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Mayor Keith A. James
Commission President Christy Fox (District 3)
Commissioner Cathleen Ward (District 1)
Commissioner Shalonda Warren (District 2)
Commissioner Joseph A. Peduzzi (District 4)
Commissioner Christina Lambert (District 5)

City Administrator Faye W. Johnson
City Attorney Kimberly Rothenburg
City Clerk Hazeline Carson

**City of West Palm Beach
City Commission
DRAFT Agenda
Monday, June 27, 2022
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.

5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA

6. PROCLAMATION

- 6.1. Proclaiming July 2022 as Parks and Recreation Month. Proclamation to be accepted by Leah Rockwell, Director of Parks and Recreation.

Originating Department:
Mayor's Office

7. PRESENTATION

- 7.1. Surfside Remembrance and Recognition

Originating Department:
Fire

8. 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.

- 8.1. Minutes of the Special City Commission Meeting of May 31, 2022

Originating Department:
Mayor's Office

- 8.2. Minutes of the Regular City Commission Meeting of May 31, 2022

Originating Department:
Mayor's Office

- 8.3. Resolution No. 166-22(F) appropriating \$557,053 from the Fiscal Year 2022 Water and Sewer System Revenue Fund Contingency budget for legal and engineering services related to State Road 7.

Originating Department:
Public Utilities

Ordinance/Resolution:

RESOLUTION 166-22(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 2021/2022 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE AMENDING THE WATER AND SEWAGE SYSTEM REVENUE FUND BUDGET TO PROVIDE APPROPRIATION OF FUNDS FOR ENGINEERING AND LEGAL SERVICES RELATED TO STATE ROAD SEVEN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The Florida Department of Transportation (FDOT) originally applied for an Environmental Resource Permit (ERP) from the South Florida Water Management District (SFWMD) for the State Road 7 Extension (SR 7) in 2015. In March 2016, the City filed a petition challenging SFWMD's

proposed issuance of the SR 7 ERP. After an administrative hearing at the Division of Administrative Hearings (DOAH), in March 2017 an Administrative Law Judge recommended issuance of the ERP, and in May 2017 SFWMD issued a Final Order regarding the ERP. The City filed an appeal of SFWMD's final order, and in August 2018 the 4th District Court of Appeal reversed the Final Order, finding a number of significant flaws in the administrative hearing and SFWMD's interpretation of its own ERP rules. In January 2019, upon remand to DOAH, a new final hearing on the SR 7 ERP was scheduled for August 2019. Upon identification of a number of significant issues with the design of the stormwater system for SR 7 and the environmental impacts associated with the road by the City's experts, on the eve of the final hearing FDOT withdrew its application for the SR 7 ERP.

In October 2020, FDOT submitted a new application for an ERP for SR 7, revising the roadway design and changing the stormwater discharge location from the Ibis Development surface water management system to a wetland area immediately adjacent to Grassy Waters Preserve, just north of Northlake Boulevard. In April 2021, SFWMD once again proposed to issue an ERP for SR 7. The City's experts reviewed FDOT's application materials and once again identified significant concerns with the roadway design and the potential for environmental impacts associated with the road, including impacts to Grassy Waters Preserve. In response, the City once again filed a petition challenging the proposed issuance of the ERP, as well as a Consumptive Use Permit (CUP) associated with dewatering proposed during construction of the road. A final hearing before a DOAH Administrative Law Judge was scheduled for February 2022, however after the City experts' criticisms of the updated roadway were disclosed through discovery, FDOT once again made revisions to its roadway plans. As a result, the final hearings on the ERP and CUP originally scheduled for February 2022 was continued by the Administrative Law Judge to November 2022, to allow for the review of FDOT's newly updated plans and update of expert analyses.

The budget reflects the cost of updating City experts' reviews and analyses in light of FDOT's most recent revisions to its roadway plans, completing pretrial discovery regarding those changes, and the conduct of the final hearings scheduled for November 2022.

Commission District 4: Commissioner Joseph Peduzzi.

Fiscal Note:

Post approval, the Water and Sewer System Revenue Fund Contingency balance will be approximately \$724,000.

