



AGENDA
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, OCTOBER 18, 2022 - 6:00 PM

ROLL CALL:

INVOCATION OR MOMENT OF SILENCE: led by Vice Mayor Christopher McVoy

PLEDGE OF ALLEGIANCE: led by Commissioner Kimberly Stokes

AGENDA - Additions / Deletions / Reordering:

PRESENTATIONS: (there is no public comment on Presentation items)

- A. Presentation by County Commissioner Mack Bernard regarding the housing bond issue on the November ballot
- B. The LWB Pool Complex and the path to the 350 million dollar a year Grand Cayman 7-mile beach economy presented by Dan Volker, creator of South Florida Dive Journal, brought forward by Vice Mayor McVoy
- C. PBSO quarterly presentation by Captain Todd Baer
- D. Presentation of Certificate of Completion for 2022 Institute for Elected Municipal Officials II from Florida League of Cities to Commissioner Malega
- E. Proclamation declaring October 17-23, 2022 as Florida City Government Week
- F. Proclamation declaring October 2022 as Breast Cancer Awareness Month
- G. Proclamation declaring October 23-31, 2022 as Red Ribbon Week
- H. Proclamation declaring October 2022 as Domestic Abuse Awareness Month

COMMISSION LIAISON REPORTS AND COMMENTS:

CITY MANAGER'S REPORT:

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

APPROVAL OF MINUTES:

- A. [Regular Meeting - September 20, 2022](#)
- B. [Special Meeting - September 22, 2022](#)

CONSENT AGENDA: (public comment allowed during Public Participation of Non-Agendaed items)

- A. [Second Amendment to the Interlocal Agreement between Palm Beach County and the City for the Homeless Resource Center](#)

- B. [Resolution No. 80-2022 – Recognizing the 100th Anniversary of the Florida League of Cities, Inc. \(FLC\)](#)

UNFINISHED BUSINESS:

- A. [Resolution No. 81-2022 – Amending the City Commission’s Rules of Procedure](#)

NEW BUSINESS:

- A. [Resolution No. 82-2022 – Establishing the rates, fees and charges for the Local Sewer System](#)
- B. [Base Salary increase for City Manager Carmen Davis](#)
- C. [Ordinance No. 2022-22 – First Reading - Amending Section 15-24.1 “Definitions” and Section 15-24.5 “Enforcement,” to modify the enforcement process for a noise control violation and for other purposes](#)
- D. [Ordinance No. 2022-23 – First Reading - Amending Chapter 2 “Administration,” Article X “Supplemental Code Compliance Procedures,” Section 2-86 “Code Citation Procedures; Appeals,” Section 2-87 “Civil Penalties,” and Section 2-88 “Classification of Infractions”](#)

CITY ATTORNEY'S REPORT:

- A. [Report regarding governance of the CRA](#)

UPCOMING MEETINGS AND WORK SESSIONS:

October 25 - Utility Meeting @ 6 PM
October 26 - Pre-agenda Work Session @ 9 AM
November 1 - Regular Meeting @ 6 PM

ADJOURNMENT:

The City Commission has adopted Rules of Decorum for Citizen Participation (See Resolution No. 25-2021). The Rules of Decorum are posted within the City Hall Chambers, City Hall Conference Room, posted online at: <https://lakeworthbeachfl.gov/government/virtual-meetings/>, and available through the City Clerk’s office. Compliance with the Rules of Decorum is expected and appreciated.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she 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. (F.S. 286.0105)

**MINUTES
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, SEPTEMBER 20, 2022 – 6:00 PM**

The meeting was called to order by Mayor Resch on the above date at 6:05 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (0:15) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega (via Zoom), Kimberly Stokes and Reinaldo Diaz. Also present were City Manager Carmen Davis, City Attorney Glen Torcivia and City Clerk Melissa Ann Coyne.

INVOCATION OR MOMENT OF SILENCE: (1:07) led by Commissioner Reinaldo Diaz.

PLEDGE OF ALLEGIANCE: (1:52) led by Commissioner Kimberly Stokes.

ADDITIONS/DELETIONS/REORDERING (2:11)

A proclamation for Hispanic Heritage Month was added as Presentation A, with the other presentations being reordered to follow. Unfinished Business A, update and discussion regarding the housing crisis was moved to follow the presentation on housing initiatives. New Business F, Discussion of a Linemen Apprenticeship Program, New Business G, Creation of Utility Payment Plans, New Business H, Resolution No. 78-2022 establishing an education fund and New Business I, Resolution No. 29-2022, 12th budget amendment, were added to the agenda.

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the agenda as amended.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

PRESENTATIONS: (4:07) (there is no public comment on Presentation items)

- A. (added) Proclamation declaring September 15 – October 15, 2022 as Hispanic Heritage Month (4:14)
- B. (reordered) Presentation by Lourdes M. Figueroa, Victim Advocate Violent Crimes Division, PBSO (8:56)
- C. (reordered) Presentation from Suzanne Cabrera, President and CEO, of the Housing Leadership Council of Palm Beach County, on the status of affordable and workforce housing initiatives and study for Palm Beach County (25:58)

UNFINISHED BUSINESS: (53:49)

- A. (reordered to follow housing presentation) Update and discussion regarding the housing crisis

COMMISSION LIAISON REPORTS AND COMMENTS: (1:37:28)

CITY MANAGER'S REPORT: (1:44:48)

City Manager Davis provided the following report:

- would attend the “Facing the Crisis” event on Thursday regarding the opioid crisis
- the City would host the PBC League of Cities Ethics Training on October 13th

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA: (1:46:39)

APPROVAL OF MINUTES: (1:54:19)

Action: Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve the following minutes:

- A. Pre-agenda Work Session - August 24, 2022
- B. Special Meeting - August 25, 2022
- C. Budget Work Session #5 - August 29, 2022
- D. Regular Meeting - September 6, 2022

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

CONSENT AGENDA: (1:54:32) (public comment allowed during Public Participation of Non-Agendaed items)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Consent Agenda:

- A. Proclamation declaring September 17-23, 2022 as Constitution Week
- B. Proclamation declaring September 21, 2022 as Alzheimer's Awareness Day
- C. Third Amendment to Retail Lease with Pura Vida Treats, Inc., the current tenant/assignee
- D. Fourth Amendment to Retail Lease with RVRA, LLC, the current tenant
- E. Facility Construction Agreement with Florida Power & Light for New Interconnection Project

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

The meeting recessed at 8:00 PM and reconvened at 8:08 PM.

PUBLIC HEARINGS: (2:03:04)

- A. Ordinance No. 2022-16 – Second Reading - Establishing a Business Advisory Board (2:03:17)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2022-16 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION," ADDING A NEW ARTICLE XXIII "BUSINESS ADVISORY BOARD," PROVIDING FOR A NEW BUSINESS ADVISORY BOARD, TERMS, COMPOSITION AND DUTIES; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

Action: Motion made by Commissioner Stokes and seconded by Commissioner Malega to approve Ordinance No. 2022-16 establishing a Business Advisory Board, adding a hospitality category to include restaurants, bars and hotels.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

- B. Ordinance No. 2022-18 – Second Reading - Repeal of sections 15-91 "Definitions," 15-91 "Prohibited acts regarding panhandling," and 19-14 "Right-of-way solicitors and canvassers" (2:10:53)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2022-18 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, REPEALING SECTIONS 15-90 "DEFINITIONS," 15-91 "PROHIBITED ACTS REGARDING PANHANDLING," AND 19-14 "RIGHT-OF-WAY SOLICITORS AND CANVASSERS" OF THE CITY CODE OF ORDINANCES WHICH MAKE CERTAIN INSTANCES OF PANHANDLING OR SOLICITING IN PUBLIC AREAS UNLAWFUL; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

Action: Motion made by Commissioner Diaz and seconded by Vice Mayor McVoy to approve Ordinance No. 2022-18 repealing sections 15-91 "Definitions," 15-91 "Prohibited acts regarding panhandling," and 19-14 "Right-of-way solicitors and canvassers".

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: Commissioner Malega.

- C. (continued from September 6 meeting) Ordinance No. 2022-15 – First Reading - approval of a Mixed Use Urban Planned Development, Major Site Plan, Conditional Use Permit (CUP), and Sustainable Bonus Incentive Program (SBIP) requests for the project commonly referred to as "Lake Worth Station" located at 930 N G Street to construct a 5-story, 81 dwelling unit mixed use development with 39 multi-family units proposed to qualify as workforce housing and office space. The sustainable bonus request is for additional density and height. The property is zoned Transit Oriented Development – East (TOD-E) (2:32:47)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE NO. 2022-15 -- AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY APPROVING THE CREATION OF A MIXED USE URBAN PLANNED DEVELOPMENT DISTRICT, LOCATED AT 930 NORTH G STREE TO CONSTRUCT AN APPROXIMATELY 5-STORY, 81-UNIT MIXED USE DEVELOPMENT AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, LOCATED WITHIN THE TRANSIT ORIENTED DEVELOPMENT - EAST (TOD-E) ZONING DISTRICT WITH A FUTURE LAND USE DESIGNATION OF TRANSIT ORIENTED DEVELOPMENT (TOD) SUBJECT TO SPECIFIC DEVELOPMENT STANDARDS SET FORTH IN EXHIBIT B AND CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT C; APPROVING A CONDITIONAL USE PERMIT; APPROVING HEIGHT AND DENSITY BONUS INCENTIVES THROUGH THE CITY'S SUSTAINABLE BONUS INCENTIVE PROGRAM; APPROVING A MAJOR SITE PLAN FOR THE DEVELOPMENT OF A MIXED USE URBAN PLANNED DEVELOPMENT; PROVIDED FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

Commissioner Malega left the meeting at 9:33 PM.

