff Recommended Motion:

Approve Resolution No. 82-21 and Resolution No. 83-21.

Background:

As part of improvements to the mixed-use development known as "Rosemary Square" (formerly known as "CityPlace"), CityPlace Retail, LLC, the developer, has made improvements to landscaping and hardscape improvements in the adjacent rights-of-way, including Okeechobee Boulevard.

The State of Florida Department of Transportation has jurisdiction over State Road 704 (Okeechobee Boulevard) as part of the State Highway System. FDOT agreed to allow such improvements to be installed in the Okeechobee Boulevard right-of-way only if the City agreed to enter into that Landscape Maintenance Memorandum of Agreement (No. 2019-L-496-00017) between FDOT and City (the "MMOA"). By Resolution No. 23-21, the City Commission approved the MMOA, which was executed and is dated February 25, 2021.

The Developer desired to expand the limits of the construction of upgraded pedestrian facilities to the intersection of Okeechobee Boulevard and Sapodilla Avenue and in front of 700 South Rosemary ("Additional Improvements").

FDOT will agree to allow such Additional Improvements to be installed in the Okeechobee Boulevard right-of-way only if the City agrees to enter into that Amendment No. 1 to the MMOA (the "MMOA Amendment").

The Developer agrees to assume the City's maintenance obligations with FDOT for the Additional Improvements under the MMOA Amendment and to indemnify to the City for any claims, damages, or payments made as a result of Developer's failure to perform such maintenance obligations.

The City acknowledges that Developer may enter into an agreement with the CityPlace Community Development District ("CDD") under which the CDD would assume all obligations and liabilities of Developer under the MMOA and MMOA Amendment.

For clarity and convenience, the parties agree to execute an Amended and Restated Right-of-Way Maintenance Agreement, so that all of Developer's obligations under the MMOA and MMOA Amendment are contained in one (1) document.

Resolution No. 82-21 approves the MMOA Amendment with FDOT.

Resolution No. 83-21 approves the Amended and Restated Right-of-Way Maintenance Agreement with CityPlace Retail, LLC, by which the Developer assumes all of the City's obligations under the MMOA and MMOA Amendment.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

7. **Resolution No. 92-21 approving a Landscape Maintenance Memorandum of Agreement with FDOT for the maintenance of an approximately 0.18-mile portion of South Dixie Highway north of Hampton Road;**

Resolution No. 93-21 approving a Right-of-Way Maintenance Agreement with 3111 Prospect Place Equities, LLC and Maiden Prospect Place Holdings LLC regarding the maintenance of an approximately 0.18-mile portion of South Dixie Highway north of Hampton Road; and

Resolution No. 94-21 approving a Right-of-Way Maintenance Agreement with 3111 Prospect Place Equities, LLC, and Maiden Prospect Place Holdings LLC regarding the maintenance of a portion of Hampton Road, west of South Dixie Highway.

RESOLUTION NO. 92-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE OF A PORTION OF DIXIE HIGHWAY (STATE ROAD 805) FROM HAMPTON ROAD (MILE POST 6.400) TO MILE POST 6.588; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 93-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING EXECUTION OF A RIGHT-OF-WAY MAINTENANCE AGREEMENT WITH 3111 PROSPECT PLACE EQUITIES, LLC AND MAIDEN PROSPECT PLACE HOLDINGS LLC, FOR MAINTENANCE OF A PORTION OF STATE ROAD 805 / DIXIE HIGHWAY FROM HAMPTON ROAD (MILE POST 6.400) TO MILE POST 6.588; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 94-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A RIGHT OF WAY MAINTENANCE AGREEMENT WITH 3111 PROSPECT PLACE EQUITIES, LLC AND MAIDEN PROSPECT PLACE HOLDINGS LLC FOR MAINTENANCE OF THE LANDSCAPE AND HARDSCAPE WITHIN A PORTION OF THE RIGHT OF WAY ALONG HAMPTON ROAD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23324

Staff Recommended Motion:

Approve Resolution No. 92-21, Resolution No. 93-21, and Resolution No. 94-21.

Background:

As part of redevelopment of the property located at 3111 South Dixie Highway (also known as Casa Mara), the Developer (3111 Prospect Place Equities, LLC and Maiden Prospect Place Holdings LLC) intends to install specialty paving, landscaping, and irrigation within the South Dixie Highway and Hampton Road rights-of-way.

A portion of South Dixie Highway consists of State Road 805, which is a Florida State highway, which right-of-way is maintained by the Florida Department of Transportation (“FDOT”). FDOT will approve the installation of such features in the South Dixie Highway right-of-way provided that the City enter into a Landscape Maintenance Memorandum of Agreement for the maintenance of these improvements. The City will enter into the Landscape Maintenance Memorandum of Agreement with FDOT provided that Developer will assume the City’s maintenance obligations to FDOT and enter into a Maintenance Agreement with the City. Resolution No. 92-21 approves the Landscape Maintenance Memorandum of Agreement with FDOT and Resolution No. 93-21 approves the Maintenance Agreement with 3111 Prospect Place Equities, LLC and Maiden Prospect Place Holdings LLC for the improvements installed on South Dixie.

In addition to the improvements on South Dixie Highway, the Developer is also proposing to install specialty paving, landscaping, and irrigation on the north side of Hampton Road, west of South Dixie Highway. As this right-of-way is under the jurisdiction of the City, the City requires the Developer to enter into a right-of-way Maintenance Agreement between the City and 3111 Prospect Place Equities, LLC, and Maiden Prospect Place Holdings LLC. Resolution No. 94-21 approves the Maintenance Agreement between the City and Developer for improvements installed on Hampton Road.

Fiscal Note:

No fiscal impact. Developer is assuming all maintenance obligations.