- 8.4. Resolution No. 175-22 approving submittal of the City's application for two (2) grants from the Florida Department of Education - Division of Early Learning, American Rescue Plan Act, Child Care Stabilization Grant

Program offered through the Early Learning Coalition of Palm Beach County for South Olive Community Center in the amount of \$45,708.30 and for Gaines Park Community Center in the amount of \$60,876.18.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 175-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF APPLICATIONS FOR TWO GRANTS FROM THE FLORIDA DEPARTMENT OF EDUCATION, DIVISION OF EARLY LEARNING, AMERICAN RESCUE PLAN CHILD CARE STABILIZATION GRANT PROGRAM, OFFERED THROUGH THE EARLY LEARNING COALITION OF PALM BEACH COUNTY, IN THE AMOUNTS OF \$45,013.32 FOR THE SOUTH OLIVE COMMUNITY CENTER AND \$60,789.96 FOR THE GAINES PARK COMMUNITY CENTER; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Background Information:

The Department of Parks and Recreation was contacted on March 31, 2022, by the Early Learning Coalition of Palm Beach County regarding the State of Florida Office of Early Learning ARPA (American Rescue Plan Act) Child Care Provider Stabilization Subgrant - Round 1 funding. The Early Learning Coalition provided the City with 2 (one for each licensed City facility) Early Learning/Child Care Provider Stabilization Subgrant Grant Eligibility Forms to complete sign and return for funding. The City's out-of-school programs are eligible based on operating a licensed child care facility on or before March 11, 2021.

The Child Care Stabilization Subgrant funding is based on enrollment at licensed child care centers. Funds will be specified for staff recruitment and retention, staff development, deferred maintenance, program equipment and supplies. The proposed budget for each center is as follows:

Gaines Park Community Center - \$60,876.18
South Olive Park Community Center - \$45,708.30
Total: \$106,584.48

Resolution No. 175-22 authorizes submittal of the City's application for two (2) grants from the Florida Department of Education - Division of Early Learning, American Rescue Plan Act, Child Care Stabilization Subgrant Program.

Commission District 1 and 5: Commissioner Cathleen Ward and Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 8.5. Resolution No. 189-22 designating TD Bank, N.A. as a depository for City funds and designation of signatories on bank instruments with TD Bank, N.A.

Originating Department:

Finance

Ordinance/Resolution:

RESOLUTION NO. 189-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING CERTAIN INDIVIDUALS AS SIGNATORIES ON BANK INSTRUMENTS AND TRANSACTIONS; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Background Information:

One of the City's bank depositories is TD Bank, N.A. Due to staff changes in the Finance Department it is necessary to update City signatories authorized to represent the City and conduct banking transactions with TD Bank. In order to effectuate these needed updates TD Bank requires that the City designate those individuals which are empowered to act as signatories on banking instruments and transactions by Resolution.

Approval of this resolution reaffirms the City's designation of TD Bank, N.A. as a depository for City funds. This resolution also designates the following individuals as signatories on bank instruments and documents with TD Bank, N.A:

- Chief Financial Officer: Bridget Souffrant
- City Administrator: Faye W. Johnson
- Treasury Manager: Dathan Griffiths
- Accounting Manager: Karen Malcolm

Fiscal Note:

No budget impact.

9. RESOLUTIONS

- 9.1. Resolution No. 123-22 granting Face of the City approval of the design for Currie Park improvements.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 123-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE DESIGN FEATURES PRESENTED TO THE CITY COMMISSION FOR THE PROPOSED CURRIE PARK IMPROVEMENTS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 123-22.

Background Information:

The CRA issued Request for Proposals (RFP) No. 18-19-201 for Professional Architectural & Engineering Design Services for Currie Park. The CRA Board heard presentations from interested firms and selected Chen Moore and Associates (CMA) with which to negotiate a Professional Services Agreement.

Resolution No. 20-57 approved the master Professional Services Agreement for Architectural & Engineering Design Services, which established the overall scope of services for the design of Currie Park, general hourly rates, insurance requirements, and other general terms and conditions.

