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

City Administrator Faye W. Johnson  
City Attorney Kimberly Rothenburg  
City Clerk Shaquita Edwards

**City of West Palm Beach**  
**City Commission**  
**Pass/Fail Agenda**  
**Monday, September 30, 2024**  
**5:00 PM**

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three days prior to any proceeding, contact the City Clerk's Office, 401 Clematis Street, West Palm Beach, FL 33401, (561) 822-1210.

**1. CALL TO ORDER**

**2. MOMENT OF SILENCE**

**3. PLEDGE OF ALLEGIANCE**

**4. CIVILITY AND DECORUM**

The City of West Palm Beach is committed to civility and decorum by its officials, employees and members of the public who attend this meeting. The City Code, Secs. 2-31(8), 2-31(18) and 2-31(22), provides in pertinent part:

- Officials shall be recognized by the Chair and shall not interrupt a speaker.
- Public comment shall be addressed to the City Commission as a whole and not to any individual on the dais or in the audience.
- Displays of anger, rudeness, ridicule, impatience, lack of respect and personal attacks are strictly prohibited.
- Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted.
- Offenders may be removed from the meeting.
- Any person desiring to address the Commission **shall** file a written request with the city clerk prior to consideration of the matter by the Commission or prior to the public comment portion of a meeting. The person wishing to speak **shall** complete a comment card for each agenda item the person wishes to address, which **shall** include the person's full name, address, and the numbered agenda item. The person will not be recognized if the comment card is not completed.

**5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA- NONE**

**6. PROCLAMATION- PRESENTED**

- 6.1. Proclaiming September 15 through October 15, 2024, as National Hispanic Heritage Month. Mayor James and City Commissioners selected the following 2024 Heritage Honorees to accept the proclamation:

Kelsey Burke:	Mayor James
Will Davis:	Commissioner Ward
Mirtha Chaparro:	Commissioner Lambert
Virginia Savietto:	Commissioner Warren
Susy Diaz:	Commissioner Fox
Pastor Christian Ramos:	Commissioner Peduzzi

**Originating Department:**  
Mayor's Office

**7. CONSENT CALENDAR- ALL ITEMS WERE APPROVED.**

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

- 7.1. Submittal of the following reports from the Internal Auditor's Office:

1. Parking's Driver and Vehicle Information Database (DAVID) Post Audit Report PAR24-02; and
2. Parking's Driver and Vehicle Information Database (DAVID) Audit Report AUD24-01.

**Originating Department:**  
Internal Audit

**Background Information:**

The reports were presented to the Audit Committee on September 25, 2024, where they were approved by the Audit Committee Members. Copies of the reports have been provided to the Mayor and the City Commissioners.

**Fiscal Note:**

No fiscal impact.

- 7.2. Resolution No. 179-24(F) amending the Water and Sewage System revenue fund budget to recognize a formula voucher from the United States Department of Energy 2021 Energy Efficiency and Conservation Block Grant to provide appropriations for the City of West Palm Beach Fleet Electric Vehicle Charging Stations project.

**Originating Department:**

Public Utilities

**Ordinance/Resolution:**

RESOLUTION NO. 179-24(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2023/2024 IN ACCORANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE WATER AND SEWAGE SYSTEM REVENUE FUND BUDGET TO RECOGNIZE A FORMULA VOUCHER FROM THE UNITED STATES DEPARTMENT OF ENERGY 2021 ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Infrastructure Investment and Jobs Act of 2021 appropriated \$550 million, with \$374 million allocated in formula funding, to the Energy Efficiency and Conservation Block Grant (EECBG) program. EECBG assists local governments, states, territories, and Tribes in developing and implementing strategies to reduce energy use, reduce fossil fuel emissions, and improve energy efficiency. The City of West Palm Beach was selected for the formula funding in the amount of \$174,630.

The City of West Palm Beach submitted our Pre-Award Information Sheet to the US Department of Energy (DOE) on April 18, 2023, acknowledging that the City wished to accept the formula grant monies using their voucher program, which was available to cover technical assistance and/or equipment rebates. By selecting the voucher option, instead of the traditional grant, it simplified the application process and will simplify the administrative burden on the City with less monitoring and reporting typically required for a federal grant. The voucher program is a reimbursement program meaning the City will need to purchase and install the equipment first and then seek reimbursement when installation is complete. We have until June 1, 2026 to complete installation but we plan to have installations completed well before the deadline.

Following the Pre-Award submission, the City had to determine what project we wished to use the funding for and submit to the DOE for approval. After careful consideration, the City determined to use the funding to provide electric vehicle charging stations (EVCS) for our fleet vehicles. The Fleet EVCS project involves the purchase and installation of eight (8) dual port Level 2 EVCS stations at four (4) locations on City-owned properties. Three (3) stations will be located at the Complex, two (2) station at Water Plant, two (2) stations at the East Central Regional Water Reclamation Facility, and one (1) station at Fire Station 5/Emergency Operation Center. These locations were selected due to the

potential fleet vehicles stations there for regular use and during emergency situations that would need to have access to EVCS when converted to electric or plug-in hybrid alternatives. If there is any money remaining after the installation of the eight (8) EVCS, additional locations will be identified for installation. On April 23, 2024, the Fleet EVCS project application was submitted to the DOE and we were notified on July 8, 2024 that the application was accepted and we were notified that we could proceed with equipment purchase.