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to extend the meeting to 11:00 PM. (3:49:05)

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

Action: Motion made by Commissioner Stokes and seconded by Vice Mayor McVoy to table Ordinance No. 2022-15 to a date uncertain.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

UNFINISHED BUSINESS:

A. (continued from September 6, 2022 meeting) Ordinance No. 19-2022 – First Reading - Adopting amendments to Chapter 7 “Beaches, Parks and Recreation” to prohibit smoking and vaping in City parks and on the City’s beach (4:19:37)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2022-19 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 7 “BEACHES, PARKS AND RECREATION,” ARTICLE I “PARKS, RECREATIONAL FACILITIES AND PUBLIC PROPERTY,” SECTION 7-9 “REGULATION OF CONDUCT IN PARKS AND RECREATION AREAS AND ON PUBLIC PROPERTY” BY CREATING A NEW SUBSECTION (K) TO BE ENTITLED “SMOKING AND VAPING” TO PROHIBIT SMOKING AND VAPING IN CITY PARKS AND PROVIDING FOR ENFORCEMENT; AND ARTICLE VI “MUNICIPAL BEACH AREA AND MUNICIPAL BEACH,” SECTION 7-80 “ADDITIONAL REGULATIONS APPLYING TO THE MUNICIPAL BEACH AREA,” BY CREATING A NEW SUBSECTION (Z) TO BE ENTITLED “SMOKING AND

VAPING” TO BAN SMOKING AND VAPING ON CITY BEACH AND TO PROVIDE FOR ENFORCEMENT; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to postpone Ordinance No. 2022-19 until the October 6, 2022.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

- B. (reordered to follow housing presentation) Update and discussion regarding the housing crisis
- C. Ordinance No. 2022-12 – First Reading – Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 1 “General Provisions,” Division 2 “Definitions,” and Article 2 “Administration”, Division 3 “Permits” adding a new Section 23.2-39 “Affordable/Workforce Housing Program,” providing for a Lake Worth Beach Affordable/Workforce Housing Program (4:24:25)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2022-12 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 2 “DEFINITIONS,” SECTION 23.1-12 “DEFINITIONS,” ADDING A NEW DEFINITIONS “ANNUAL GROSS HOUSEHOLD INCOME,” “GROSS RENT” AND “OVERALL HOUSING EXPENSE;” AND ARTICLE 2 “ADMINISTRATION,” DIVISION 3 “PERMITS,” ADDING A NEW SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING PROGRAM,” PROVIDING FOR AN AFFORDABLE/WORKFORCE HOUSING PROGRAM WITHIN THE CITY OF LAKE WORTH BEACH; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve Ordinance No. 2022-12 on first reading and set the second reading and public hearing for October 6, 2022, changing the time period for the deed restriction from 20 to 25 years.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

- D. Ordinance No. 2022-13 – First Reading – Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 1 “General Provisions,” Division 2 “Definitions,” Section 23.1-12 “Definitions,” and Article 4 “Development Standards,” adding a new Section 23.4-25 “Micro-Units,” providing for Micro-Unit Housing (4:39:58)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2022-13 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 2 “DEFINITIONS,” SECTION

23.1-12 “DEFINITIONS,” ADDING A NEW DEFINITION “MICRO-UNIT;” AND ARTICLE 4 “DEVELOPMENT STANDARDS,” ADDING A NEW SECTION 23.4-25 “MICRO-UNITS,” PROVIDING FOR DEVELOPMENT STANDARDS FOR MICRO-UNITS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve Ordinance No. 2022-13 on first reading and set the second reading and public hearing for October 6, 2022, changing the mixed-use component range from 15 to 25%.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to extend the meeting to midnight. (4:45:37)

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

E. Ordinance No. 2022-14 – First Reading – Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 1 “General Provisions,” Division 2 “Definitions,” Section 23.1-12 “Definitions”, and Article 2 “Administration”, Division 3 “Permits,” Section 23.2-31 “Site Design Qualitative Standards,” providing standards for buildings (4:46:32)

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2022-14 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 2 “DEFINITIONS,” SECTION 23.1-12 “DEFINITIONS,” ADDING THERETO NEW DEFINITIONS “SOCIAL JUSTICE” AND “SUSTAINABILITY;” AND “ARTICLE 2 “ADMINISTRATION,” DIVISION 3 “PERMITS,” SECTION 23.2-31 “SITE DESIGN QUALITATIVE STANDARDS,” PROVIDING FOR STANDARDS FOR BUILDINGS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve Ordinance No. 2022-14 on first reading and set the second reading and public hearing for October 6, 2022.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

The meeting recessed at 11:00 PM and reconvened at 11:06 PM.

NEW BUSINESS:

A. Property and Insurance Services renewals with Brown & Brown Inc. and City insurance

coverage for FY 2022-2023 (5:00:45)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Property and Insurance Services renewals with Brown & Brown Inc. and City insurance coverage for FY 2022-2023.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

B. Purchase Orders to Ace Pole Co. and Koppers Utility & Industrial Products for delivery of wood utility poles (5:02:42)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Purchase Orders to Ace Pole Co. and Koppers Utility & Industrial Products for delivery of wood utility poles.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

C. Second Amendment to Agreement with Gresco Utility Supply, Inc. for the purchase and delivery of distribution transformers (5:03:16)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Second Amendment to Agreement with Gresco Utility Supply, Inc. for the purchase and delivery of distribution transformers.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

D. Purchase Order with G&W Electric for Viper Recloser External CT Kit (5:03:52)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Purchase Order with G&W Electric for Viper Recloser External CT Kit.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

E. Agreement with Energy Erectors, Inc. for the construction of the Canal Distribution Substation (5:04:27)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Agreement with Energy Erectors, Inc. for the construction of the Canal Distribution Substation.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

F. (added) Discussion of a Linemen Apprenticeship Program (5:04:59)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Diaz to approve the Linemen Apprenticeship Program with the Electric Utility having the flexibility to determine the number of participants.

Action: Motion amended by Vice Mayor McVoy and seconded by Commissioner Diaz to approve the Linemen Apprenticeship Program, not exceeding two apprentices.

Vote: Voice vote showed: AYES: Vice Mayor McVoy, and Commissioner Diaz. NAYS: Mayor Resch. ABSENT: Commissioner Malega.

Action: Motion amended by Vice Mayor McVoy and seconded by Commissioner Diaz to approve the Linemen Apprenticeship Program with one apprentice.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

G. (added) Creation of Utility Payment Plans (5:51:41)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the Creation of Utility Payment Plans which would be approved by the City Manager.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Stokes and Diaz. NAYS: None. ABSENT: Commissioner Malega.

H. (added) Resolution No. 78-2022 – Establishment of a Public Education Fund (5:53:09)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 78-2022 OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, ESTABLISHING A PUBLIC EDUCATION FUND; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

No action as the meeting was ended at midnight. Item would be moved to the October 6, 2022 meeting.

I. (added) Resolution No. 79-2022 – FY 2022 Budget Transfer

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 79-2022, 12th BUDGET AMENDMENT OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING SEPARATE AND SEVERAL BUDGET AMENDMENTS AND CORRESPONDING APPROPRIATIONS FOR THE CITY'S NECESSARY OPERATING EXPENSES, THE USES AND EXPENSES OF THE VARIOUS FUNDS AND DEPARTMENTS OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022; AND PROVIDING FOR AN EFFECTIVE DATE

Item would be moved to the October 6, 2022 meeting.

CITY ATTORNEY'S REPORT:

UPCOMING MEETINGS AND WORK SESSIONS:

September 21 - public meeting (redistricting) @ 6 PM
September 22 - 2nd Budget Hearing @ 5:01 PM
September 28 - Pre-agenda Work Session @ 9 AM
October 6 - Regular Meeting @ 6 PM

ADJOURNMENT:

City Clerk Coyne declared the meeting ended at midnight.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

Minutes approved October 18, 2022.

Item time stamps refer to the recording of the meeting which is available on YouTube.