8. **Resolution No. 87-21 accepting a grant from the USA Swimming Foundation, Inc. for a Make a Splash grant in the amount of \$5,000 for a learn-to-swim program; and**
- Resolution No. 97-21(F) appropriating the grant funds.**

RESOLUTION NO. 87-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING A 2021 MAKE A SPLASH GRANT FOR A LEARN TO SWIM PROGRAM SCHOLARSHIPS IN THE AMOUNT OF \$5,000 FROM USA SWIMMING FOUNDATION INC., AUTHORIZING EXECUTION OF THE LEARN TO SWIM GRANT AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND USA SWIMMING FOUNDATION INC.; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 97-21(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 2020/2021 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 FOR THE RECEIPT OF A MAKE A SPLASH GRANT FROM THE USA SWIMMING FOUNDATION FOR THE LEARN-TO-SWIM PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23317

Staff Recommended Motion:

Approve Resolution No. 87-21 and Resolution No. 97-21(F).

Background:

The City of West Palm Beach is an entitlement recipient of Make a Splash grant funds from the USA Swimming Foundation, Inc. The City will utilize the grant funds to provide 143 children with free or reduced-cost swim lessons. The lessons provided will be quality, multi-level learn-to-swim sessions designed for at-risk students. Exposure to the sport of swimming will also expand fitness and recreational opportunities for these children.

The objectives of the learn-to-swim program include:

1. Preparing young children to be safer in, on, and around bodies of water by teaching water safety skills that could ultimately save lives.
2. Positively impacting young people in the City of West Palm Beach at the Warren Hawkins Aquatic Center by developing lifelong skills that combat childhood obesity by increasing health, recreational, and fitness opportunities.
3. Utilizing a multi-level, progressive swimming program to teach children the process of achieving--encourage them to dream, set worthy goals, work towards those goals, be a good teammate, and achieve measurable results.
4. Enhancing the positive impact of the Warren Hawkins Aquatic Center Aquatic program by offering skills, which in turn reduce drowning occurrences.

9. **Resolution No. 88-21(F) amending the beginning fund balance for the General Fund, the Building and Permitting Fund, the Water and Sewage Systems Fund, and the Stormwater System Fund for an adjustment in recording plan contributions for the General Employees Defined Benefit Restated Pension Plan.**

RESOLUTION NO. 88-21(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 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE BEGINNING FUND BALANCE FOR THE GENERAL FUND, THE BUILDING PERMITTING FUND, THE WATER AND SEWAGE SYSTEMS REVENUE FUND, AND THE STORMWATER SYSTEM FUND FOR AN ADJUSTMENT IN RECORDING PENSION PLAN CONTRIBUTIONS FOR THE GENERAL EMPLOYEES DEFINED BENEFIT RESTATED DEFINED BENEFIT PENSION PLAN; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23318

Staff Recommended Motion:

Approve Resolution No. 88-21(F).

Background:

The external auditors and the Gabriel Roeder Smith, Actuary, have determined that \$7,445,067 of advance contributions made from the General Fund to the Restated Defined Benefit Pension Plan in fiscal year 2013 should have been a contribution expense in fiscal year 2013. Instead, this amount was being amortized each year and the remainder balance recognized as an advance (a prepaid expense) in the General Fund at the end of each fiscal year. The external auditors have determined that the remaining \$3,073,102 amount as of September 30, 2020 is incorrectly stated as an advance to the Restated Defined Benefit Pension Plan and should be written off.

Since the budget is already final for fiscal year 2020, the City will write off this amount in fiscal year 2021, with the approval of the external auditors. The amount is currently not included in the fiscal year 2021 adopted budget; therefore, an amendment to the budget is required to amend the stated beginning fund balance of each affected fund.

Before the adjustments, the Fund balances for FY 2020 for the respective funds are as follows:

- General Fund: \$38,332,753 (Unassigned – \$14,663,272)
- Permits Fund: \$11,621,510
- Water and Sewer Fund: \$474,002,029
- Stormwater Fund: \$63,736,297

Fund balance of four (4) funds will have a reduction to provide funding for the expenditure as follows:

1. (\$1,659,475) General Fund
2. (\$368,772) Building Permitting Fund
3. (\$983,393) Water and Sewage Systems Revenue Fund
4. (\$61,462) Stormwater System Fund System Fund

- 10. Resolution No. 90-21 authorizing the submittal of an application to Florida Housing Coalition Center for Racial Equity for the Closing the Gap grant up to \$75,000 and authorizing the Mayor to execute all documents necessary to receive and utilize the grant funds.**

RESOLUTION NO. 90-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FLORIDA HOUSING COALITION FOR A GRANT FOR AN AMOUNT OF UP TO \$75,000 UNDER THE CLOSING THE GAP GRANT PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23319

Staff Recommended Motion:

Approve Resolution No. 90-21.

Background:

In the summer of 2020, Mayor Keith A. James established the Mayor's Task Force for Racial and Ethnic Equality with a mission to identify and help address issues of racial/ethnic equity through education about racial and ethnic inequities, research of best practices, and issuance of policy/funding recommendations to address racial/ethnic inequity in the City of West Palm Beach.

In furtherance of the Mayor's vision and goals, the City's Department of Housing and Community Development is seeking to apply for a grant from the Florida Housing Coalition Center for Racial Equity. The Closing the Gap grant provides two (2) years of technical assistance aimed at increasing black homeownership rate within the City. The competitive award is for \$75,000 in which the City is required to provide a \$25,000 local contribution.

If the City is awarded the funds, at a minimum, a framework for promoting black homeownership will be developed. The framework will include a workplan based on local data, identified outcome measures, a list of responsible entities, and a timeframe for implementation. This framework will include an implementation plan on community engagement, policy and program alignment, capacity building, and private sector engagement.

Depending on the City's capacity for rapid implementation, success measures can include new homeowners, rehabilitation and preservation funds allocated, new programs created, total matched savings, trainings offered, land development code amendments, count of community land trusts established or partnered with, count of real estate professionals in coordination with local closing the gap efforts, and other measures.