Resolution No. 179-24(F) amends the Water and Sewage Systems Revenue Fund Budget to appropriate funds for the project and accept the voucher reimbursement funds.

**Fiscal Note:**

Expenditure will be budgeted in Fiscal Year 2025 budget.

- 7.3. Resolution No. 205-24 authorizing the assessment of City liens in the total amount of \$113,118.62 for unpaid water service, sewer service, and stormwater service charges for the month of June 2024.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 205-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING AN ASSESSMENT OF CITY LIENS FOR UNPAID WATER SERVICE, SEWER SERVICE, AND STORMWATER SERVICE CHARGES FOR THE MONTH OF JUNE 2024; PROVIDING THAT SAID LIENS SHALL BE PRIOR IN DIGNITY TO ALL OTHER LIENS AGAINST THE ASSESSED PROPERTIES, SAVE AND EXCEPT A LIEN FOR TAXES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

In accordance with the Code of Ordinances of the City of West Palm Beach, Florida, 2003, Sections 90-4 and 90-5, the City imposes liens on private real property for delinquent payments due for utility services.

The liens to be assessed by Resolution No. 205-24 are for unpaid water service, sewer service, and stormwater service charges for the month of June 2024.

The list of properties to be assessed and the associated charges totaling \$113,118.62 are provided in Resolution No. 205-24 as EXHIBIT A - Utility Lien List - June 2024.

**Fiscal Note:**

No fiscal Impact.

- 7.4. Resolution No. 211-24 approves a Conditional Settlement Agreement totaling \$145,000 in the matter of Jonathon Hatcher vs. The City of West Palm Beach.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 211-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CONDITIONAL SETTLEMENT AGREEMENT TOTALING \$145,000 IN THE MATTER OF JONATHON HATCHER VS. THE CITY OF WEST PALM BEACH, FILED IN THE FIFTEENTH JUDICIAL CIRCUIT, IN AND FOR PALM BEACH COUNTY, FLORIDA, CASE NO. 50-2023-CA-009079XXXXMBAO; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

Jonathon Hatcher brought a claim for damages by way of a complaint in the Fifteenth Judicial Circuit in Jonathan Hatcher vs. The City of West Palm Beach for an incident that occurred on or about August 29, 2019, or August 30, 2019. The City reached a settlement agreement with Jonathon Hatcher and his attorney to resolve the matter for a total of \$145,000. The Plaintiff has signed a general release that releases the City from all claims arising from this incident, which ends all of the claims for damages, including all attorneys' fees and costs, against the City of West Palm Beach.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims over \$30,000 shall require the approval of the City Commission by formal resolution.

Resolution No. 211-24 approves the Conditional Settlement Agreement.

**Fiscal Note:**

Settlements are budgeted for in the Risk Management budget.

- 7.5. Resolution No. 212-24 approves a Conditional Settlement Agreement totaling \$40,000 in the matter of Marc A. Schwarz vs. The City of West Palm Beach.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

RESOLUTION NO. 212-24: A RESOLUTION OF THE CITY

COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,  
APPROVING A CONDITIONAL SETTLEMENT AGREEMENT FOR  
\$40,000.

**Background Information:**

Marc A. Schwarz brought a claim for damages by way of a complaint in the Fifteenth Judicial Circuit in the matter of Marc A. Schwarz vs. City of West Palm Beach and David Allen Smith for an accident that occurred on or about January 12, 2023.

The City reached a settlement agreement with Marc A. Schwarz and his attorney to resolve the matter for a total of \$40,000. The Plaintiff has signed a general release that releases the City from all claims arising from this incident, which ends all of the claims for damages, including all attorneys' fees and costs, against the City of West Palm Beach.

Section 2-268(g)(4) of the Code of Ordinances of the City of West Palm Beach, Florida, provides that the authority for settlement of all claims over \$30,000 shall require the approval of the City Commission by formal resolution.

Resolution No. 212-24 approves the Conditional Settlement Agreement.

**Fiscal Note:**

Settlements are budgeted for in Risk Management.

- 7.6. Resolution No. 215-24(F) accepting and appropriating funds in the amount of \$3,771 from the Early Learning Coalition of Palm Beach County funded by the ARPA Provider Stabilization Subgrant to support the City's out-of-school program and operations at Pleasant City Community Center and South Olive Park Community Center.