**MINUTES
CITY OF LAKE WORTH BEACH
SPECIAL CITY COMMISSION MEETING – 2ND BUDGET HEARING
CITY HALL COMMISSION CHAMBER
THURSDAY, SEPTEMBER 22, 2022 - 5:01 PM**

The meeting was called to order by Mayor Resch on the above date at 5:06 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (0:19) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega, Kimberly Stokes and Reinaldo Diaz. Also present were City Manager Carmen Davis, City Attorney Glen Torcivia and Deputy City Clerk Shayla Ellis.

PLEDGE OF ALLEGIANCE: (0:41) led by Commissioner Reinaldo Diaz.

PUBLIC HEARINGS: (0:59)

- A. Resolution No. 67-2022 – Second Public Hearing – Adopt the Fiscal Year 2022-2023 Final Millage Rate (1:02)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 67-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA; LEVYING MUNICIPAL TAXES ON ALL TAXABLE PROPERTY WITHIN THE CITY OF LAKE WORTH BEACH, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve Resolution No. 67-2022 adopting a final millage rate of 5.4945 mils for Fiscal Year 2022-2023.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

- B. Resolution No. 68-2022 - Second Public Hearing - Adopt the Debt Service Rate (2:45)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 68-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA; LEVYING MUNICIPAL TAXES ON ALL TAXABLE PROPERTY WITHIN THE CITY OF LAKE WORTH BEACH, FLORIDA, FOR VOTER APPROVED DEBT SERVICE FUND FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER

30, 2023; REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

Action: Motion made by Commissioner Stokes and seconded by Commissioner Malega to approve Resolution No. 68-2022 adopting a final debt service millage rate of 0.9200 mils for the Fiscal Year 2022-2023.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

C. Resolution No. 69-2022 - Second Public Hearing - Adopt the fiscal year final City Budget (4:09)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 69-2022, A GENERAL APPROPRIATION RESOLUTION OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING SEPARATE AND SEVERAL APPROPRIATIONS FOR ITS NECESSARY OPERATING EXPENSES, THE USES AND EXPENSES OF THE VARIOUS FUNDS AND DEPARTMENTS OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; PROVIDING FOR THE EFFECTIVE DATE THEREOF

Action: Motion made by Commissioner Malega and seconded by Commissioner Stokes to approve Resolution No. 69-2022 adopting the final budget for Fiscal Year 2022-2023.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

NEW BUSINESS: (24:33)

A. Resolution No. 74-2022 – establishing the Electric Utility Rates for Fiscal Year 20232022-2023 (24:34)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 74-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES, AND REGULATIONS FOR ALL ELECTRICITY SOLD BY THE CITY OF LAKE WORTH BEACH, FLORIDA FOR USE OF ELECTRIC LIGHT AND POWER SYSTEM; REPEALING ALL RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Malega to approve 74-2022 – establishing the Electric Utility Rates for Fiscal Year 2023.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

- B. Resolution No. 75-2022 – Establish the rates and charges for the Water System for Fiscal Year 2023 (26:27)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 75-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR WATER SYSTEMS RATES AND CHARGES FOR FISCAL YEAR 2023; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Diaz to approve Resolution 75-2022 – Establish the rates and charges for the Water System for Fiscal Year 2023.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

- C. Resolution No. 76-2022 – Establishing the rates, fees and charges for the City Subregional Sewer Utility (30:13)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 76-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES FOR USE OF THE REGIONAL SEWAGE DISPOSAL SYSTEM OF THE CITY OF LAKE WORTH BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS OR CONFLICTING PARTS OF RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE

Action: Motion made by Commissioner Diaz and seconded by Vice Mayor McVoy to approve Resolution 76-2022 – Establishing the rates, fees and charges for the City Subregional Sewer Utility.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

- D. Resolution No. 77-2022 - Fees and charges for City services in Fiscal Year (31:44)

City Attorney Torcivia did not read the resolution.

RESOLUTION NO. 77-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, ESTABLISHING REASONABLE FEES FOR CITY SERVICES AND OTHER CHARGES FOR THE 2023 FISCAL YEAR; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE

Action: Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve Resolution 77-2022 - Fees and charges for City services in Fiscal Year.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

E. Adopt the Fiscal Year 2023 Position Count (32:50)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Stokes to approve the adoption of the Fiscal Year 2023 Position Count.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

ADJOURNMENT: (36:57)

Action: Motion made by Commissioner Stokes and seconded by Commissioner Malega at 5:41 PM.

Vote: Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, and Commissioners Malega, Stokes and Diaz. NAYS: None.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

Minutes Approved: October 18, 2022

Item time stamps refer to the recording of the meeting which is available on YouTube.

STAFF REPORT REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: City Manager

TITLE:

Second Amendment to the Interlocal Agreement between Palm Beach County and the City for the Homeless Resource Center

SUMMARY:

The City entered into an Interlocal Agreement with Palm Beach County to establish the protocol by which the City is to refer and transport homeless individuals for acceptance into the Homeless Resource Center and provides for the payment of any transport costs incurred by the City. The initial term of the Interlocal Agreement was for a five year term ending on September 18, 2017, and provides for three renewal periods for five years each. The Second Amendment to the Interlocal Agreement represents the second of these three renewal periods and will serve to extend the term of the Interlocal Agreement from September 19, 2022 through September 18, 2027.

BACKGROUND AND JUSTIFICATION:

Palm Beach County established the Homeless Resource Center (“HRC”) in 2010 within the municipal boundaries of the City of West Palm Beach in 2010 for the referral of the County’s homeless population to a central facility supporting organizations, services and programs that will help end the cycle of homelessness. Operating protocols for the HRC were established by the Palm Beach County Law Enforcement Planning Council and a subcommittee of the County’s Criminal Justice Commission. These protocols included Best Practices for law enforcement personnel’s interaction with the homeless population and referral of homeless individuals to the HRC and related community agencies’ supporting facilities.

Palm Beach County and the City of Lake Worth Beach entered into an Interlocal Agreement on September 19, 2012 to establish the protocol by which the City shall refer and transport homeless individuals for acceptance into the HRC and provide for payment of any transport expenses incurred by the City. The Interlocal Agreement was valid for a five year term ending on September 18, 2017 and three (3) renewals for five years each.

On October 18, 2017, the City entered into the First Amendment to the Interlocal Agreement with Palm Beach County to renew the Agreement for an additional five years ending on September 18, 2022. The Second Amendment to the Interlocal Agreement with Palm Beach County represents the second of three renewals provided for in the original Interlocal Agreement. It will serve to extend the term from September 19, 2022 continuing through September 18, 2027.

MOTION:

Move to approve/disapprove the Second Amendment to the Interlocal Agreement between Palm Beach County and the City for the Homeless Resource Center.

ATTACHMENT(S):

Fiscal Impact Analysis – N/A
Second Amendment

**SECOND AMENDMENT
TO INTERLOCAL AGREEMENT**

THIS SECOND AMENDMENT to the Interlocal Agreement dated August 19, 2012, as amended by R2018-0112 (collectively referred to herein as the “Agreement”), is made as of _____, by and between Palm Beach County, a political subdivision of the State of Florida (“County”), and the City of Lake Worth Beach, a municipal corporation of the State of Florida (“City”).

WHEREAS, the Agreement provides the protocol by which the City refers and transports homeless individuals for acceptance into the Homeless Resource Center (HRC) and provides for the payment of any transport costs; and

WHEREAS, the County and the City have determined it to be beneficial to both parties to continue the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the County and City agree as follows:

1. The parties agree to exercise the second of the three (3) five (5) year renewal options. The term of the Agreement is renewed beginning on September 19, 2022 and continuing through September 18, 2027.

2. Section 12 of the Agreement is deleted in its entirety and replaced with the following:

SECTION 12: REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or City.

3. Section 18 of the Agreement is deleted in its entirety and replaced with the following:

SECTION 18: NON-DISCRIMINATION

The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Town warrants and represents that throughout the term of

the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

4. The Agreement is hereby modified to add the following:

SECTION 19: ASSIGNMENT

City may not assign, mortgage, pledge, or encumber this Agreement in whole or in part, without prior written consent of County, which may be granted or withheld at the County's absolute discretion. This provision shall be construed to include a prohibition against an assignment, mortgage, pledge, encumbrance or sublease, by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

SECTION 20: SEVERABILITY

If any term of the Agreement or the application thereof to any person or circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

SECTION 21: COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

SECTION 22: EFFECTIVE DATE

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all Parties and approved by the Palm Beach County Board of County Commissioners.

5. Except as modified by this Second Amendment, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof and is hereby ratified and confirmed by the City and County.

THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed as of the day and year first above written.