Chen Moore's professional services were organized into two (2) phases:

(1) Phase I: Information Gathering, Public Engagement, Visioning and Planning

(2) Phase II: Design, Permitting, and Construction Administration

Phase I commenced on November 2, 2020 and included the following tasks:

- Project coordination meetings.
- Thorough site investigation.
- Coordination with local permitting agencies to develop a permitting path.
- A robust public engagement program.
- Visioning.
- The development of a master plan.
- Cost estimating.
- A development phasing plan.
- Activation, operations, and governance plan.
- Revenue strategy and strategic funding plan within existing budget limitations.

CMA presented the preliminary master plan to the Parks and Recreation Advisory Committee (PRAC) on April 13, 2021 and the CRA Advisory Board (CRAAB) on April 30, 2021 for discussion and feedback. The final

master plan, including 100% schematic design construction documents with associated cost estimates, was brought in front of PRAC on May 11, 2021 and CRAAB on May 28, 2021 for recommendation of approval.

On June 1, 2021 Resolution No. 121-21 approved the master plan for Currie Park as presented by CMA.

After extensive community engagement, the park design was modified and is now presented to the Mayor and City Commission for Face of the City approval.

Resolution No. 123-22 approves the design of the Currie Park improvements.

Commission District 1: Commissioner Cathleen Ward.

- 9.2. Resolution No. 181-22 authorizing the City Commission of the City of West Palm Beach to approve street tree planting for 57th & 58th Street; and

Resolution No. 182-22(F) authorizing the City Commission of the City of West Palm Beach, Florida, to accept and appropriate funds in the amount of \$7,700 for 57th & 58th Street, tree planting project.

Originating Department:

Parks and Recreation

Ordinance/Resolution:

RESOLUTION NO. 181-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING 57TH & 58TH STREET TREE PLANTING PROJECT AGREEMENT WITH THE AGREED RESIDENTS FOR THE PLANTING OF TREES; AND APPROVING THE LOCATION AND ABOVE GROUND CHANGES OF THE PROJECT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 182-22(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 2021/2022 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 APPROPRIATE FUNDING FROM THE LANDSCAPE MANAGEMENT RESERVES FOR THE 57TH & 58TH STREET TREE PLANTING PROJECT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

Staff Recommended Motion:

Approve Resolution No. 181-22 and Resolution No. 182-22(F).

Background Information:

The total cost of the 57th and 58th street tree project is estimated at \$7,700. The cost shall be 100% funded by the reserves from the Landscape Management Division in the Development Services Department.

Appropriations for this project will be transferred to the Parks and Recreation Parks Maintenance Division General Fund budget for purchase and installation of the trees by a landscape contractor hired by the City. There will be fourteen (14) 12' Green Buttonwood Trees installed at the locations listed on the attached master planting list.

The residents of 57th and 58th street tree planting project have agreed to care for and maintain the trees. Each homeowner has signed a tree maintenance covenant. However, the covenants will not be recorded and will not be a covenant running with the land.

Commission District 1: Commissioner Cathleen Ward.

Fiscal Note:

Approval will utilize reserves to provide appropriations for the 57th & 58th Street Tree Planting project in the amount of \$7,700.

- 9.3. Resolution No. 163-22 accepting the donation of a Green Buttonwood tree to be relocated from a single family development site at 3030 Washington Road to the City of West Palm Beach Monceaux Park at 2904 South Flagler Drive to meet code requirements of Section 94-448 (d)(3) protection of trees, and as approved by the Historic Preservation Board.

Originating Department:

Development Services

Ordinance/Resolution:

RESOLUTION NO. 163-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, ACCEPTING THE DONATION OF ONE GREEN BUTTONWOOD TREE FROM 3030 WASHINGTON RD, LLC, TO BE RELOCATED TO MONCEAUX PARK; AUTHORIZING EXECUTION OF A DONATION AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Resolution No. 163-22.

Background Information:

The Prospect Park/Southland Park neighborhood area, where this home is located, is generally bounded by Monceaux Road to the north, Monroe Drive to the south, the intracoastal waterway to the east and the alley east

of Dixie Highway to the west. This neighborhood was originally designated as a Historic District in the West Palm Beach Register of Historic Places through Ordinance No. 2682-93 approved on the 19th day of November, 1993.