**Originating Department:**

Parks and Recreation

**Ordinance/Resolution:**

RESOLUTION NO. 215-24(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2023/2024 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE DONATION FUND BUDGET TO PROVIDE FOR THE RECEIPT AND APPROPRIATION OF THE EARLY LEARNING COALITION OF PALM BEACH COUNTY ARPA PROVIDER STABILIZATION SUBGRANT AWARD TO SUPPORT ONGOING OUT-OF-SCHOOL PROGRAM OPERATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Department of Parks and Recreation was contacted in August 2024 by the Early Learning Coalition of Palm Beach County regarding additional funds available for the State of Florida Office of Early Learning ARPA (American Rescue Plan Act) Child Care Provider Stabilization Subgrant.

The Child Care Stabilization Subgrant funding is based on enrollment at licensed child care centers. The funding represents an opportunity to gain additional financial support for childcare programming and help meet the needs of the communities and families we serve. Funds will be specified for staff recruitment and retention, staff development, deferred maintenance, program equipment, and supplies. The funding for each center is as follows:

- Pleasant City Community Center: \$1,676
- South Olive Park Community Center: \$2,095

Resolution No. 215-24(F) authorizes the appropriation of the Early Learning ARPA Child Care Provider Stabilization Subgrant to support the City's out-of-school program and operations.

Commission District 1: Commissioner Cathleen Ward.

Commission District 5: Commissioner Christina Lambert.

**Fiscal Note:**

Approval will provide funding in the amount of \$3,771 for community center licensed child care program support.

- 7.7. Resolution No. 214-24 establishing the City's Salary Plan for Fiscal Year 2024-2025.

**Originating Department:**

Human Resources

**Ordinance/Resolution:**

RESOLUTION NO. 214-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO THE OFFICES, POSITIONS, TITLES AND COMPENSATION FOR THE UNCLASSIFIED SERVICE AND MEMBERS OF THE CLASSIFIED SERVICE FOR THE CITY OF WEST PALM BEACH; ESTABLISHING THE CITY'S SALARY PLAN AND PROVIDING FOR CLASSIFICATION TITLES AND SALARY RANGES; PROVIDING FOR A MANAGEMENT INCENTIVE PLAN; IMPLEMENTING THE PROVISIONS OF THE CURRENT COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND THE FRATERNAL ORDER OF POLICE, THE INTERNATIONAL

ASSOCIATION OF FIREFIGHTERS, THE SERVICE EMPLOYEES INTERNATIONAL UNION/FLORIDA PUBLIC SERVICES UNION, AND THE PROFESSIONAL MANAGERS AND SUPERVISORS ASSOCIATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

Resolution No. 214-24 sets forth the job classification (job titles) and salary ranges that will be in effect during FY2025. This Resolution has no fiscal impact on the FY2025 proposed balanced budget. The annual allowable FTEs and their corresponding budgeted salary is governed separately via the proposed FY2025 Balanced Budget.

This is a routine item, which is presented to the Commission annually to reflect employee compensation as negotiated with the various bargaining units (FOP, IAFF, SEIU, and PMSA) and to reflect any changes in job titles and/or new job titles, which are approved as part of the annual budget process.

**Key Provisions of this Resolution are:**

- 3% cost-of-living adjustment (COLA) pay increase for eligible non-represented (non-union) employees, including the City Administrator during FY2025, effective the first pay period beginning on or after October 1, 2024. Employees who have not attained regular (non-probationary) status as of October 1, 2024, are not eligible for the 3% COLA.
- 3% COLA pay increase for SEIU and PMSA represented employees as provided for under their respective 2023-2026 collective bargaining agreements.
- Implements new FOP and IAFF pay step plans as provided for in their respective 2024-2027 collective bargaining agreements.

The Resolution lists all allowable position classifications in alphabetical order with their corresponding FY2025 pay grades. New job classifications are indicated in bold print and any position pay grade updates are indicated with a caret. ("^").

**Fiscal Note:**

Fully budgeted.

- 7.8. Resolution No. 222-24 approving the City of West Palm Beach Title VI Program to be submitted to the Florida Department of Transportation (FDOT), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).



**Originating Department:**

Finance

**Ordinance/Resolution:**

RESOLUTION NO. 222-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE CITY'S TITLE VI PROGRAM FOR A THREE (3) YEAR PERIOD FROM JUNE 1, 2024 THROUGH MAY 31, 2027; INSTRUCTING CITY STAFF TO SUBMIT THE APPROVED TITLE VI PROGRAM TO THE FLORIDA DEPARTMENT OF TRANSPORTATION, THE FEDERAL HIGHWAY ADMINISTRATION AND THE FEDERAL TRANSIT ADMINISTRATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The City of West Palm Beach is a recipient of Federal Transit Administration (FTA), Federal Highway Administration (FHWA), and Florida Department of Transportation (FDOT) financial assistance and is required to comply with United States Department of Transportation (DOT) Title VI regulations found at 49 CFR Part 21. FTA Circular 4702.1B, promulgated pursuant to 49 CFR part 21 and other authority, requires the City of West Palm Beach to submit a Title VI Program to the FTA and FDOT to ensure that its transit services and capital investments are provided in a non-discriminatory manner.