The City's matching requirement will be met utilizing available funds in the City's local housing trust fund.

The grant application, attached hereto as Exhibit A, is due Monday, May 17, 2021.

Fiscal Note:

Fund 128.

11. **Resolution No. 99-21(F) regarding appropriating \$228,428 from the Capital Acquisition fund for South Olive Tennis Center project remaining budget to the Capital Acquisition fund for Pleasant City Community Center project budget for the additional costs needed to complete the Community Center, including IT equipment, kitchen equipment, furniture, and additional construction costs, and to transfer \$123,912 from the South Olive Tennis Center project budget to the capital acquisition fund reserves.**

RESOLUTION NO. 99-21(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 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE CAPITAL ACQUISITION FUND BUDGET TO PROVIDE TRANSFER OF FUNDS FROM THE SOUTH OLIVE TENNIS CENTER PROJECT TO THE PLEASANT CITY COMMUNITY CENTER PROJECT AND TO RESERVE FOR FUTURE PROJECTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23320

Staff Recommended Motion:

Approve Resolution No. 99-21(F).

Background:

The Pleasant City Community Center project has been under construction since June 2020 and is expected to be completed by June 2021. The current overall budget for the project is \$1,693,693. The original construction costs for the renovation and expansion of the Community Center is \$1,446,300.

The design, permitting, and IT cabling costs totaled \$201,821, leaving \$45,572 remaining in the budget. The total cost and scope of the IT equipment and furniture budget was not known at the time the original budget was developed. The remaining IT equipment including new computers for the IT lab is estimated to cost \$66,000, and the additional furniture needed is estimated to be \$15,000. The miscellaneous changes to the scope of the construction project for the anomalies in the design due to unforeseen conditions, are estimated to cost an additional \$138,000. The total of all remaining estimated costs for Pleasant City is \$274,000.

The South Olive Tennis center is also nearing completion and will complete under budget. There is currently \$472,340 remaining in the South Olive Tennis Center Budget. Other costs that will come out of this remaining budget will be \$10,000 in kitchen equipment and \$100,000 for new furniture. There are no additional construction costs associated with the Tennis Center contract. This will leave \$362,340 in remaining budget for the South Olive Tennis Center.

Transferring the \$228,428 from South Olive tennis Center Budget to the Pleasant City Community Center budget will cover the remaining costs expected for Pleasant City. Because the expected remaining costs associated with the South Olive Tennis Center are only \$110,000, and after this transfer, the available balance will be \$133,912 in the budget for South Olive Tennis Center. Therefore, Resolution No. 99-21(F) will also transfer \$123,912 to the reserved for future projects account in 304 Capital Acquisition fund, leaving \$10,000 in remaining unused balance for South Olive Tennis Center.

Pleasant City Community Center

Remaining Current Budget:	\$45,572
1. IT Equipment Costs	(\$66,000)
2. Furniture	(\$15,000)
3. Additional Construction Changes	(\$138,000)
Budget Deficit:	(\$228,428)

South Olive Tennis Center

Remaining Current Budget:	\$472,340
1. Kitchen Equipment	(\$10,000)
2. Furniture Costs	(\$100,000)
Remaining Available Balance	\$362,340
Transfer to Pleasant City Budget	(\$228,428)
Remaining Budget	\$133,912
Transfer to Capital Acquisition Fund Reserves	(\$123,912)
Remaining Budget:	\$10,000

Post approval, the Capital Acquisition fund for Pleasant City Community Center (Project 10138551) will have the needed \$274,000 in available balance to cover IT equipment, kitchen equipment, furniture, and additional construction costs. The Capital Acquisition fund for South Olive Tennis Center (Project 50138288) will have \$120,000 remaining to cover the kitchen equipment and furniture costs with a contingency of \$10,000; and the Capital Acquisition Reserves will have a balance of \$123,912 to be used for future projects.

Fiscal Note:

South Olive Tennis Center budget will have \$10,000 remaining. Pleasant City Community Center budget will cover the \$228,428 budget deficit and reserves will have a balance of \$123,912.

12. **Resolution No. 100-21(F) providing \$60,000 to repair the Meyer Amphitheatre roof and replace an air conditioning unit in the Lake Pavilion.**

RESOLUTION NO. 100-21(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 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE WATERFRONT DISTRICT FUND BUDGET TO PROVIDE APPROPRIATIONS FOR THE REPLACEMENT OF THE MEYER AMPHITHEATER ROOF AND THE REPLACEMENT OF AN AIR CONDITIONING UNIT AT THE LAKE PAVILION: PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES..

Agenda Cover Memorandum No.: 23321

Staff Recommended Motion:

Approve Resolution No. 100-21(F).

Background:

The Meyer Amphitheatre was completed and open for usage on July 4, 1996. On an average, the Meyer Amphitheatre hosts at least forty (40) events each year, including multi-day events. In the past twenty-five (25) years, the canvas roof that covers the performing area has been replaced once. The flat roof that covers the backstage area of the Meyer Amphitheatre has never been replaced. There are numerous leaks throughout the flat roof, including over the women's restroom. Patches have been attempted to fix the wear and tear but have not corrected the problem.

The Lake Pavilion opened in 2009 and hosts approximately 200 events annually. One of three original air conditioning units for the building has had multiple maintenance issues and is now expected to not last more than a few weeks.

The Parks and Recreation Department would like to use Waterfront District Fund Balance to make the necessary replacement and repairs to both the Meyer Amphitheatre roof and the Lake Pavilion air conditioning unit. The remaining fund balance after approval will be \$745,131.

Resolution No. 100-21(F) approves the appropriations or transfer of City funds for the replacement of the Meyer Amphitheatre roof and replacement of an air-conditioner Unit in the Waterfront Lake Pavilion.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

Approval provides appropriations for the replacement of the Meyer Amphitheater roof and the replacement of an A/C unit at the Lake Pavilion.