ATTEST:

PALM BEACH COUNTY, a political subdivision of the State of Florida

By: _____
FDO Fiscal Officer

By: _____
Isamì Ayala-Collazo, Director
Facilities Development & Operations

**APPROVED AS TO
LEGAL SUFFICIENCY**

By: _____
County Attorney

ATTEST:

CITY CLERK

**CITY OF LAKE WORTH BEACH, A
MUNICIPAL CORPORATION OF THE
STATE OF FLORIDA**

By: _____
Melissa Ann Coyne, City Clerk

By: _____
Betty Resch, Mayor

**APPROVED AS TO
LEGAL SUFFICIENCY**

By: _____
City Attorney

STAFF REPORT REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: City Manager

TITLE:

Resolution No. 80-2022 – Recognizing the 100th Anniversary of the Florida League of Cities, Inc. (FLC)

SUMMARY:

The FLC, the professional membership organization for Florida’s municipalities, is celebrating its 100th anniversary in 2022.

BACKGROUND AND JUSTIFICATION:

The FLC began in 1922 when several municipal officials came together in Tampa, forming the Florida League of Municipalities (the name was changed in 1970) because of the need for a united voice for all cities, towns and villages as well as a setting at which common issues could be discussed and resolved.

The dedicated leadership of the FLC’s officers and boards of directors over the decades has made the association a success. The FLC continues to have a vision for programs and services provided to its members to benefit local governments. The City of Lake Worth Beach, a proud member of the Florida League of Cities, celebrates its achievements and recognizes the milestone of reaching its 100th anniversary.

MOTION:

Move to approve/disapprove Resolution No. 80-2022 – recognizing the 100th Anniversary of the Florida League of Cities, Inc.

ATTACHMENT(S):

Fiscal Impact Analysis – N/A
Resolution 80-2022

RESOLUTION NO. 80-2022, A RESOLUTION OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, RECOGNIZING THE 100TH ANNIVERSARY OF THE FLORIDA LEAGUE OF CITIES, INC.; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in 1922 several municipal officials came together in Tampa, forming the Florida League of Municipalities and stressing the need for a united voice for all cities, towns and villages as well as a forum at which common issues could be discussed and resolved; and

WHEREAS, for one century this association, whose name was changed to the Florida League of Cities in 1970, has been that uniting factor through which leaders have been galvanized on all municipal issues, and through which the League provides a valued forum today, holding fast to both original missions; and

WHEREAS, across the decades League advocates have worked tirelessly in Florida's constitutional, legislative, legal and administrative arenas for reform, rights and action and such advocacy culminated in Home Rule powers being voted into the Constitution in 1968, and such actions continue to be the strongest force for preserving this authority despite efforts to preempt or diminish it or to burden cities with mandates; and

WHEREAS, the dedicated leadership of its officers and boards of directors over the decades have built a foundation of strength, resilience and success for the association to a level unparalleled among organizations, and these same leaders and devoted FLC staff have had and continue to have the outstanding vision for entrepreneurial programs, products and services for the League to provide to its members and other local governments, and through such actions ensures viable services that benefit local governments every day as well as ensuring for the League a healthy and sustainable fiscal standing; and

WHEREAS, an anniversary of this magnitude is worthy of acknowledgement, celebration and sober reflection upon all that has been accomplished and to also look towards the next century for this association and its many programs such that a promising, bright and attainable future is planned.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The above recitals are hereby ratified and confirmed as being true and correct and are hereby incorporated into this Resolution.

Section 2. The City of Lake Worth Beach acknowledges the century mark for the Florida League of Cities' statewide association with great fanfare and celebration.

Section 3 A copy of this resolution shall be sent to the National League of Cities and the Florida League of Cities, Inc.

Section 4. This resolution shall become effective immediately upon passage.

The passage of this resolution was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Christopher McVoy
Commissioner Sarah Malega
Commissioner Kimberly Stokes
Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on the 18th day of October 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

STAFF REPORT

REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: City Attorney

TITLE:

Resolution No. 81-2022 – Amending the City Commission’s Rules of Procedure

SUMMARY:

The City Commission requested to update its Rules of Procedure to change the meetings to automatically end at 11:00 PM rather than midnight. Further revisions were made to update public comments as well as correcting citation references internal to the document.

BACKGROUND AND JUSTIFICATION:

The City Commission’s Rules of Procedure were initially adopted in 2004 by resolution and have been amended multiple times by subsequent resolutions with the most recent amendment in February 2022. At a recent City Commission Pre-agenda Work Session, the City Commission requested to update its Rules of Procedure to change the meetings to automatically end at 11:00 PM rather than midnight.

In reviewing the current Rules of Procedure, an update to the public comments was needed as well as correcting some of the numbers cited in the resolution.

MOTION:

Move to approve / disapprove Resolution No. 81-2022 amending the City Commission’s Rules of Procedure.

ATTACHMENT(S):

Resolution No. 81-2022

RESOLUTION NO. 81-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING THE RULES OF PROCEDURE FOR LAKE WORTH BEACH CITY COMMISSION; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in 2004, the City Commission adopted rules of procedure for City Commission meetings, which have been amended for a variety of reasons over time (see Resolutions 05-2004, 26-2006, 48-2007, 49-2007, 32-2008, 06-2009, 33-2009, 04-2011, 14-2011, 05-2012, 17-2012, 09-2013, 56-2013, 59-2015, 26-2017, 46-2018, 25-2021 and 08-2022); and,

WHEREAS, the City Commission desires to amend its rules of procedure to change the time of adjournment of the meetings from midnight to 11:00 PM; and

WHEREAS, the City Commission also desires to update presentations and public participation; and

WHEREAS, the City Commission finds the revisions to the City Commission's rules of procedure as set forth in this Resolution are necessary to maintain orderly conduct of all City Commission meetings and serve a valid public purpose.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The foregoing recitals are hereby incorporated into this Resolution as true and correct statements.

Section 2. The City Commission's adopted Rules of Procedure for the Lake Worth Beach City Commission are amended as follows (added language is underlined and deleted language is struck-through):

**RULES OF PROCEDURE
LAKE WORTH BEACH CITY COMMISSION**

**RULE 1
SCHEDULING OF MEETINGS AND WORK SESSIONS**

- (1) Regular meetings of the City Commission shall be held on the first and third Tuesday of each month, in the Commission Chambers, at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida, and beginning at 6:00 P.M.

If a regular meeting date falls on a holiday, the meeting shall be held in the Commission Chambers, at City Hall on the next day immediately following the holiday, beginning at 6:00 P.M.

The City Commission may cancel not more than one regular meeting in any month.

- (2) Utility meetings of the City Commission, which shall include matters regarding the City's Electric Utility and Water Utilities, shall be held on the last Tuesday of each month, in the Commission Chambers, at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida beginning at 6:00 P.M. If a Utility meeting date falls on a holiday or conflicts with the need for a Regular or special meeting of the City Commission, the Utility meeting may be re-scheduled to another date ideally during the last week of the month or the Utility meeting may be cancelled. Utility matters may be heard at regular and special meetings of the City Commission. Except as set forth herein, the Utility meetings shall follow the same format, procedure and have the same rules of procedure as a regular meeting of the City Commission.
- (3) A special meeting of the City Commission to canvass ballots shall be held as required by the City Charter. Other special meetings may be called by a majority of the members of the City Commission or by the Mayor. Notice of special meetings shall be given to each Commissioner¹ and to the public at least twenty-four (24) hours in advance except for emergency meetings. If the Mayor or a member of the Commission is absent from the City or otherwise beyond reach of actual notice, failure to give such notice shall not prevent the convening of the special meeting. The City Commission may act on any matter presented at the special meeting unless prohibited by the City Charter or by rules established by the City Commission and public participation shall occur consistent with these Rules and applicable law. Special meetings shall be held in the Commission Chambers or Commission Meeting Room at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida, or at such other location within the City as may be designated in the notice of the special meeting, beginning at a time to be specified in the notice of the special meeting.
- (4) Work Sessions of the City Commission may be called by a majority of the members of the City Commission or by the Mayor, and any matter may be discussed or studied at a work session. Any matter that appears likely to take more than thirty (30) minutes shall be discussed or studied at a work session prior to official action of the City Commission, unless this requirement is waived by a majority vote. No official action of the City Commission shall be taken at a work session and no public participation shall occur. All work sessions shall end at 10:00 PM. At 10:00 PM., the City Commission shall cease further discussion on the business on the table and, upon a majority consensus of the City Commission present, determine whether to (1) adjourn the meeting; or (2) extend the meeting and continue to conduct the meeting until 11:00 PM. All meetings shall adjourn automatically at 11:00 PM.
- (5) "District Public Forums" may be held by the City Commission on a quarterly basis beginning in October 2021, one to be held in each district of the City on a rotating basis. Notice of such meetings shall be posted no less than 14 days before each meeting. No official action shall be taken at these meetings.

- (6) All regular and special meetings shall end at 10:00 PM. At 10:00 PM. the City Commission shall cease further discussion on the business on the table and, upon a majority vote of the City Commission present, determine whether or not to (1) adjourn the meeting; or (2) extend the meeting and continue to conduct the meeting until 11:00 PM. All meetings shall adjourn automatically at 11:00 PM.

Rule 1 is exempt from the provisions of Rule 11 Amendment or Waiver of Rules and shall not be waived, except where such waiver is expressly permitted in paragraph (4) of Rule 1 (regarding the 30 minute limitation on discussions), and shall only be amended by resolution.