The City's Title VI Program was last submitted to the FTA in June 2021 pursuant to Resolution No. 181-21. This is the City's updated Title VI Program to be submitted to the FTA after the City Commission's approval of Resolution No. 222-24.

**Fiscal Note:**

No fiscal impact.

**8. RESOLUTIONS- APPROVED.**

- 8.1. Resolution No. 201-24 relating to the ratification of successor Collective Bargaining Agreements between the City of West Palm Beach and the West Palm Beach Association of Firefighters, I.A.F.F. Local 727, Certificate Numbers 235 and 1619 for the period of October 1, 2024, to September 30, 2027.

**Originating Department:**

Human Resources

**Ordinance/Resolution:**

RESOLUTION NO. 201-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA RELATING TO THE RATIFICATION OF SUCCESSOR COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY OF WEST PALM

BEACH AND THE WEST PALM BEACH ASSOCIATION OF FIREFIGHTERS, I.A.F.F. LOCAL 727, CERTIFICATE NUMBERS 235 AND 1619, FOR THE PERIOD OF OCTOBER 1, 2024 THROUGH SEPTEMBER 30, 2027; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 201-24.

**Background Information:**

Resolution No. 201- 24 ratifies two (2) Collective Bargaining Agreements (CBAs) between the City of West Palm Beach and the West Palm Beach Association of Firefighters (IAFF) Local 727 (IAFF).

Negotiations on successor collective bargaining agreements to the current 2021-2024 CBAs between the City and the IAFF began on February 21, 2024, and concluded on August 21, 2024, resulting in the City and IAFF tentatively agreeing on two (2) 2024-2027 Collective Bargaining Agreements. Each of the two (2) agreements under Resolution No. 201-24 covers a specific Florida Public Employees Relations Commission (PERC) certified bargaining unit as follows:

- Certificate Number 235 (Firefighters, Driver/Engineers, Lieutenants & Captains)
- Certificate Number 1619 (Battalion Chiefs)

If ratified, both agreements will be effective for the period of October 1, 2024 – September 30, 2027. IAFF members ratified their respective Collective Bargaining Agreements on September 17, 2024 as follows:

- Certificate Number 235 (Firefighters, Driver/Engineers, Lieutenants & Captains): 157 in favor to 28 opposed (85%)
- Certificate Number 1619 (Battalion Chiefs): 5 in favor to 1 opposed (84%)

Under these agreements, the following salary increases will be provided:

FY2025

- 10.5% Market Adjustment: Firefighters + 5% Step Increase = 15.5%
- 10.2% Market Adjustment: Driver/Engineers + 5% Step Increase = 15.2%
- 5% Market Adjustment: Lieutenants, Captains & Battalion Chiefs + 5% Step Increase = 10%

FY2026

- 3% COLA for all Job Classifications + 5% Step Increase = 8%

FY2027

- 3% COLA for all Job Classifications + 5% Step Increase = 8%

The FY2025 market adjustment increase raises Firefighter Step 1 pay from \$57,012 to \$62,998.

As a result of the above salary increases, the Step 1 pay market placement for the various IAFF-represented job classifications in the Palm Beach County market will be:

- Firefighters: 5th up from 10th
- Driver/Engineers: 3rd up from 8th
- Operations Lieutenants: 2nd up from 3rd
- Operations Captains: 5th (No Change)
- Battalion Chiefs: 4th up from 5th

Additional key benefits provided under these agreements:

Enhanced Retirement Benefit

- Pension Multiplier increased from 3% to 3.2% effective October 1, 2026

New Pay Incentives

- Certified Paramedic: \$1,500 per year
- Limited Paramedic: \$2,500 per year
- Emergency Medical Services Captain Assignment: 7% of Salary

Enhancement of Current Incentives

- Inspector Certification Incentive Per Pay Period Cap Raised: \$64.94 to \$75.00
- Dive Rescue Incentive Per Pay Period Cap Raised: \$64.94 to \$96.00
- Advance Life Support Incentive Raised: 5% to 7% of Salary
- Non-Shift 40-Hour Workweek Incentive Raised: 5% to 7% of Salary

The estimated FY2025 cost for these agreements is approximately \$3.2M and is already incorporated into the proposed FY2025 Balanced Budget. The total FY2025-FY2027 CBA cost is approximately \$6.7M.

**Fiscal Note:**

The estimated FY2025 cost is already incorporated into the proposed FY2025 Balanced Budget. FY2026 and FY2027 will be budgeted.

**9. PUBLIC HEARING- ALL ITEMS WERE APPROVED.**

- 9.1. Public Hearing and Second Reading of Ordinance No. 5105-24 amending the code of ordinances at Chapter 94, Article XIII "Sign Regulations" to designate wayfinding signage or kiosks as an "unregulated sign".

**Originating Department:**

Mayor's Office

**Ordinance/Resolution:**

ORDINANCE NO. 5105-24: 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, ARTICLE XIII "SIGN REGULATIONS" SECTION 94-402.a. TO CREATE SECTION 94-402.a.23; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

**Staff Recommended Motion:**

Approve Ordinance No. 5105-24 on Second Reading.