13. **Resolution No. 101-21 approving a Grant Agreement with Palm Beach Tech Foundation, Inc. d/b/a the 1909, a small business accelerator, for Phase 2 of the gamification program totaling \$70,000 over two (2) years; and**

Resolution No. 89-21 approving an interlocal agreement between the City and CRA for funding \$20,000 of the grant for the 1909 program.

RESOLUTION NO. 101-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING ECONOMIC INCENTIVES IN THE AMOUNT OF \$70,000 FOR THE 2021 AND 2022 “COMMUNITY GAMIFICATION PROGRAM” OPERATED BY PALM BEACH TECH FOUNDATION, INC. D/B/A THE 1909; AUTHORIZING THE EXECUTION OF A RELATED GRANT AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 89-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A PROGRAM FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR AN AMOUNT NOT-TO-EXCEED \$20,000 FOR FUNDING OF A GRANT FOR THE PALM BEACH TECH FOUNDATION COMMUNITY GAMIFICATION PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23322

Staff Recommended Motion:

Approve Resolution No. 101-21 and Resolution No. 89-21.

Background:

Palm Beach Tech Foundation, Inc. d/b/a the 1909 ("1909") operates a Gamification Program. The purpose of the 1909 Community Gamification Program is to enhance community engagement, increase collaboration, and improve Accelerator Participants ability to progress in their entrepreneurial endeavors. Gamification, the application of game mechanics into non-game activities and processes, is a proven, powerful strategy for engaging, influencing, and motivating diverse groups of people. Gamified activities address and satisfy basic human desires, creating the experiences that motivate people to take specific actions. 1909 has proposed a Phase 2 Program that will allow 1909 and the City of West Palm Beach to implement systems to track and analyze member profiles, activities, and success. 1909 will prioritize diversity and inclusion through this program to provide opportunities for all and has committed to 60% minority enrollment in the program.

In 2019, the City approved a \$25,000 grant to the 1909 for Phase 1 of the Gamification Program. 1909 recently completed Phase 1 of the Program. Deliverables provided by 1909 reflect that Phase 1 of the Gamification Program achieved the following:

2020 Program Results: 20x Return on City Grant:

- 14 out of 15 companies successfully made it through the program.
- 100% of founders increased their knowledge and confidence in the foundation areas of entrepreneurship and business.
- Over \$150K of work and services were completed for participants' businesses during our Co-Lab Events, which participants earned with game points.
- 9 apps and websites were launched during the program.
- Over \$150K in Capital was raised during the program.
- Company revenue generated - over \$200K.
- Over \$50,000 of value provided in mentorship hours.
- Companies added in 16 new team members to their companies during the program.

Due to the success of the Phase 1 of the Program, staff is proposing the City provide a grant to 1909 in an amount not-to-exceed \$70,000 for Phase 2 of the program. The Program would be operated for a two (2) year term and would help further the goals outlined in the City's Economic Development Plan under Goal 5 - Entrepreneurship and Innovation. The West Palm Beach Community Redevelopment Agency, desires to provide \$20,000 in funding towards the City's Grant to 1909.

Funding Amount and Break Down:

- 2021 - \$35,000 (\$25,000 - City, \$10,000 - CRA)
- 2022 - \$35,000 (\$25,000 - City, \$10,000 - CRA)
- Total: \$70,000

As a condition of the Grant, on an annual basis, 1909 will provide the City with a set of Key Performance Indicators: 1. Upon finalization of Community Gamification participants and prior to or at commencement of the program; 2. After the completion of the program period; and 3. In an annual report. The Key Performance Indicators will be surveyed from the program participants and provide:

- Demographic Information on Program Participants
 - Gender; age; ethnicity; income; education level
- Industry and Size of business
 - Tech; Retail; Services; Food; Healthcare
- Availability of skills and resources needed for entrepreneur's success.
- Company progress metrics - what they accomplish throughout the program.
- Trends (if any) around task completion and accomplishing goal.
- Overall rating of the program for participants.
- Participant Company Metrics
 - Total amount of clients
 - Total revenue generated
 - Total amount of money raised
 - Total FTE growth
- Ongoing peer assessments of each participant's skills and competencies that will demonstrate learning and progress over the course of the program.
- Year over Year progress
 - Using 2020 participant data
 - 2 years of data analyzed for 2021
 - 3 years of data analyzed for 2022

The program is consistent with the following policy documents:

- City's Strategic Plan
- City's Economic Development Plan

Resolution No. 101-21 approves a Grant Agreement with Palm Beach Tech Foundation, Inc. d/b/a as 1909 in the amount of \$70,000 for Phase 2 of the Gamification Program.

Resolution No. 89-21 approves an Interlocal Agreement with the CRA for \$20,000 in funding to be used for the 1909 Grant.

1909 is located at 313 Datura Street in Downtown West Palm Beach in the District 3 Commission boundary.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

City is the lead on this project funding \$25,000 each year. The City CRA will fund the remaining \$10,000 each year. Total project funding is \$70,000.

RESOLUTION (14):

14. **Resolution No. 74-21 granting Face of the City approval for the temporary public artwork entitled "Energy" by local artist Brian Wood for installation on the back wall of the CRA-owned building located at 314 Clematis Street.**

RESOLUTION 74-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE TEMPORARY ARTWORK ENTITLED "ENERGY" BY LOCAL ARTIST BRIAN WOOD FOR INSTALLATION ON THE BUILDING LOCATED AT 314 CLEMATIS STREET OWNED BY THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY IN COMPLIANCE WITH THE CITY CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23323

Staff Recommended Motion:

Approve Resolution No. 74-21.

Background:

On March 3, 2021, the ArtLife WPB Committee voted unanimously to recommend "Energy" a large-scale multimedia art concept by local artist Brian Wood.