The property at 3030 Washington Road has been approved for a large residential building which is under construction. There is a large Green Buttonwood tree on the property that is in good condition and is required to be relocated or preserved on site through the Historic Preservation Board approval of June 26, 2018.

Section 94-448 of the City's Code of Ordinances requires that any tree to be removed must be relocated or replaced, or if it cannot be relocated or replaced, to provide payment in lieu thereof to the landscape trust account. If a tree is to be relocated, the property owner is responsible for the relocation of the tree.

The protection of this tree was initiated by the City Landscape Planner and City Historic Preservation Planner due to its connection to the community as its branches extend from the location at 3030 Washington Road into George Petty Park, it's age ranging from 100 to 150 years, it's stature as a Florida native tree species, it's size and historic association with the Prospect Park/Southland Park neighborhood.

The relocation site at Monceaux Park was chosen by staff as a good alternative for the relocation as construction of a Public Utilities project for stormwater control had started in George Petty Park and the space was not available to relocate the tree to the adjacent park.

The tree will provide shade for Monceaux Park, create habitat and further beautify the area. Once relocated, a resolution will be presented to City Commission to designate the tree as a historic tree.

Resolution No. 163-22 accepts the donation of the Buttonwood tree for installation at Monceaux Park. The property owner will be responsible for the relocation of the tree, and for its care and maintenance for one year.

Commission District 5: Commissioner Christina Lambert.

10. PUBLIC HEARING

- 10.1. Public Hearing and Second Reading of Ordinance No. 5005-22 approving the First Amendment to the Ground Lease, Development and Operating Agreement with the West Palm Golf Community Trust to add two (2) parcels to the leased property.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5005-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE GROUND LEASE, DEVELOPMENT AND OPERATING AGREEMENT BETWEEN THE CITY AND THE WEST PALM GOLF COMMUNITY TRUST, INC., AMENDING THE DEFINITION OF THE LEASED PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THESE PURPOSES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approved Ordinance No. 5005-22.

Background Information:

As approved by Ordinance No. 4943-21, the City of West Palm Beach and the West Palm Golf Community Trust, Inc., entered into that certain Ground Lease, Development and Operating Agreement dated May 24, 2021, with an effective date of June 17, 2021 (the "Lease"), demising the City's Golf Course property, which prior to redevelopment had a street address of 7001 Parker Avenue, West Palm Beach, Palm Beach County, Florida and referred to therein as the "Property".

Although the City has utilized the overall approximately 170 acre Golf Course property as part of the municipal golf course for more than 50 years, at the time of lease, review of the property records determined that the City did not have record title to two small portions of the Golf Course – at 15 foot wide strip of land and a 200 foot wide strip of land.

The City obtained title to the 15-foot strip of property located within the Golf Course by virtue of an Order Granting Final Summary Judgment, dated October 13, 2021, in Civil Case No. 502021CA007107XXXXMB, recorded in Official Record Book 32978, Page 935, of the Public Records of Palm Beach County, Florida ("Parcel B").

The City obtained title to an approximately 200 foot-wide strip of land, consisting of 2.103 acres, more or less, by conveyance from the State of Florida Department of Transportation by Quitclaim Deed, dated February 7, 2022, recorded in Official Record Book 33303, Page 977, of the Public Records of Palm Beach County, Florida ("Parcel C").

The City and the West Palm Golf Community Trust desire to amend the Lease to include Parcel B and Parcel C as part of the leased Property for use as the redeveloped Golf Course.

Ordinance No. 5005-22 approves a First Amendment to the Lease to include Parcel B and Parcel C as part of the leased Property. This Ordinance was unanimously approved at First Reading.

Commission District 5: Commissioner Christina Lambert.

Fiscal Note:

No fiscal impact.