**Background Information:**

The Code of Ordinances Chapter 94, Article XIII places limitations on signage within the City, including prohibitions on digital signage. Exclusions on such limitations are noted under Sections 94-402.a "unregulated signs".

The City desires to include digital kiosks that provide information on City events, public transportation, sites of interest, and other public interest information as an exclusion to the signage requirements. These kiosks will provide residents and visitors with valuable real-time information while also generating revenue for the City.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 9.2. Public Hearing and Second Reading of Ordinance No. 5111-24 amending Chapter 54 to repeal aggressive solicitation regulations and to amend public camping and sleeping regulations to be consistent with case law and 2024 amendments to Section 125, Florida Statutes.

**Originating Department:**

City Attorney's Office

**Ordinance/Resolution:**

ORDINANCE NO. 5111-24: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA,

AMENDING CHAPTER 54 (OFFENSES), TO REPEAL ARTICLE IV (OFFENSES AGAINST PUBLIC PEACE), DIVISION 2 (AGGRESSIVE SOLICITATION); AND TO AMEND DIVISION 3 (PROHIBITED CONDUCT), SECTIONS 54-146 THROUGH 54-147 OF THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA; PROVIDING A CODIFICATION CLAUSE; PROVIDING A CONFLICTS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5111-24 on second reading.

**Background Information:**

Chapter 54, Article IV regulates offenses against public peace. The provisions in Article IV, Division 2 prohibits Aggressive Solicitation. Ordinance No. 5111-24 repeals this provision in its entirety to ensure that the City's regulations are in keeping with current case law that has developed since the United States Supreme Court case Reed v. Town of Gilbert, 576 U.S. 155 (2015) (which found that content-based regulations must survive strict scrutiny). In addition, Division 3 is being amended to remove the provisions requiring the City to provide outreach services and to ensure that there are shelter beds available prior to the issuance of a citation for sleeping and camping in public. These changes are recommended based on the United States Supreme Court decision in Grants Pass v. Johnson, 603 U. S. (2024) (finding local governments were not required to ensure adequate shelter prior to enforcement of local sleeping/camping ordinance). The amendment also updates the definition of camping to be consistent with the definition in the recent legislative amendments to Chapter 125, Florida Statutes.

While the ordinance removes the currently required outreach efforts, the City's Housing and Community Development Department will continue to reach out and provide support services to those in need.

Adoption of Ordinance No. 5111-24 will ensure that the City's regulations are in keeping with current laws.

**Fiscal Note:**

No fiscal impact.

- 9.3. Public Hearing and First Reading of Ordinance No. 5110-24 regarding a text amendment at Chapter 94 (Zoning and Land Development Regulations) of the Code of Ordinances, Article VII (Special Districts), Section 94-209 (Mixed-use Districts), to increase the maximum allowable height encroachment for Mechanical Rooms & Equipment in the Currie Mixed-use District (CMUD).

The above-referenced request is being made by Brian M. Seymour and

John P. Roach of Gunster, on behalf of N Flagler Drive Development LLC.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5110-24: 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 VII – SPECIAL DISTRICTS, SECTION 94-209 – MIXED-USE DISTRICT, TO INCREASE THE MAXIMUM ALLOWABLE HEIGHT ENCROACHMENT FOR MECHANICAL ROOMS AND EQUIPMENT IN THE CURRIE MIXED-USE 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. 5110-24 amending the text of Chapter 94, Zoning and Land Development Regulations, Article VII, Special Districts, Section 94-209, Mixed-use District of the City’s Code of Ordinances, to increase the maximum allowable height encroachment for Mechanical Rooms and Equipment in the Currie Mixed-use District.

This motion is based upon the factual testimony presented, the application submitted, the staff report, the recommendation of the Planning Board, and the findings that the amendment is consistent with the Comprehensive Plan and complies with the Amendment Standards found in Section 94-32 of the City’s Zoning and Land Development Regulations.

**Background Information:**

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

In 2021, the City adopted a major amendment to the Currie Mixed-use District (CMUD) regulations to increase the incentive building height and provide for greater development flexibility for the purpose of stimulating growth and redevelopment activity within the district (Reference: Ordinance No. 4963-21). The amended regulations increased the maximum allowable building height from 15-stories (approximately 180 feet) up to a maximum building height of 350 feet (an additional 170 feet) with the application of the district’s established height incentive program. Since adopting the new CMUD regulations, redevelopment activity within the district has substantially increased, with all the new projects

(approved and pending) utilizing the height incentive program to maximize building height within their respective CMUD Sub-district.

According to the applicant, the new allowable incentive building heights within the CMUD have created significant challenges to accommodating the appropriate size cooling towers, elevator overrides, and other similar structures for the height/size of buildings permitted within the district. Currently, the height encroachment for Mechanical Rooms and Equipment within the City’s mixed-use districts is limited to a maximum encroachment height of 15 feet. Given that buildings can extend up to a height of 350 feet within the CMUD when utilizing the height incentive program, the 15-foot height limitation is insufficient to accommodate the appropriate size of mechanical rooms/equipment for the size of buildings permitted in the CMUD.