About the Artist:

Brain Wood ("Wood") holds degrees in art, psychology, and a master's degree in mental health. Wood integrates these disciplines in his art practice. As a trained therapist, Wood brings art therapy strategies to assist his patients through post traumatic events and addiction. Wood is also an avid skater and through his art form continues to capture the cultural genre of skateboarding in Palm Beach. His work is raw and challenges the traditional methodologies of painting. Wood's style brings a "cool" approach in contextualizing skateboarding through his bold use of color and texture. Wood states that he "seeks to create artwork that is empowering and impacts people's lives."

The Media/Materials:

Brian Wood's "Energy" is a multimedia art concept that integrates, paint, stencils, spray paint, and UV Max metal panels (3mm) with full color digitally printed graphics. The original artworks of Wood's will be printed onto metal panels and overlaid with UV Shield lamination. The composition includes six (6) prints each 8' X 4' and five (5) prints each 4' X 4'. "Skate Board Girls Rule", an original artwork, will be used to wrap three (3) of the City's trash compactors on the alleyway.

The Art Concept:

Wood has created a visual storyboard of local skaters demonstrating a variety of skate tricks and techniques, while infusing the composition with his signature bold colors. Wood states that his goal is to promote the culture of skateboarding and its positive impact on youth of all races, cultures, and genders. Currently, there are over forty (40) influential skateboarders from Palm Beach County that are making an impact in the skateboarding international world. Zion Wright and Alex Sorgente, two (2) of the featured skateboarders in "Energy" will be representing America in the Olympics. Also featured are two (2) young females, Beatrice Domond and Fabiana Delfino, both professionals with their own Vans signature shoes. Wood believes that interactive skate parks in the community provides healing, physically, mentally, and spiritually. The work energizes a particularly challenging wall, the blue cutouts seen on the composition are existing infrastructure, which he has deftly worked into his final piece. Keeping the spirit of their culture, the skateboarders featured illustrate their moves on an unusual platform.

The work is temporary not to exceed eighteen (18) months.

The Criteria:

The ArtLife WPB committee reviewed the art concept by Brian Wood for the following criteria:

1. Art: The proposed artwork conforms to the definition of art contained in this article and will be created by a professional artist as defined in this article.
2. Master Plan: The proposed artwork complies with the public art master plan.
3. Historic Significance: Not applicable as the proposed art is contemporary.
4. Cultural Significance: The proposed artwork is culturally significant and reflects the aesthetic and cultural traditions and diversity of the city or the surrounding neighborhood.
5. Visual Accessibility: The proposed artwork will be readily visible to the public and meet the location requirements of this article.

6. Quality: The artist is professionally recognized in multiple mediums and the proposed art installation demonstrates a strong aesthetic quality and enduring value.
7. Appropriateness to Site: The proposed multimedia art installation, design, scale, and materials are appropriate for the site.
8. Diversity: The artwork brings diversity to the public art program in terms of media, cultural, and/or historical significance, innovation and creativity.
9. Public Welfare: The proposed art reflects an enduring artistic concept and is not detrimental to the public welfare and will not constitute a safety hazard.
10. Maintenance: The art installation will require only minimum maintenance and the work is temporary (18 months).
11. Valuation: Not applicable. Budgeted and funded by the CRA.
12. Location: The identified location complies with the public art master plan and as defined in the code.
13. Artist Qualifications: The artist meets the definition of artist under this article, has demonstrated ability for work in his chosen media, has demonstrated good workmanship in prior artwork, and could complete this project in a timely manner.
14. Budget: The project budget meets the CRA allocated funds for the project and a budget breakdown was part of the artist's proposal.

Resolution No. 74-21 grants Face of the City approval of "Energy" by local artist Brian Wood to be installed on the back wall of 314 Clematis Street.

There is a companion item on the CRA Agenda as Resolution No. 21-19.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact. Budgeted through CRA.

PUBLIC HEARINGS (15-17):

15. **Public Hearing and Second Reading of Ordinance No. 4934-21 amending the City's Code of Ordinances to prohibit sleeping/camping in certain designated areas in the City.**

ORDINANCE NO. 4934-21: 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 54 – OFFENSES, ARTICLE IV – OFFENSES AGAINST PUBLIC PEACE, DIVISION 3, SECTIONS 54-146 AND 54-147, REGARDING PROHIBITED CONDUCT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Agenda Cover Memorandum No.: 23325

Staff Recommended Motion:

Approve Ordinance No. 4934-21 on Second Reading.

Background:

The City has experienced conduct threatening the public health, safety, and welfare. Such conduct includes camping/sleeping in public areas, as well as in the entrances and exits of businesses located in the City. This has become a systemic problem that threatens the use of the City's public areas and businesses by its citizens and visitors, placing businesses, patrons, and residents in those areas at risk, and threatening the individual well-being of citizens and visitors.

The City wishes to promote the health, safety, and welfare of its citizens, visitors, and businesses. To that end, Ordinance No. 4934-21 regulates and prohibits sleeping and “camping” in public areas, as well as in the entrances and exits of the City's businesses. However, the City wishes to make enforcement of such prohibitions applicable only after the City has undertaken significant outreach measures, including offering social service and/or housing/shelter assistance and where housing/shelter is available.

16. Public Hearing and First Reading of Ordinance No. 4943-21 approving a Ground Lease, Development and Operating Agreement for the City's Golf Course property with the West Palm Golf Community Trust.

ORDINANCE NO. 4943-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A GROUND LEASE, DEVELOPMENT AND OPERATING AGREEMENT BETWEEN THE CITY AND THE WEST PALM GOLF COMMUNITY TRUST, INC., FOR THE MUNICIPAL GOLF COURSE PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THESE PURPOSES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23326

Staff Recommended Motion:

Approve Ordinance No. 4943-21 at First Reading and schedule a Second Reading for May 17, 2021.