RULE 2 QUORUM

A majority of the City Commission shall constitute a quorum; a smaller number may adjourn a meeting or recess a meeting to a time certain. No ordinance, resolution, or motion shall be adopted except by the affirmative vote of at least three members of the City Commission.

RULE 3 ABSENT MEMBER PARTICIPATION BY TELEPHONE CONFERENCE

Up to two (2) members of the City Commission, who are physically absent due to extraordinary circumstances, may participate through electronic means in a City Commission work session or meeting and vote in a meeting if a quorum of the Commission is physically present at the meeting or work session location.

RULE 4 DUTIES AND RESPONSIBILITIES OF THE "CHAIR"

- (1) The Mayor shall be the presiding officer of the City Commission, and shall be referred to as the "Chair" when sitting in that capacity. In case of the absence or the disability of the Mayor, the Vice Mayor shall assume the responsibilities of the presiding officer, and if both are absent or disabled, the Vice Mayor Pro Tem shall preside.
- (2) The Chair shall preserve order. The Chair may call to order any member of the Commission and any member of the public who shall violate any of these rules or otherwise disrupt the orderly proceeding of the meeting. The Chair shall decide all questions of order subject to a majority vote on an appeal of the decision.
- (3) The Chair shall recognize all Commissioners who seek the floor while entitled to do so.
- (4) The Chair shall not make or second a motion.

**RULE 5
ORDER OF BUSINESS**

- (1) The order of business for a regular meeting shall ordinarily be:
 1. Roll Call
 2. Invocation or Moment of Silence
 3. Pledge of Allegiance
 4. Agenda-Additions/Deletions/Reordering
 5. Presentations
 6. Commission Liaison Reports and Comments
 7. City Manager's Report
 8. Public Participation on Non-Agendaed Items and Consent Agenda
 9. Approval of Minutes
 10. Consent Agenda
 11. Public Hearings
 12. Unfinished Business
 13. New Business
 14. City Attorney's Report
 15. Upcoming meetings and work sessions
 16. Adjournment
- (2) The order of business may be revised by a majority vote.
- (3) Matters may be placed on the agenda by the Mayor, any Commissioner, the City Manager, or the City Attorney, in adherence to the agenda submission deadlines.
- (4) Except for matters advertised for public hearing, any matter may be removed from an agenda by the person who placed it on the agenda or by a majority vote.
- (5) When a matter comes before the Commission that directly affects one election district, the Commissioner from that district shall have the privilege of both expressing his or her views and making a motion on that matter first.
- (6) The Invocation or Moment of Silence shall be offered by the Mayor or a member of the Commission on a rotating basis. The Mayor or Commissioner whose turn it is to deliver the invocation or moment of silence may designate another individual to deliver the invocation on their behalf. Any individual who delivers the invocation shall not denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion. Any individual who delivers the invocation is encouraged to be respectful in tone.

**RULE 6
DEBATE OF MOTIONS; VOTING**

- (1) When debating or discussing a motion, a Commissioner shall address the Chair and await recognition before speaking. The Commissioner making a motion is

entitled to the floor first for debate. No Commissioner is entitled to the floor a second time on the same motion as long as any other Commissioner who has not spoken on the issue desires the floor.

- (2) Motions and amendments can be withdrawn or modified by the maker at any time prior to the Chair's stating the question on the motion; after that time, the permission of the Commission majority must be obtained. The Chair cannot close debate as long as any member who has not exhausted his right to debate desires the floor.
- (3) Members of the public are permitted to participate upon opening of the floor for public comment by the Chair during Public Participation on Non-Agendaed Items and Consent Agenda (No. 8 above) and during each item of Public Hearing (No. 11 above), Unfinished Business (No. 12 above), and New Business (No. 13 above). The time shall be limited to three (3) minutes per public participant for Public Participation on Non-Agendaed Items and Consent Agenda (No. 8 above). The time shall be limited to two (2) minutes per public participant on all issues of Public Hearing (No. 11 above), Unfinished Business (No. 12 above), and New Business (No. 13 above). During a public hearing, the presentations shall be limited to ten minutes each but the time may be extended to permit questioning. Online comments will be posted on the website upon submission. The first ten comments submitted online for each item will be read by the City Clerk.
- (4) A member of the audience who speaks to the City Commission may be questioned for additional information, but Commissioners shall not engage in debate with a member of the audience. Members of the audience may ask questions but may not compel a Commissioner, the City Manager, or the City Attorney to answer questions during a meeting.
- (5) The Chair shall restate all motions before the vote is taken.
- (6) A tie vote shall constitute a continuance of the item to the next regular meeting, but upon a tie vote on the same item at the next meeting, the item shall not be rescheduled except upon the request of the City Manager, the City Attorney, the Mayor or a Commissioner.
- (7) The failure of a motion stated in the negative shall not be deemed an affirmative action. For example, the failure of a motion to deny shall not constitute an approval.
- (8) During a presentation, the presenter shall have ten minutes to make his or her presentation but the time may be extended to permit questioning of the presenter.

RULE 7 NON-DEBATABLE MOTIONS

The following motions are not debatable:

To adjourn;
To lay on the table;
To take from the table;
To divide a question;
To close or re-open nominations;
To take a recess;
A point of information;
An appeal of a decision of the Chair;
The previous question.

RULE 8 RECONSIDERATION

Any member of the Commission may move to reconsider any action of the Commission provided that new relevant information is presented to the Commission and the motion be made by the next regular Commission meeting. No motion to reconsider shall be made more than once on any subject or matter.

RULE 9 COMMISSION MINUTES

Copies of the minutes of the regular meetings shall be furnished, when possible, at least five days prior to the next regular meeting. Such minutes shall stand confirmed at the regular meeting of the Commission without the reading thereof in open meeting unless some inaccuracy or error is pointed out by some member of the Commission present, and in such event, an appropriate correction shall be made. Upon request, the City Manager will cause the City Clerk to provide any Commissioner with access to Commission meeting recordings or transcribed excerpts of City Commission meetings. No member shall suggest to the City Clerk any revision in minutes of meetings before the same shall have been submitted to the full Commission for approval, unless specifically requested by the Clerk to make clarification.

RULE 10 ADOPTION OF ROBERT'S RULES OF ORDER

Robert's Rules of Order, Newly Revised, are adopted as the rules of procedure of the City Commission, but such Rules shall not take precedence over any provision of Florida law, the City Charter, an ordinance or resolution of the City, or these rules, which shall govern in the event of conflict. A failure to comply with Robert's Rules of Order or these rules shall not affect the validity of any action taken by the City Commission.

**RULE 11
AMENDMENT OR WAIVER OF RULES**

These rules of procedure may be amended or waived by a majority vote, provided that no such amendment shall conflict with any applicable provision of Florida law, the City Charter, or an ordinance of the City.

**RULE 12
AGENDA PROCEDURES**

- (1) Agenda submittal deadline: The deadline for submitting items for inclusion on an agenda shall be no later than 12:00 PM on Friday of the week prior to the deadline for distributing the final agenda.
- (2) Agenda distribution deadline: The deadline for distributing a final agenda with supporting documents shall be no later than Thursday, two (2) weeks prior to a regularly scheduled City Commission meeting.

For all special or work session City Commission meetings, the agendas with supporting documents will be distributed consistent with the timeframe referenced above.

- (3) Amendment to agenda: There shall be no additions to a distributed City Commission agenda unless the matter is deemed to be an emergency.

In the case of an emergency, any person or City Commissioner requesting an addition to the distributed City Commission agenda must do so in writing, provide written justification for the emergency within the narrative of an agenda memorandum, and include supporting backup material to the City Manager no later than 5:00 PM the Friday before a regularly scheduled Commission meeting.

The name of the person or City Commissioner requesting the addition shall be placed with the agenda item to be presented. The written justification and supporting backup material shall be submitted to the City Commission prior to a regularly scheduled Commission meeting.

At the beginning of the City Commission meeting, the City Commission shall review the emergency and, in its discretion, will determine whether it will accept, review and take action on the addition requested.

**RULE 13
PRESERVE ORDER**

Intentionally deleted and reserved for future consideration.

RULE 14
DECORUM FOR CITIZEN PARTICIPATION

In support of and respect for an open, fair and informed decision-making process, the City Commission and Administration recognize that:

- (1) Civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making; and
- (2) Un-civil discourse and/or discourteous and inappropriate behavior have a negative impact on the character and productivity of the decision-making process.

In an effort to preserve the intent of open government and maintain a positive environment for citizen input and Commission decision-making, the following Rules of Decorum for Citizen Participation have been established.

Compliance with these rules is expected and appreciated. The Rules of Decorum for Citizen Participation will be referenced in the agenda. A written list of the Rules of Decorum for Citizen Participation will also be printed and mounted upon the walls of the Commission Chamber and Conference Room and referenced on comment cards utilized in the Commission Chamber.