The applicant has noted that the approved Olara project (located on the west side of North Flagler Drive, generally between Butler Street and Pine Street), a 306-foot tall mixed-use development (Site Plan approval granted on February 28, 2023), which is currently in for building permits, cannot address their building height entitlements and meet the height encroachment limitation for mechanical rooms and equipment unless the equipment is customized, which would increase the cost “exponentially because of the limited number of suppliers.” The applicant further notes that the issue extends beyond the Olara project, as other pending projects within the CMUD (i.e., the Pine Street Assemblage project and the Ritz Carlton) are experiencing the same design issues with accommodating the appropriate size rooftop mechanical rooms/equipment within the height constraints.

To address this issue, the applicant is requesting a text amendment to the Zoning and Land Development Regulations (ZLDRs) to increase the height encroachment for Mechanical Rooms and Equipment in the CMUD. Table 1 below summarizes the proposed height encroachment change for Mechanical Rooms and Equipment in the CMUD.

**Table 1:  
Current and Proposed Maximum Height Encroachment  
For Mechanical Rooms & Equipment in the CMUD**

<u>Current Height Encroachment</u>	<u>Proposed Height Encroachment</u>	<u>Height Encroachment Difference</u>
15 feet	20 feet	+ 5 feet

**ANALYSIS**

The 2021 CMUD regulations were tailored closely to mimic the development pattern and building heights of the Downtown Master Plan (DMP) area. According to the Downtown development regulations, the

maximum building height within the DMP is 380 feet. The DMP regulations also allow a maximum height encroachment of 20 feet for Mechanical Rooms and Equipment above the maximum building height.

It's logical that the mechanical systems of a building increase in size as the building gets larger/taller. Given that the building heights within the CMUD are very similar to the DMP area (DMP = 380 ft. vs. CMUD = 350 feet), increasing the height encroachment for Mechanical Rooms and Equipment within the CMUD from 15 feet to 20 feet to match the height encroachment limitation for similar structures in the DMP makes sense. Unfortunately, it was an oversight by staff not to increase the vertical height encroachment for Mechanical Rooms and Equipment within the district to coincide with the incentive height increases when the 2021 CMUD regulations were drafted. This issue only became evident as projects under the new CMUD regulations were going through the permitting/design process.

The applicant has provided expert support letters that state that cooling towers, other mechanical equipment, and conventional traction elevators cannot fit into the current 15-foot maximum height encroachment for the permitted building heights in the CMUD. Increasing the encroachment height for Mechanical Rooms and Equipment to 20 feet, as currently allowed in the DMP, will provide the flexibility necessary to design and install the required equipment in an economically viable manner. The expert letters also note that "the slight increase in allowable encroachment will not be discernable given the height at which it is located and its small portion relative to the overall size of the building."

### CONCLUSION

The proposed text amendment provides a solution to accommodating the appropriate-size mechanical rooms and equipment for the height/size of the developments that are permitted in the CMUD. If approved, the adjusted maximum height encroachment of 20 feet for Mechanical Rooms and Equipment would be consistent with the height encroachment standards of the DMP for Mechanical Rooms and Equipment, which is logical since the CMUD regulations, including building heights and development patterns, are comparable to the DMP.

The proposed text amendment does not impact the character and/or development pattern of the district; and therefore, staff is recommending approval.

### STANDARDS FOR CODE COMPLIANCE

Staff found that the proposed text amendment is consistent with the Amendment Standards of Section 94-32 of the ZLDRs.



PLANNING BOARD

After a Public Hearing on August 20, 2024, the Planning Board unanimously recommended approval (7-0) of the proposed text amendment to the City Commission.

PUBLIC NOTICE

Per the procedures for adopting an Ordinance in Section 166.041, Florida Statutes, Ordinance No. 5110-24 will be advertised in the Palm Beach Post on October 5, 2024, for Second Reading.

Commission District 1: Commissioner Cathleen Ward.

**10. PUBLIC HEARING - QUASI-JUDICIAL- ALL ITEMS WERE APPROVED**

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

- 10.1. Public Hearing of Resolution No. 166-24 regarding the approval of a Minor Subdivision to create the 575 South Rosemary Apartments plat consisting of one (1) development tract of approximately 1.8 acres located at 575 South Rosemary Avenue.

The request was submitted by Roger Ramdeen of Shutts & Bowen, on behalf of CityPlace Retail, L.L.C.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO 166-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE SUBDIVISION AND PLAT OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "575 SOUTH ROSEMARY APARTMENTS" CONSISTING OF APPROXIMATELY 1.8 ACRES, AND LOCATED AT 575 SOUTH ROSEMARY AVENUE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 166-24 approving a Minor Subdivision to create the 575 South Rosemary Apartments plat.

This motion is based upon the factual testimony presented, the application submitted, the staff report, and the findings that the plat complies with all applicable provisions of Chapter 177, Florida Statutes and is consistent with the Comprehensive Plan and complies with the subdivision design standards set forth in Section 94-342 of the City's

Zoning and Land Development Regulations.