NOTE: Section 2-31(27) of the Code Ordinances requires approval of a long-term lease by four-fifths of the membership of the City Commission at one of the ordinance readings.

Background:

The City of West Palm Beach's municipal Golf Course property is a unique parcel of approximately 179 acres located just south of Forest Hill Boulevard, east of Interstate 95, west of South Dixie Highway and the Florida East Coast Railway line, and north of the Lake Worth "C-51" Canal.

The City of West Palm Beach desires to keep its public Golf Course open and offering public play to its residents at affordable rates, while also maintaining a world class golf facility that will attract new golf devotees and tournaments. Accordingly, on more than one occasion, the City sought proposals for a development agreement / lease for the West Palm Beach municipal Golf Course seeking the renovation and restoration of the municipal Golf Course with related development to attract new residents and visitors to the area and Golf Course. On each prior occasion, after significant time spent in negotiations, the City has been unable to finalize a development agreement / lease with a proposer.

Subsequently, The South Florida Section, Professional Golfers Association of America, Inc. ("SFPGA"), submitted an unsolicited proposal for the development of the Golf Course. SFPGA formed the West Palm Golf Community Trust, Inc. (the "Developer"), which is a not-for-profit corporation to be operated exclusively for charitable purposes within the meaning of with Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, with a primary purpose to develop, improve, maintain, and operate the West Palm Beach public golf course to provide affordable golf to residents of West Palm Beach, and to develop, improve, maintain, and/or operate recreational activities and facilities, such as municipal parks, nature trails, lakes, and golf courses, for use by the general public and to make

charitable contributions toward other public needs. These uses and amenities have also been vocalized by residents through numerous public engagement efforts that the City and SFPGA has undertaken.

Upon the Mayor's directions, negotiations were conducted, and by Resolution No. 346-20, the City Commission approved a Term Sheet with Developer for the redevelopment of the City's municipal Golf Course by the Developer, along with the construction of administrative offices for SFPGA. The City Commission further directed that a development agreement and lease, which provides financial protections to the City, be negotiated and brought back to the Commission for consideration.

LEASE TERMS:

The significant terms of the negotiated Ground Lease, Development and Operating Agreement include the following:

- **Term:** The lease term is fifty (50) years, with an option to extend the term for an additional twenty (20) years.
- **Golf Course:** Developer is to redevelop and construct the Golf Course with Florida friendly native trees and plants. The Golf Course will include a short course, putting course, practice range, and short game area. A new Clubhouse with a bar, dining facilities, full-service kitchen, and office space for the Golf Course operations will also be constructed. A Performance Center, which may include indoor/outdoor hitting bays, a teaching facility, club fitting and putting studio with computer technology and training aids will also be developed as part of the Golf Course. The Concept Plan for the Golf Course is attached to this Ordinance.
- **SFPGA Offices:** A building for the SFPGA administrative offices for 15-20 persons will also be constructed and may be used for operating and managing community outreach programs, hosting events, fundraising activities, and children's program(s), along with the ability for future construction of a building to house the memorabilia collection of PGA of America.
- **Minimum Capital Contribution:** The Developer's investment into the Golf Course improvements shall not be less than Nine Million Dollars (\$9M).
- **Golf Course Operating Costs:** Developer shall be responsible for all operating and maintenance costs of the Golf Course, except for property insurance. City shall have no obligation for any operating deficit.
- **Schedule:** The intended schedule contemplates issuance of a Certificate of Occupancy for the Golf Course and Clubhouse by September 1, 2023, subject to reasonable causes for delay as provided in the Lease.

- Resident Rates: At all times, West Palm Beach residents shall receive a discount of not less than 35% off the prevailing highest, non-resident green fee rates for that day and time.
- Resident Tee Times: No less than 20% of the available tee times will be for City Residents on a monthly basis.
- Rent: \$1 per year.
- Additional Rent: After the first ten (10) years of operating the Golf Course, the Developer will pay Additional Rent to the City provided that: (i) the endowment of the Foundation is at least \$25 million (as adjusted per the Lease); (ii) that the Foundation has budgeted and reserved for any required capital projects as determined by the Board of Directors of the Foundation; and (iii) that the Lessee has a positive net operating income in such year. In such circumstances, Lessee shall pay seventy five percent (75%) of the excess operating income from the Golf Course as Additional Rent. The City may utilize the Additional Rent to fund capital improvement projects or programs related to the Golf Park, Mary Brandon Park, improvements to the public realm, streetscapes, hardscapes, public art, other enhancement improvements within one-half (½) mile of the Golf Park, or other City projects or programs mutually agreed to by City and the Developer.
- SB / MWBE Participation: The Developer is required to have small business and MWBE firms participate in fifteen percent (15%) of the construction contract value.
- Local Workforce: The Developer is required to have five percent (5%) of its construction workforce be City residents.
- City Obligations: The City will pay or waive, as applicable, various fees for the development, including but not limited to, application and development fees, impact fees, utility capacity and connection fees, water and connection fees, and property insurance for the Golf Course. The City will purchase title insurance for the leased property.

CONCEPTUAL PLAN: The Developer has also submitted its proposed Conceptual Plan for the Property for the City Commission's approval.

APPRAISAL: Section 2-31(27)(c) of the Code Ordinances eliminates the requirement for appraisal of the property to be leased if the lessee is a bona fide not-for-profit 501(c)(3) corporation. The Developer meets this requirement, so appraisal of the property was not required.

Ordinance No. 4943-21 approves the Ground Lease, Development and Operating Agreement with West Palm Golf Community Trust, Inc. and approves the proposed Concept Plan.

Fiscal Note:

Rent of \$1 per year. Additional Rent may commence after ten (10) years of Golf Course operations and may vary based on whether excess revenue is generated. City will not be responsible for Golf Course operating costs.