- 10.2. Public Hearing and Second Reading of Ordinance No. 5006-22 relocating Article V (Rental Dwelling Units) from Chapter 18 to Chapter 22.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5006-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELOCATING ARTICLE V (RENTAL DWELLING UNITS) FROM CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS) OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, TO CHAPTER 22 (BUSINESS REGULATIONS), CREATING ARTICLE XII (RENTAL DWELLING UNITS), WITH SECTION 22-441 LICENSE AND BUSINESS TAX RECEIPT REQUIRED FOR RENTAL DWELLINGS; EXEMPTION; SECTION 22-442 APPLICATION; SECTION 22-443 LICENSE FEES; SECTION 22-444 TEMPORARY CERTIFICATE; SECTION 22-445 ISSUANCE OF LICENSE; SECTION 22-446 DESIGNATION OF RESIDENT AGENT; SECTION 22-447 DUTY TO ACCEPT NOTICE OF VIOLATION; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5006-22.

Background Information:

The purpose of this Ordinance is to relocate Article V (Rental Dwelling Units) from Chapter 18 (Buildings and Building Regulations) of the Code of Ordinances to Chapter 22 (Business Regulations) and create a new Article XII (Rental Dwelling Units) for the public's ease of reference. Article XII (Rental Dwelling Units) provides regulations to govern the licensing of rental dwelling units.

This Ordinance is enacted pursuant to the home rule powers of the City of West Palm Beach as set forth in Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling law. The City Commission of the City of West Palm Beach is vested with the authority to adopt ordinances to protect the health, safety and welfare of the City's residents and visitors. Ordinance No. 5006-22 will

relocate Article V (Rental Dwelling Units) from Chapter 18 (Buildings and Building Regulations) of the Code of Ordinances to Chapter 22 (Business Regulations) and create a new Article XII (Rental Dwelling Units).

- 10.3. Public Hearing and Second Reading of Ordinance No. 5007-22 amending the Code of Ordinances at Chapter 22 (Business Regulations), Article XII (Rental Dwelling Units) by creating Section 22-448 and Section 22-449 requiring landlords to give 60 days' written notice for termination of residential tenancies and increases in rent of more than five percent (5%) for rental tenancies.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 5007-22: 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 22 (BUSINESS REGULATIONS), ARTICLE XII (RENTAL DWELLING UNITS), BY CREATING SECTION 22-448 NOTICE OF TERMINATION OF MONTHLY RESIDENTIAL TENANCY WITHOUT SPECIFIC DURATION AND SECTION 22-449 WRITTEN NOTIFICATION REQUIREMENTS RELATED TO RENTAL PAYMENT INCREASES FOR RESIDENTIAL TENANCIES TO REQUIRE 60 DAYS' WRITTEN NOTICE FOR TERMINATION OF TENANCIES AND INCREASES IN RENTAL RATES; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5007-22.

Background Information:

The purpose of this Ordinance is to provide all residents of the City with fair notice if their rents are to increase.

This Ordinance is enacted pursuant to the home rule powers of the City of West Palm Beach as set forth at Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling law.

Over the past year, the City has experienced a significant increase in rental rates being paid by tenants. Studies have shown that more than half of renters' households in Palm Beach County are severely cost-burdened.

Part II of Chapter 83, Florida Statutes, commonly known as the "Florida Residential Landlord and Tenant Act" ("the Act") applies to the rental of residential dwelling units and sets forth the rights and duties of landlords

and tenants. However, it does not provide specific notification requirements for landlords seeking to increase rental rates. Although some lease agreements contain provisions regarding increases in rental rates, a landlord generally may not raise rent during the term of a lease and will have to wait until the end of the term of the lease to raise the rent and it is expected that notice of such will be provided in accordance with termination notices set forth by law or in accordance with the lease agreement. With respect to termination of tenancy, if there is a written lease, Section 83.575 of the Act provides that the notice required to terminate a tenancy is no more than 60 days' notice. Where there is no lease, Section 83.57 of the Act provides that the landlord should provide a seven-day notice to a tenant renting week-to-week, a 15-day notice to a tenant renting month-to-month, a 30-day notice to a tenant renting quarter to quarter, and a 60-day notice to a tenant renting year-to-year.