- (1) Speakers will conduct themselves in a civil and respectful manner at all times.
- (2) Speakers will address the Chair.
- (3) Questions to Commission members or City staff will be facilitated by the Chair.
- (4) Speakers will refrain from the use of obscene language, "fighting words" likely to incite violence from the individuals(s) to whom the words are addressed or other language that is disruptive to the orderly and fair progress of discussion at the meeting.
- (5) Speakers will refrain from making comments of a personal nature regarding others.
- (6) Name-calling and/or obscenity is forbidden.
- (7) Shouting, yelling or screaming is forbidden.
- (8) Commission Work Session or Public Hearing attendees (audience) will refrain from commenting, shouting, booing, clapping, stomping feet or other inappropriate and/or disruptive behavior. Brief clapping is permissible at the end of a speaker's comments.

It is the intent of Commission to maintain order and enforce the Rules of Decorum for Citizen Participation for its meetings. Disregard of these rules will be met with the following consequences:

- (1) The Chair will identify out loud the out-of-compliance behavior and request for the behavior to stop;
- (2) The Chair will ask the speaker to have a seat if he/she continues to disrupt the meeting;
- (3) If the speaker refuses to have a seat, the Chair will recess the meeting; and
- (4) Will instruct a law enforcement officer to instruct the speaker to stop the disruptive conduct and escort the speaker out of the meeting venue.

Section 3. All resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall become effective upon its adoption.

The passage of this resolution was moved by Commissioner _____ seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Christopher McVoy
Commissioner Sarah Malega
Commissioner Kimberly Stokes
Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on this _____ day of _____ 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

STAFF REPORT REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: Water Utilities

TITLE:

Resolution No. 82-2022 - Establishing the rates, fees and charges for the Local Sewer System

SUMMARY:

Resolution 82-2022 establishes the rates and charges for the City's Local Sewer System for Fiscal Year 2023.

BACKGROUND AND JUSTIFICATION:

The City of Lake Worth Beach contracts with Stantec on an ongoing basis to provide a yearly Revenue Sufficiency Analysis. This analysis provides a multi-year projection of the sufficiency of revenues for the Local Sewer Utility to meet current and projected financial requirements and determine the level of revenue increases necessary in each year to provide adequate revenues to fund all identified cost requirements.

The results of the current Fiscal Year 2023 rate sufficiency analysis have shown that a 7.5% rate increase is needed.

Future costs for the local sewer utility are related to costs to maintain the system and continue Infiltration & Inflow improvements, as well as contributions towards the subregional sewer system, which has a steep increase due to East Central Regional Water Reclamation Facility (ECRWF) R&R projects. These projects are needed to maintain the reliability and environmental requirements of the sewer system.

MOTION:

Move to approve/disapprove Resolution No. 82-2022 establishing the Fiscal Year 2023 rates and charges for the City's Local Sewer System.

ATTACHMENT(S):

Fiscal Impact Analysis - N/A
Resolution 82-2022

RESOLUTION NO. 82-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES FOR USE OF SEWAGE DISPOSAL SYSTEM OF THE CITY OF LAKE WORTH BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS OR PARTS OF RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida, is authorized and required to fix uniform and adequate rates for its service; and

WHEREAS, an evaluation of the level of sewer system rates establishes a need to revise the rates and charges as set forth herein in order to meet the several objectives identified by the evaluation; and

WHEREAS, the City Commission finds that the rates established herein are fair and equitable and serve a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The following schedules, except as otherwise provided, shall be the rates, fees and charges for the use of and for the services and facilities furnished or to be furnished by the sewage disposal system, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with or may use the sewage disposal system by or through any part of the sewer system of the City of Lake Worth Beach. These charges are those necessary to cover operation, maintenance and replacement costs.

Accounts, which are served and metered by the Lake Worth Beach Utilities Water System.

1. Customer Charge effective as of the dates listed:

Effective Date:	10/1/2022
Charge:	\$5.86

A fixed charge based on the cost of preparing and delivering a bill, which will be applied to each sewer account receiving a bill.

Base Facility Charge:

Residential Accounts:

A fixed charge designed to recover a portion of the fixed costs of the sewer system will be applied to each Equivalent Residential Unit (ERU), which is defined as follows:

“ERU” shall stand for “Equivalent Residential Unit” and shall mean the

average amount of wastewater discharged by a residential facility in terms of the reserved capacity needed to serve that facility. One ERU is, by definition, equal to one single family residence. Each residential unit in a multi-family complex or mobile home park unit is equivalent to 66% of one ERU or as calculated in accordance with Chapter 18, Article IV, Code of Ordinances of the City of Lake Worth Beach.

Base Facility Charge effective as of the dates listed:

Effective Date:	10/1/2022	
Charge:	\$12.24	per ERU
Charge:	\$8.08	per multi-family residential unit or mobile home unit (66% of 1 ERU)

Commercial and Industrial Use Accounts:

A fixed charge designed to recover a portion of the fixed costs of the sewer system will be applied to each water meter based upon the size of the meter:

Base Facility Charge effective as of the dates listed:

Effective Date:	10/1/2022
5/8 X 3/4" Meter	\$12.24
1" Meter	\$30.59
1-1/2" Meter	\$61.19
2" Meter	\$97.91
3" Meter	\$195.80
4" Meter	\$305.92
6" Meter	\$611.86
8" Meter	\$911.14

For meter sizes larger than those shown in the table, the Director shall determine the charge on a case by case basis.

2. Volume Charge effective as of the dates listed:

Effective Date:	10/1/2022
Charge:	\$0.548

A volume charge based on those costs related directly to the transmission, treatment and disposal of sewage generated.

Residential use:

A residential use is defined as a use consisting of a minimum of one dwelling unit but shall not include transient facilities.

A volume charge will be applied to each hundred gallons of water consumed up to a maximum of twelve thousand (12,000) gallons per ERU for individually metered, single or multi-unit residential accounts or six thousand (6,000) gallons per ERU for master-metered, multi-unit residential accounts.

Commercial use:

A commercial use shall include all non-residential uses, including but not limited to motels, hotels, nursing homes, restaurants, commercial businesses and institutions.

A volume charge will be applied to each hundred gallons of water consumed.

Industrial Use Class:

An industrial use shall be defined as a commercial use that is able to demonstrate that over fifty percent (50%) of its water usage is not returned to the City sewer system.

A volume charge would be applied to each hundred gallons of water consumed up to a maximum flow as approved by the Water Utilities Director. This limitation for this charge is established to provide for the use of water for industrial and other uses that do not generate sewage.

Accounts, which are not served by the Lake Worth Beach Water Utilities System.

1. Customer Charge effective as of dates listed:

Effective Date:	10/1/2022
Charge:	\$5.86

A fixed charge based on the cost of preparing and delivering a bill, which will be applied to each sewer account receiving a bill.

2. Base Facility Charge effective as of dates listed:

Effective Date:	10/1/2022	
Charge:	\$12.24	Per ESU
Charge:	\$8.08	Per mutli-family or mobile home (66% of 1 ESU)

A fixed charge designed to recover a portion of the fixed costs of the sewer system will be applied to each Equivalent Service Unit (ESU), which is

defined as follows:

A single-family residence: Each residential unit in a multi-family complex such as duplexes, triplexes, apartment buildings and condominiums. Each separate living unit in a mobile home or trailer park complex. Each washing machine in a commercial laundry. Each multiple of four (4) sewer fixtures or fraction thereof, in a commercial or institutional establishment such as an office, store, hotel, motel, combination store/apartment, office/apartment, nursing home, etc.

3. Fixture Charge effective as of dates listed:

Effective Date:	10/1/2022
Charge:	\$12.24

A fixture charge applied to each sewer plumbing fixture defined as toilet, sink, washing machine, shower, bathtub, floor drain, drinking fountain and other fixtures as defined in the Florida Building Code for non-residential uses. Four plumbing fixtures shall be assumed for all single family residential and each residential unit in a multi-family complex and separate living unit in a mobile home or trailer park.

Collection of Sewer Service Charge:

The sewer service charges shall become effective as to each lot or parcel of land which may be connected with the sewage disposal system by or through any part of the sewer system of the City of Lake Worth Beach, upon the placing of the sewage disposal system in operation and the construction of all connections thereto from the sanitary sewer serving such lot or parcel.