17. **Public Hearing and First Reading of Ordinance No. 4941-21 Chapter 90 (Utilities) Article III (Sewers and Sewage Disposal) amending Section 90-122 and Section 90-126 of the Code of Ordinances to comply with requirements of the Florida Administrative Code as regulated by the Florida Department of Environmental Protection.**

ORDINANCE NO. 4941-21: 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 90 (UTILITIES), ARTICLE III (SEWERS AND SEWAGE DISPOSAL), SECTION 90-122 AND SECTION 90-126 REGARDING THE CITY'S WASTEWATER INDUSTRIAL PRETREATMENT PROGRAM TO COMPLY WITH REGULATIONS BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING FOR A CODIFICATION CLAUSE, A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23327

Staff Recommended Motion:

Approve Ordinance No. 4941-21 on First Reading and schedule a Public Hearing and Second Reading for May 17, 2021.

Background:

The proposed amendments to the sewer use ordinance will provide for language to allow for the City's regulations relating to dental amalgam sewer ban and pharmaceutical hazardous waste sewer ban, which requirements are set forth in Chapter 62-625 of the Florida Administrative Code. These regulations and guidelines were originally set forth by the Environmental Protection Agency (EPA). The City of West Palm Beach, in its capacity as the control authority of the East Central Regional Wastewater Treatment Facility (ECRWWTF), is tasked with the enforcement of these rules.

On April 5, 2021, the Florida Department of Environmental Protection issued a preliminary approval of the proposed amendments to the City.

Fiscal Note:

No fiscal impact.

**PUBLIC HEARING – QUASI JUDICIAL (18-20):
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

- 18. Public Hearing and Second Reading of Ordinance No. 4939-21 approving the Local Landmark district designation of 310 North Olive Avenue, also known as St. Ann's Catholic Church, on the West Palm Beach Local Register of Historic Places.**

ORDINANCE NO. 4939-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING 310 NORTH OLIVE AVENUE AS A HISTORIC LANDMARK PROPERTY ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES; PROVIDING FOR THE TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23287

Staff Recommended Motion:

Approve Ordinance No. 4939-21 for the designation of 310 North Olive Avenue as a Landmark District on the West Palm Beach Register of Historic Places and providing for the transfer of development rights. This motion is based upon the recommendation of the Historic Preservation Board, the factual testimony presented, the application submitted, the staff report, and the finding that the criteria set forth in Sec. 94-48 of the Zoning and Land Development Regulations have been met.

Background:

The proposed St. Ann's Roman Catholic Church Landmark Historic District consists of five (5) properties:

1. The 1895 Church located at the northeast corner of North Olive Avenue and 2nd Street.
2. The 1912 Church located just north of the 1895 Church.
3. The 1925 School located at the southeast corner of North Olive Avenue and 3rd Street.
4. The Rectory built ca. 1903 and substantially rebuilt in 2000-2001.
5. A garage building constructed ca. 1950 and subsequently altered.

The district was placed on the local register in 2003 and is one of the best examples in the Country for the utilization of a TDR program to protect historic resources. The Church would now like to elevate their designated status to landmark.

It is the City staff's recommendation that the Commission approve the applicant's request to designate the buildings at 310 North Olive Avenue, also known as St. Ann's Catholic Church, as a Historic Landmark District. It meets Criteria A, C, D, and E, as defined in Section 94-48(a)(2) of the Zoning and Land Development Regulations. Specifically, the building is at least fifty (50) years old, it is associated with events that have made a significant contribution to the broad patterns of the City's history, it embodies the distinctive characteristics of a type, period or method of construction, and it is associated with a singular location that is unique or possesses singular physical characteristics that make it an established or familiar visual feature. It retains integrity of design, materials, workmanship, and location.

The Historic Preservation Board recommended approval of designation (7-0) on February 23, 2021.

Commission approved 5-0 at First Reading on March 22, 2021.

Commission District No. 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

19. Public Hearing of Resolution No. 10-21 approving the re-plat entitled "7-Eleven Southern" located at 301 Southern Boulevard.

RESOLUTION NO. 10-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MINOR SUBDIVISION AND RE-PLAT OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "7-ELEVEN SOUTHERN", CONSISTING OF THREE LOTS, CONTAINING A TOTAL OF APPROXIMATELY 1.35 ACRES, LOCATED AT 301 SOUTHERN BOULEVARD, GENERALLY LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND SOUTH OLIVE AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23328

Staff Recommended Motion:

Approve Resolution No. 10-21 creating the Plat entitled "7-Eleven Southern". This motion is based upon the plat submitted, the staff report, factual testimony, and the findings that the plat is consistent with the Comprehensive Plan, complies with the requirements set forth in Sections 94-44 and 94-342 of the Zoning and Land Development Regulations and complies with all applicable provisions of Chapter 177, Florida Statutes.

Background:

The subject property consists of three (3) separate lots. The purpose of this replat is to combine the various lots from the underlying plat of Revised Plat of Estates of South Palm Beach, less those portions dedicated for right-of-way, in order to create a buildable parcel. The parcel is located at the northwest corner of Southern Boulevard and South Olive Avenue at 301 Southern Boulevard and is a total of 1.35 acres. This replat will replat Lots 122, 123 and 186-198 and portions of Lots 118-121, 124-127, 184 and 185, of the Revised Plat of Estates of South Palm Beach, previously recorded in Plat Book 7, Page 33.

The subject property has an approved Site Plan (ISPR Case No. 19-11) and a Class B Special Use Permit (HPB Case No. 20-01) for a 4,300 square foot 7/11 Convenience Store and motor vehicle fuel sales (no service) and this replat is required by the Site Plan Approval.

STANDARDS: The plat complies with all the general design standards of Sec. 94-342 of the Zoning and Land Development Regulations.

PLANNING BOARD: As a Minor Subdivision, the subject plat was not required to be reviewed by the City's Planning Board.