The Florida Legislature has not preempted local governments from enacting ordinances that enlarge the notification period for month-to-month tenancies without a specific duration pursuant to section 83.57 of the Act.

This Ordinance will require landlords to give 60 days' written notice before the rent can be increased more than five percent (5%) and before a tenant can be forced to leave for month-to-month residential tenancies without a lease.

- 10.4. Public Hearing and First Reading of Ordinance No. 4999-22 amending chapter 86 of the City's Code of Ordinances to establish the City's Wrecker Operator System.

Originating Department:

City Attorney's Office

Ordinance/Resolution:

ORDINANCE NO. 4999-22: 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 86 (TRAFFIC) BY AMENDING AND RESTATING ARTICLE I (IN GENERAL) TO AMEND SECTION 86-1 (DEFINITIONS) TO ADD NEW DEFINITIONS AND ADDING A NEW SUBSECTION 86-9 TO CREATE A WRECKER OPERATOR SYSTEM; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 4999-22 on first reading and schedule second reading.

Background Information:

The City previously provide for the towing or storage of disabled vehicles or vessels by entering into franchise agreements with towing companies selected through the City's procurement process. The franchise agreements, among other things, charged the towing companies a franchise fee, payable to the City, for the privilege of operating within the City. Florida Statute 166.04464 now prohibits Municipalities from imposing a fee or charge on an authorized wrecker operator or towing business for towing, impounding or storing a vehicle or vessel. The statute does authorize a Municipality to impose a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel to cover the cost of enforcement when the vehicle or vessel is towed from public property. The fee may not exceed 25 percent of the maximum towing rate and may be collected on behalf of the city by an "authorized wrecker operator" or towing business. The Legislature also adopted Section 166.043 which requires counties to establish the maximum rates (rates chargeable by towing companies). Palm Beach County's current rates are attached to this item. This section also provides that Municipalities may opt-out of the applicability of the county rates by adopting their own ordinance establishing such rates. The City does not presently have such an ordinance. Based on the County's current towing rates and cost factors associated with vehicle removal, the finance department has determined that the approximate cost to the City to remove a vehicle is one hundred nine and 09/100 Dollars (\$109.09). This amount would be the City's current administrative fee.

Section 323.002, Florida Statutes defines an "authorized wrecker operator" as "any wrecker operator who has been designated as part of the "wrecker operator system" established by the governmental unit having jurisdiction over the scene of a wrecked or disabled vehicle". That section defines "Wrecker Operator System" as "a system for the towing or removal of wrecked, disabled, or abandoned vehicles under which a county or municipality contracts with one or more wrecker operators for the towing or removal of wrecked, disabled, or abandoned vehicles from accident scenes, streets, or highways. A wrecker operator system must include using a method for apportioning the towing assignments among the eligible wrecker operators through the creation of geographic zones, a rotation schedule, or a combination of these methods".

Section 323.004 defines "unauthorized wrecker operator" as any wrecker operator who has not been designated as part of the wrecker operator system. That section prohibits unauthorized wrecker operators from monitoring police radio communications in order to determine the location of a disabled vehicle; from driving by the scene of a disabled vehicle to offer towing services and if they are driving by the scene of a disabled vehicle and is stopped by the disabled vehicle operator, it regulates the disclosures that must be made to the operator. Violation of these provisions is an offense ranging from a noncriminal violation to a first degree misdemeanor.

The City does not have a Wrecker Operator System. Ordinance No. 4999-22 establishes the City's Wrecker Operator System. It provides the method of selection and qualifications for operators; imposes an administrative fee in the amount of 25 percent of the maximum towing rate established by Palm Beach County from time to time; authorizes operators to collect the fee on behalf of the City; regulates the operation of unauthorized operators and provides for the right of disabled vehicle owners or operators to choose an operator of their own choice.

Fiscal Note:

No fiscal note.

- 10.5. Public Hearing and First Reading of Ordinance No. 5001-22 a City initiated request to amend Article IX Permitted Uses of Chapter 94 Zoning and Land Development Regulations (ZLDR) amending the home occupations regulations to be consistent with State Statutes.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5001-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE IX – PERMITTED USES – GENERALLY, SECTION 94-273 (28) – HOME OCCUPATIONS, ACCESSORY TO RESIDENTIAL USES, TO BE CONSISTENT WITH GENERAL LAW; DECLARING THIS AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5001-22 on first reading and schedule second reading.