**Background Information:**

On January 13, 2020, the City Commission approved Resolution No. 362-19, a Level III Site Plan Review, that permitted the construction of a mixed-use building on the site of the former Macy's Department store located at 575 South Rosemary Avenue. As part of the project's development, the applicant is creating the 575 South Rosemary Apartments plat containing one (1) parcel encompassing the new mixed-use building approved by Resolution No. 362-19.

STANDARDS

The Planning Division has determined that the plat complies with the requirements of Chapter 177, Florida Statutes, and the subdivision design standards set forth in Section 94-342 of the City's Zoning and Land Development Regulations.

PLANNING BOARD

As a Minor Subdivision, the subject plat was not required to be reviewed by the Planning Board.

NOTICES

Individual notices were mailed to all property owners within 500 feet of 575 South Rosemary Avenue, and public notice signs were posted on the property.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 10.2. Public Hearing of Resolution No. 198-24: A request by John Roach of Gunster, on behalf of WPB Pine Acquisition, for the abandonment of a 15-foot wide alley (7,534 square feet) east of North Dixie Highway and 125 feet south of Pine Street.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 198-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING A PORTION OF A 15-FOOT WIDE ALLEY RIGHT-OF-WAY LOCATED EAST OF NORTH DIXIE HIGHWAY AND 125 FEET SOUTH OF PINE STREET, AND CONSISTING OF

7,534 SQUARE FEET; AUTHORIZING EXECUTION OF A DISCLAIMER OF INTEREST IN THE AFORESAID RIGHT-OF-WAY; RELEASING RESERVED UTILITY EASEMENTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 198-24.

**Background Information:**

On August 20, 2024, the Planning Board approved the Special Review of a mixed-use development consisting of 367 units and 7,477 square feet of commercial use. The redevelopment project, known as the Pine Street Assemblage project, is generally located on the east side of North Dixie Highway and south of Pine Street. The Planning Board also unanimously recommended approval (7-0) of the proposed abandonment to the City Commission. The partial abandonment of the existing alley is necessary to develop the 1.56-acre site.

The portion of the alley considered for abandonment consists of a 15-foot wide (7,534 square foot) parcel, which is comprised of a portion of a 487.5-foot stretch of public alley contiguous and south of lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and a 15-foot by 15-foot portion contiguous with and south of lot 11. The parcels are identified in the plat of "Pinewood Terrace" (Plat Book 2, Page 3, Public Records of Palm Beach County, Florida).

In 1912, the alley along the southern portion of the site was dedicated in its entirety as part of the Plat of Pinewood Terrace, recorded in Plat Book 2, Page 3. The lots adjacent to the alleyway have been included in the application for redevelopment. The alley east of the site has been abandoned over the years and has been utilized in the development of Temple Israel. The applicant is requesting that the remaining 15-foot wide by 487.5-foot long portion, as well as the 15-foot wide by 15-foot long portion of the right-of-way, be both abandoned and incorporated into the site. The remaining alley will aid in the redevelopment of the subject property.

Pursuant to 78-214, the Fire, Police, Engineering, Public Utilities, Economic and Community Development, and the Planning Department, as applicable, have reviewed, evaluated, and commented on the petition. The petitioner has satisfactorily addressed all departmental comments.

**STANDARDS**

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

PLANNING BOARD

Per Section 94-31(b)(3)(s) of the ZLDRs, the Planning Board is required to review and provide a recommendation for the abandonment of any proposed City-owned rights-of-way or alleys located within a mixed-use district to the City Commission. The Planning Board unanimously recommended approval (7-0) of the proposed abandonment to the City Commission after a Public Hearing on August 20, 2024.

NOTICE

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

Resolution No. 198-24 approves abandonment of the subject alley conditioned upon receipt, within twelve (12) months of the \$1,300,000 compensation for the property abandoned.

Commission District 1: Commissioner Cathleen Ward.

- 10.3. Public Hearing of Resolution No. 199-24: A request by Brian Cheguis of iPlan&Design on behalf of Essex Court Holdings LLC for a Class A Special Use Permit to construct a 205-foot-long residential dock at 5210 Essex Court.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 199-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CLASS A SPECIAL USE PERMIT TO ALLOW A 205-FOOT-LONG RESIDENTIAL DOCK LOCATED AT 5210 ESSEX COURT; DECLARING THE DEVELOPMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; GRANTING WAIVERS TO THE ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 199-24.

Based on the findings that the petition meets the required standards in Section 94-36(e)(3) through (4), and therefore comply with Sections 94-313(a)(3) and (4), and Section 94-273(a)(2) of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs).

**Background Information:**

The subject property, located at 5210 Essex Court, was subdivided into its own parcel from the adjacent parcel to the south (5300 Essex Court) and contains a total of 1.18 acres. The double-fronted property on Essex Court (west side) and South Flagler Drive (east side) has access to non-contiguous riparian rights to the Intracoastal Waterway on the east side of South Flagler Drive.