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Resolution No. 10-21 was advertised in the Palm Beach Post on April 23, 2021.

Commission District 3: Commissioner Christy Fox.

20. **Public Hearing of Resolution No. 76-21: A request by Joni Brinkman, of Urban Design Studio, on behalf of Banyan Cay Resort & Golf LLC, for a Major Amendment to the Banyan Cay RPD/CPD, located at 3200 North Congress Avenue, to modify the Design Guidelines and Development Regulations, specifically with regard to the required elements for the parking garage.**

RESOLUTION NO. 76-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE BANYAN CAY RESORT RESIDENTIAL AND COMMERCIAL PLANNED DEVELOPMENTS, GENERALLY LOCATED NORTH OF PRESIDENTIAL WAY AND EAST OF CONGRESS AVENUE, TO MODIFY THE BANYAN CAY DESIGN GUIDELINES AND DEVELOPMENT REGULATIONS, SPECIFICALLY WITH REGARD TO THE REQUIRED ELEMENTS FOR THE PARKING GARAGE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23310

Staff Recommended Motion:

Approve Resolution No. 76-21 regarding a Major Amendment to the Banyan Cay Residential and Commercial Planned Developments to modify the Design Guidelines and Development Regulations with regard to the required elements for the parking garage, with the conditions recommended in the staff report. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, 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.

ALTERNATIVE MOTION (IF STAFF'S CONDITION IS TO BE REMOVED FROM THE RESOLUTION):

Approve Resolution No. 76-21 regarding a Major Amendment to the Banyan Cay Residential and Commercial Planned Developments to modify the Design Guidelines and Development Regulations with regard to the required elements for the parking garage, but with the provision that shade structures shall only be required along the perimeter rows of parking on the upper level of the garage. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, 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:

(The information provided below is a general summary. A full analysis is included in the Staff Report.)

Located north of Presidential Way and east of Congress Avenue, the subject property consists of a total of ±119.53 acres and is the location of the former north golf course of The President Country Club within the Lands of the President. Due to a decline in the membership and the financial instability of the private club, the President Country Club was sold in July 2011.

In order to enhance the remaining south golf course, the north course was approved for redevelopment as an exclusive resort-style community consisting of residential homes; a resort hotel with spa, meeting space, and restaurant; golf clubhouse; a future multifamily high-rise; and resort cottages. Originally known as the PCC Resort Community, the initial version was adopted by the City Commission on July 8, 2013.

Several amendments have occurred since the original approval, with the most recent being approved by the City Commission on November 20, 2017. The golf course clubhouse was ultimately completed (but is still pending a final Certificate of Occupancy) and many of the 94 single family homes in Pod A have also been completed and are now occupied; the remaining homes in Pod A have been permitted.

Following a lengthy stall, the hotel and associated parking garage have also resumed construction, but the developer has identified some concerns with the screening elements that were required on top of the hotel parking garage; specifically, the costs. In order to provide a more cost-effective alternative, the applicant is requesting that instead of structural pergolas or trellis' across all parking spaces on the upper parking deck, that canvas "sails" be allowed on the perimeter rows of parking. These triangular-shaped fabric elements would be stretched between support poles.

The treatment of the parking on the upper level of the garage was an item of lengthy debate when the project was initially proposed as residents living in the surrounding high-rise condominiums were concerned about having to look down on the roof of the cars. The upper level of the garage is unique in that unlike a surface parking lot, landscape islands with shade trees are not required and thereby results in a large surface area of open parking. To address this concern, the original set of Design Guidelines & Development Regulations required that:

- Shade/flowering trees be planted along the outside perimeter of the garage;
- Pergolas be installed along the perimeter rows of parking;
- Shade structures (sails, awnings, etc.) be provided on interior rows of parking; and
- Landscaping such as potted trees/plants be installed throughout.

As part of the Major Amendment in 2017 the developer requested to "water down" the screening requirements to the point that landscaping would only be required along the perimeter of the garage at the ground level and that the screening of the spaces only needed to consist of an open-air trellis; the requirement of "movable, self-contained planters" on the interior portion of the roof level and taller landscaping on the perimeter was ultimately added in to try and address Staff's concerns at that time.

While Staff understands the challenges of the structural pergolas and the cost associated with such, there is significant concern that this is the second proposed modification to the screening requirements and that the proposed design is a considerable deviation from what was originally proposed and conveyed during the initial community outreach. As such, it is Staff's position that it is still important to provide some level of screening on these interior spaces. Providing such would: reduce the heat island effect, reduce the glare that would result from the sun reflecting off the roofs of the cars; and shield the lighting of the roof deck (which was originally designed to be underneath the pergolas). Therefore, Staff is recommending that the proposed canvas sails not only be required along the perimeter rows of parking, but that the interior rows also be provided with the same screening.

CONCLUSION: Overall, the previously approved development remains unchanged from that which was approved in 2017. The applicant is requesting the design changes to the upper level of the garage due to cost concerns, but it is Staff's professional opinion that the alternative shade structures along the perimeter rows of parking could also be provided on the interior spaces and help to address the original concerns that were expressed by surrounding residents throughout the initial public hearing process. Subject to providing the shade structure throughout the upper level of the garage, the project complies with all of the other requirements of Banyan Cay RPD/CPD, and the Development Services Department – Planning Division has found that the request satisfies all of the standards found within the City's ZLDRs.

PLANNING BOARD: After a Public Hearing on March 16, 2021, the Planning Board recommended approval (4-0) of the request, subject to the conditions recommended by Staff.

PUBLIC NOTICE: Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. Resolution No. 76-21 was also advertised in the Palm Beach Post on April 9, 2021.

Commission District 1: Commissioner Kelly Shoaf

Fiscal Note:

No fiscal impact.

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

COMMENTS BY THE MAYOR AND CITY COMMISSIONERS:

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 and written communications shall be placed in the record; and 2) site visits, investigations, etc.**

NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.