In cases where water is furnished by the Lake Worth Beach Utilities System, the amount of the sewer service charges shall be included in the bills for water rendered by the City of Lake Worth Beach. In all cases where water is furnished by any plant or system other than the Lake Worth Beach Utilities System, bills shall be rendered for the amount of such sewer service charges in the same manner as bills are rendered for water. If the amount of such sewer service charges shall not be paid by the due date shown on the bill, the City of Lake Worth Beach may discontinue furnishing water to such premises, and shall disconnect the same from the Lake Worth Beach Utilities System, and shall proceed forthwith to recover the amount of such sewer service charges in such lawful manner as it may deem advisable. The City of Lake Worth Beach may enter into contracts with the County of Palm Beach, City of West Palm Beach, or any municipality, public utility, special authority or government unit in Palm Beach County for the treatment and disposal of sewage collected outside the territorial limits of the City of Lake Worth Beach and pumped and delivered to some part of the sewer system of the City of Lake Worth Beach; provided, however, that notwithstanding any of the other provisions of this resolution, the charges

to be paid for the treatment and disposal of such sewage shall not be less than an amount which is fair and equitable taking into account the cost to the City of Lake Worth Beach of such treatment and disposal and the principal and interest requirements of the bonds issued pursuant to Lake Worth Utilities Authority Resolution No. U-18-75. That certain State Bond Loan Agreement between the Lake Worth Utilities Authority and the Department of Environmental Regulation of the State of Florida is dated January 6, 1976. User charges will be reviewed periodically to assure adequate revenue to cover operation, maintenance and replacement costs and a proportional distribution of costs among users. Users will receive annually, a notification of the current rate structure.

Section 2. With respect to any premises or users situated outside the corporate limits of the City of Lake Worth Beach, which premises or users now or hereafter have active connections to the sewage disposal system of the City, there shall be charged a rate equal to the charge established for service to residents of the City, plus a surcharge equal to twenty-five percent (25%) of such charge as outlined in the Policies & Procedures Manual.

The foregoing surcharge shall apply to users with whom the City has now or shall hereafter contract for services at charges established in such contracts unless the contract does not allow for a surcharge.

Section 3. Average Billing Calculation. The average billing process will establish a monthly bill which will be based on the average sewer bill for the preceding twelve (12) calendar months. If the residence or apartment has been occupied for the last twelve (12) months and the customer can qualify as an existing customer, the previous tenant's or owner's bill may be used to estimate the average monthly billing.

The average billing calculation will be reviewed and adjustments made to correct for changes in rates, or usage or other factors to be implemented on the bills issued during June and December of each year.

Section 4. Should any section or provision of this resolution or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or any part thereof other than the part declared to be invalid.

Section 5. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 6. This resolution shall be in effect for billings issued on or after October 1, 2022.

The passage of this resolution was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Christopher McVoy
Commissioner Sarah Malega
Commissioner Kimberly Stokes
Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted this 18th day of October 2022.

LAKE WORTH BEACH CITY COMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk

STAFF REPORT REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: Human Resources

TITLE:

Base Salary increase for City Manager Carmen Davis

SUMMARY:

The agreement for the City Manager calls for a base salary increase to be approved by the City Commission.

BACKGROUND AND JUSTIFICATION:

All City employees will be receiving a base salary increase of 3% per the agreements with PMSA, PEU and IBEW. Historically, all non-bargaining employees follow the union contract lead. The City Manager's contract allows for the same increase as the other city employees, but requires approval of a majority of the City Commission at a public meeting.

MOTION:

Move to approve/disapprove the base salary increase for City Manager Carmen Davis to be implemented on October 19, 2022.

ATTACHMENT(S):

Fiscal Impact Analysis
Original Employment Agreement

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Inflows					
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows					
Operating	0	0	0	0	0
Capital	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

New Appropriation Fiscal Impact – N/A		
	Revenue Source	Expenditure
Department		
Division		
GL Description		
GL Account Number		
Project Number		
Requested Funds		

Budget Transfer Impact – N/A		
	Revenue Source	Expenditure
Department		
Division		
GL Description		
GL Account Number		
Project Number		
Requested Funds		

Contract Award – Existing Appropriation	
	Expenditure
Department	City Manager
Division	City Manager
GL Description	Salaries & Wages/ FICA/ Defined Benefit Plan
GL Account Number	001-1020-512.12-10/ .21-00/ .22-10
Project Number	N/A
Requested Funds	\$6,687

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered between CARMEN Y. DAVIS ("EMPLOYEE" or "CARMEN Y. DAVIS") and the CITY OF LAKE WORTH BEACH, (hereinafter referred to as "CITY"), collectively "the PARTIES".

WHEREAS the CITY, by and through its City Commission, desires to engage the services of EMPLOYEE as City Manager;

WHEREAS the Commission approved EMPLOYEE to be appointed to the role of City Manager with full authority and responsibility and directed that an Employment Agreement be prepared;

NOW THEREFORE, for and in consideration of the mutual obligations set forth below, the EMPLOYEE and the CITY agree as follows:

I. EMPLOYMENT OF EMPLOYEE

Subject to the terms and conditions set forth in this Agreement, CITY hereby agrees to employ EMPLOYEE as its full-time, exempt City Manager and EMPLOYEE hereby accepts such employment. The PARTIES recognize and agree that this position is properly designated a mandatory testing position pursuant to the City's drug-free workplace policy.

II. DUTIES AND RESPONSIBILITIES

The EMPLOYEE shall be responsible to the five-member CITY Commission and shall perform the functions and duties of the City Manager as provided in the Job Description, the Policies and Procedures of CITY, Florida Law, the CITY's enabling legislation, the direction of the CITY Commission, and as mutually agreed to by the EMPLOYEE and CITY from time to time. The EMPLOYEE shall devote whatever time is necessary to perform the duties of the position, which often exceeds forty (40) hours per week and is a minimum of forty (40) hours per week. The EMPLOYEE shall remain in the exclusive employment of CITY until termination or expiration of this Agreement in accordance with Section III.

Because the EMPLOYEE will devote a great deal of time outside normal office hours to business of the CITY, flexibility in hours worked and work schedules benefit both the CITY and the EMPLOYEE. The EMPLOYEE has discretion as to her work schedule and hours worked, with the understanding that her compensation is based on a 40-hour work week. Work in excess of an average 40-hour work week shall be deemed part of the professional responsibility for which the EMPLOYEE shall not be paid overtime; but for which, she shall be allowed to offset, in part, by taking compensatory time off.

III. EXCLUSIVE EMPLOYMENT

EMPLOYEE shall not be employed by any other employer during the Term of this Agreement. EMPLOYEE shall devote her full time to act as the City Manager and to carry out, to the best of her abilities, all the duties imposed upon her by the Job Description, the Policies and Procedures, the direction of the CITY Commission, applicable laws, and such other duties as the CITY may assign from time to time. During the Term of this Agreement, the EMPLOYEE shall not hold office in any political party or political organization.

IV. TERM

- A. The Term of this Agreement for employment in the City Manager position shall begin on December 6, 2021 and remain in effect for approximately three (3) years through and including December 6, 2024, unless renewed as provided in Section IV, B, or unless earlier terminated as provided in Section V.

- B. In the event written notice is not given by either party to this agreement to the other party at least forty-five (45) days prior to the termination date as herein provided, this agreement shall be extended on the same terms and conditions for one-year terms. This subsection shall take full effect upon completion of the first thirty-six (36) months of employment. Renewal for the next twelve (12) months shall then occur, with annual renewals or notice as provided. Renewal shall automatically occur unless specific action to the contrary is taken or a mutually agreed upon change is made to the agreement. However, to be eligible for renewal, the City Manager must receive satisfactory performance evaluations during the Term in accordance with Paragraph VII and after a majority of the CITY Commission in attendance concurs with entering into the Subsequent Term. Any such Subsequent Term shall be based on the same terms as provided herein, unless modified by mutual agreement of the parties in the manner provided herein.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the CITY to terminate the service of EMPLOYEE at any time, subject only to the provisions set forth in Section V herein below.
- D. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the EMPLOYEE to resign at any time, subject only to the provisions set forth in Section V herein below.

V. SEPARATION FROM CITY

A. Termination by CITY Without Cause.

- 1. CITY may terminate this Agreement and the employment of EMPLOYEE Without Cause immediately or at any time during the Term of this Agreement.
- 2. In the event the CITY Commission determines, in its sole discretion, that EMPLOYEE'S employment shall be terminated Without Cause at any time during the Term of this Agreement, EMPLOYEE shall be eligible for Severance Pay as described in Section VIII.
- 3. The CITY'S termination of this Agreement and the employment of EMPLOYEE Without Cause shall be final and non-appealable.
- 4. Termination Without Cause shall require a majority vote of the CITY Commission in attendance at a public meeting.
- 5. EMPLOYEE'S refusal to comply with a directive that clearly violates the ICMA Code of Ethics.