Background Information:

Currently, the City regulates business activities conducted on residential property through ordinances that address “home occupations.” As of July 1, 2021, Section 559.955, Florida Statutes, now preempts areas of regulation for home-based businesses to the state. It restricts local governments from enacting or enforcing any ordinance, regulation or policy or take any action to license or otherwise regulate a home-based business in violation of State Statutes. The Statute now provides that a home-based business may operate in an area zoned for residential use and may not be prohibited, restricted, regulated or licensed in a manner different from other

businesses in a local government's jurisdiction. The law does include criteria that home-based businesses must meet to operate in an area zoned for residential use.

The proposed text amendment inserts the criteria as a requirement to operate a home-based business in compliance with State Statutes. This item was presented to the Planning Board at their April 19, 2022 meeting and approved by a 6 - 0 vote.

- 10.6. Public Hearing and First Reading of Ordinance No. 5002-22 a City initiated amendment to Article II Organization, Administration and Enforcement and Article VII Special Districts of Chapter 94 Zoning and Land Development Regulations (ZLDR) to allow the demolition of structures in the Coleman Park overlay district.

Originating Department:

Development Services

Ordinance/Resolution:

ORDINANCE NO. 5002-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE II – ORGANIZATION, ADMINISTRATION AND ENFORCEMENT AND ARTICLE VII- SPECIAL DISTRICTS, TO ALLOW THE DEMOLITION OF STRUCTURES IN THE COLEMAN PARK OVERLAY DISTRICT; DECLARING THIS AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Staff Recommended Motion:

Approve Ordinance No. 5002-22 on first reading and schedule second reading.

Background Information:

When the City adopted the Coleman Park overlay district (See **Code Revision Report** for location Map), it was intended to jump start redevelopment within the community. At that time, staff enacted regulations that prohibited the demolishing of structures without a building permit being issued for the vertical construction of a new structure. The reasoning behind this regulation was that demolished structures result in vacant lots which can contribute to the perception of blight. Additionally, some vacant structures may have significant historic value and their demolition would be an irreversible loss to the community.

At the request of the West Palm Beach Housing Authority, staff has been requested to provide a process by which structures can be demolished

within the Coleman Park overlay district without first obtaining a building permit. Staff had a similar request from developers/property owners located within the Downtown and in 2009, the City Commission approved Ordinance No. 4213-09 approving a process for the demolition of structures within the Downtown Master Plan (DMP) district without having to first obtain a building permit. The proposed regulations for the Coleman Park overlay district will mirror the DMP process.

Compliance with the standards found in Section 94-32 are detailed in the attached Code Revision Staff Report.

PLANNING BOARD: The Planning Board recommended approval (6-0) of the request to the City Commission after a Public Hearing on April 19, 2022.

Fiscal Note:

No fiscal impact.

11. COMMENTS FROM THE PUBLIC

Public comments are limited to 3 (three) minutes. Anyone wishing to address the Commission should complete a "Comments by the Public" card and present it to the City Clerk prior to the Public Comments. When you are called to speak, please go to the podium and state your name and address for the record prior to addressing Commission. The Commission will not discuss the matter nor respond to the comment this evening. Comments made will become part of the record and may be addressed at a later date.

12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS

13. ADJOURNMENT

*Pursuant to Resolution No. 179-95, adopted according to the provisions of Section 286.0115, Florida Statutes, members of the Commission shall disclose on the record: 1) ex-parte communications - verbal or written 2.) written communications shall be placed in the record; and 3) site visits, investigations, etc. shall be disclosed.

NOTICE: If any person decides to appeal any decision made by the City Commission at this meeting, that person will need a record of the proceedings, and that, for such purposes, may need to ensure that a verbatim records of the proceedings be made, which record includes the testimony and evidence upon which the appeal is based. The City of West Palm Beach does not prepare or provide such record.