The applicant is requesting approval of a Class A Special Use Permit to allow for a residential dock to extend a total of 205 feet beyond the seawall, which is 105 feet greater than what the Zoning Land Development Regulations (ZLDRs) permit.

Designing a dock in compliance with the ZLDRs is determined to be impractical and prevents the owner from having a dock that avoids damaging the marine environment. It will also prevent the owner from having full use and enjoyment of a dock located within safe water depths. Approval of a Class A Special Use Permit would allow the owner to extend the dock an additional 105 feet to protect the marine environment (seagrasses) and provide safe water depths. The total length of this proposed dock will total to 205 feet. The dock will attach to the existing seawall and extend outward into the Intracoastal Waterway within the middle one-third portion of the subject lot to provide safe boat navigation. The plans provided were signed and sealed by a registered engineer in Exhibit A.

The applicant received approval from the Florida Department of Environmental Protection (FDEP) on July 8, 2022, which will expire six (6) years from the date provided, as provided in Exhibit B.

The Planning Board recommended approval with conditions (7-0) of this request to the City Commission after a Public Hearing on August 20, 2024, based on the testimony presented at the hearing, along with the application submitted and the Staff Report, that the request does comply with the standards for the Class A Special Use Permit.

The staff report and additional site plan are provided in Exhibit C and Exhibit D.

### PUBLIC NOTICE

Pursuant to the requirements of Section 94-39(i)(5) and 94-39(j)(2) of the City's Zoning and Land Development Regulations, a sign was posted, individual notices were mailed to property owners within 500 feet of the subject property, and Resolution No. 199-24 was advertised in the September 20, 2024 edition of the Palm Beach Post.

Commission District 5: Commissioner Christina Lambert.

**Fiscal Note:**

No fiscal impact.

- 10.4. Public Hearing of Resolution No. 200-24: A request by Brian Cheguis of iPlan&Design on behalf of Essex Court Holdings LLC for a Class A Special Use Permit to construct a 205-foot-long residential dock at 5300 Essex Court.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 200-24: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A CLASS A SPECIAL USE PERMIT TO ALLOW A 205-FOOT-LONG RESIDENTIAL DOCK LOCATED AT 5300 ESSEX COURT; DECLARING THE DEVELOPMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; GRANTING WAIVERS TO THE ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 200-24.

Based on the findings that the petition meets the required standards in Section 94-36(e)(3) through (4), Sections 94-313(a)(3) and (4), and Section 94-273(a)(2) of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs).

**Background Information:**

The property located at 5300 Essex Court is 1.11 acres, which was subdivided from the lot adjacent to the north side known as 5210 Essex Court. The double-fronted property on Essex Court (west side) and South Flagler Drive (east side) has access to non-contiguous riparian rights to the Intracoastal Waterway on the east side of South Flagler Drive. The property had both a residence and boat house with a pier of approximately 151 feet in length, which is seen on aerial views of the property; however, staff was not able to find records to confirm the pier was legally constructed. The boat house was demolished in 1990.

The applicant is requesting approval of a Class A Special Use Permit to allow for a residential dock to extend a total of 205 feet beyond the seawall, which is 105 feet greater than what the Zoning Land Development Regulations (ZLDRs) permits.

Designing a dock in compliance with the ZLDRs is determined to be impractical and prevents the owner from having a dock that avoids damaging the marine environment; and will also prevent the owner from

having the full use and enjoyment of a dock located within safe water depths. Approval of a Class A Special Use Permit would allow the owner to extend the dock an additional 105 feet to protect the marine environment (seagrasses) and provide safe water depths. The total length of this proposed dock will total to 205 feet. The dock will attach to the existing seawall. It will extend outward into the Intracoastal Waterway within the middle one-third portion of the subject lot to provide safe boat navigation. The plans provided were signed and sealed by a registered engineer in Exhibit A.

The applicant received approval from the Florida Department of Environmental Protection (FDEP) on July 8, 2022, which is to expire six (6) years from the date provided. The permit is attached in Exhibit B.

The Planning Board recommended approval with conditions (7-0) of this request to the City Commission after a Public Hearing on August 20, 2024, based on the testimony presented at the hearing, along with the application submitted, and the Staff Report that the request does comply with the standards for the Class A Special Use Permit.

The staff report, site plan, and survey are provided in Exhibit C through Exhibit E.

### PUBLIC NOTICE

Pursuant to the requirements of Section 94-39(i)(5) and 94-39(j)(2) of the City's Zoning and Land Development Regulations, the sign was posted, individual notices were mailed to property owners within 500 feet of the subject property, and Resolution No. 200-24 was advertised in the September 20, 2024 edition of the Palm Beach Post.

Commission District 5: Commissioner Christina Lambert.

#### **Fiscal Note:**

No fiscal impact.

## **11. COMMENTS FROM THE PUBLIC**

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

## **12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS**

**13. ADJOURNMENT-7:00 P.M.**

\*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.