B. Termination by CITY With Cause.

- 1. CITY may terminate this Agreement and the employment of EMPLOYEE With Cause, in its sole discretion, as provided herein during the Term of this Agreement.
- 2. "With Cause" is defined as termination based upon any of the following actions by the EMPLOYEE:
 - a. fraud;
 - b. embezzlement;
 - c. conviction of a felony relating to official duties;
 - d. negligence in the performance of official duties;
 - e. failure to return from an approved leave of absence;
 - f. violation of Florida's Code of Ethics;
 - g. violation of the CITY'S Policy Against Harassment and Discrimination or its Equal Employment Opportunity Policy;
 - h. the Florida Commission on Ethics makes a determination of probable cause, a criminal charge is filed, or a civil or administrative judgment and issued against EMPLOYEE;

- i. violation of CITY's Drug-Free Workplace Policy; or
 - j. misconduct, as defined in Fla. Stat. 443.036(29), as amended from time to time.
 3. CITY may terminate this Agreement and the employment of EMPLOYEE With Cause immediately or at any time during the Term of the Agreement, with written notice issued to EMPLOYEE describing the actions claimed by the CITY constituting such grounds and the effective date of the termination. Such notice shall be issued as soon as practicable after the vote contemplated in Section V, B, 5 below.
 4. The CITY's termination of this Agreement and the employment of EMPLOYEE With Cause shall be final and non-appealable.
 5. Termination With Cause shall require a majority vote of the CITY Commission in attendance at a public meeting.
- C. Resignation by EMPLOYEE.
1. EMPLOYEE may voluntarily resign her employment from CITY by providing CITY forty-five (45) days written notice in advance. During the 45-day period, CITY may require EMPLOYEE to cease or limit the work performed on CITY matters, during which time EMPLOYEE is entitled to such regular compensation and benefits as is due under this Agreement until the effective date of the resignation as provided in the notice. This Agreement shall terminate on the effective date of resignation.
 2. Resignation by the Employee by giving forty-five (45) days' written notice shall be considered a termination in good standing and shall entitle the Employee to a lump sum payment equivalent to all accrued and unused Vacation Leave up to a maximum established by CITY policy, as amended to time to time.
 3. If Employee resigns following a request for resignation by a majority vote of the CITY Commission in attendance at a public meeting, such resignation shall be considered a termination without cause within the meaning of VA2.
- D. Expiration of Term or Subsequent Term.
1. At the expiration of the Term or any Subsequent Term, this Agreement and EMPLOYEE's employment shall renew automatically, unless the parties enter into a written amendment or new agreement at least forty-five (45) days prior to the end of the Term or any Subsequent Term.
- E. Death or Disability.
1. This Agreement, the Term, any Subsequent Term, and EMPLOYEE's employment shall terminate automatically upon the EMPLOYEE's death.
 2. This Agreement, the Term, any Subsequent Term, and EMPLOYEE's employment shall terminate automatically on the 30th day after the CITY gives written notice to the EMPLOYEE of its intent to terminate based upon "Disability" unless the EMPLOYEE is determined to be fit for duty by a physician indicating she can perform the essential functions of the position on a full-time basis and does, in fact, return to duty prior to the 30th day. "Disability" means the EMPLOYEE's inability to perform her duties, with or without reasonable accommodation, as evidenced by a certificate signed either by a physician mutually acceptable to the CITY and EMPLOYEE or, if the parties cannot agree, by a physician selected by agreement of a physician designated by the CITY and a physician designated by the EMPLOYEE. EMPLOYEE shall submit to a reasonable number of examinations by the physician making the determination of Disability, and hereby authorizes the disclosure and release of all supporting medical records to the CITY and shall execute the necessary documents required for such release.
- F. Post-Termination Name Clearing Meeting

1. EMPLOYEE may avail herself of the CITY's Post Termination Name-Clearing Meeting process in accordance with CITY policy in effect at the time of termination. However, in light of the organizational structure, EMPLOYEE must submit any request for such meeting in writing to the Mayor within 10 calendar days of the date of termination and such meeting will be scheduled to occur at a special or regular CITY Commission Meeting with the Commission presiding at such meeting or, in lieu of attending, a meeting, EMPLOYEE may choose to submit a written statement to be included in her personnel file. The meeting is not an appeal of the termination decision and the CITY Commission is not required to consider reinstatement. The process is designed to allow the EMPLOYEE to present information in the public record regarding the information forming the basis of the termination.

VI. **COMPENSATION**

- A. Base Salary. CITY agrees to pay EMPLOYEE for services rendered at the base annual salary of Two Hundred Thousand Dollars (\$200,000). The Base Salary shall be paid in installments at the same time as other employees of the CITY are paid.

The CITY may, at any time, increase the Base Salary to the EMPLOYEE, as it may deem desirable to do so, in its sole discretion, which shall not require a written amendment to this Agreement provided a majority of the City Commission in attendance at the meeting vote in favor of such increase. When other City employees are given a cost of living increase during the term of this agreement, the same percentage increase shall be awarded the EMPLOYEE. EMPLOYEE shall not be awarded any across-the board, cost of living, or merit increase provided to other CITY employees without specific approval of a majority of the CITY Commission in attendance at a public meeting.

Base Salary payments are not due for any periods of unpaid leave, including disciplinary suspensions, in accordance with applicable wage and hour laws.

- B. Benefits.

1. Vacation Leave: EMPLOYEE shall receive 200 hours (25 days) of vacation leave into her leave bank in a lump sum upon the commencement of her employment on December 6, 2021, and on December 6th of each succeeding year. EMPLOYEE shall obtain approval for use of such leave from the Mayor in office at the time the request for use of leave is made. EMPLOYEE shall notify all CITY Commissioners of her absence.
2. Sick Leave: The EMPLOYEE shall accrue and use Sick Leave in the same manner and under the same provisions as other CITY employees as set forth in the CITY policies, as amended from time to time. In addition, the City Manager shall receive a lump sum contribution of 25 hours (5 days) of sick leave on December 6, 2021. The City Manager shall obtain approval for use of such leave from the Mayor in office at the time the request for use of leave is made. The City Manager shall notify all CITY Commissioners of the absence.
3. Insurance: The EMPLOYEE, her spouse and dependents, if any, shall be entitled to and enjoy inclusion in the CITY's Dental Insurance Program, Health Insurance Program, Vision Care Program, and other insurance benefits that may be offered in the same manner and under the same provisions and benefits as other CITY employees, as the same exists or may be amended from time to time by the CITY.
4. Retirement/Deferred Compensation: The CITY will contribute on an annual basis an amount equal to 10% of EMPLOYEE'S salary to the CITY approved 401A retirement program. The said payment shall be payable in installments at the same time as other retirement benefits

are paid to other CITY employees. The employer's 401A retirement payment will be in lieu of any payments, which the CITY would have otherwise made for the EMPLOYEE'S benefit to the employer's defined benefit retirement system. As a contractually employed city manager, EMPLOYEE shall not be entitled to participate in the employer's general defined benefit retirement plan.

The CITY'S contribution to the 401A retirement program shall not exceed the limit established by federal statutes and/or regulation.

5. Vehicle Allowance: The EMPLOYEE is expected to travel on business for the CITY on a regular and frequent basis including, but not limited to, attendance at meetings, driving the City's jurisdictional area, and site visits in the field. In lieu of an official vehicle, CITY shall provide EMPLOYEE with a monthly car allowance of Five Hundred Dollars (\$500.00) in full payment of any expenses arising from this employment. Pursuant to §112.061, Florida Statutes, such allowance may be changed by the CITY on the basis of a signed statement of the EMPLOYEE, filed before the allowance is changed, and at least annually thereafter. The statement shall show the places and distances for an average typical month's travel on official business, and the amount that would be allowed under the approved rate per mile for the travel shown in the statement, if payment had been made pursuant to the mileage reimbursement provisions of §112.061, Florida Statutes. EMPLOYEE is responsible for any income tax liability relating to such vehicle allowance. In the event of a paid or unpaid leave of absence in excess of 21 consecutive calendar days, such vehicle allowance shall be paid in accordance with a pro-rata calculation for the months during which the leave of absence occurs.

EMPLOYEE further agrees to ensure that the vehicle is properly insured for business use and provide documentation of same to the City.

6. Dues and Subscriptions: CITY shall pay reasonable and appropriate professional dues and subscriptions on behalf of the EMPLOYEE for the purpose of allowing her participation in direct job-related associations, subject to budget constraints and City Commission approval.
7. Professional Development: CITY agrees to pay the reasonable and customary travel and subsistence expenses (in accordance with applicable Florida Law and CITY policies) for EMPLOYEE'S travel to and attendance at professional association events as well as other reasonably necessary seminars and conferences customary to EMPLOYEE's position and/or necessary to meet continuing education requirements, subject to budget constraints and City Commission approval.
8. Per Diem and Subsistence Allowance: EMPLOYEE shall be reimbursed for work-related travel outside Palm Beach County based on the categories and at the standard rates provided in CITY policy, which reimbursement shall not be considered part of the EMPLOYEE'S Compensation. However, no additional reimbursement for mileage or other vehicle expenses related to the maintenance or operation of the CITY vehicle will be provided except as specified in Section VI, B, 5 of this Agreement. As an exempt employee, no additional compensation will be paid for time spent traveling on CITY business other than EMPLOYEE'S Base Salary then in effect.
9. Additional Benefits: Said further and additional benefits which are provided to other CITY employees now or in the future shall be provided to the EMPLOYEE. The CITY may, at any time, provide other additional benefits solely to the EMPLOYEE, as it may deem desirable to do so.

VII. PERFORMANCE EVALUATION

The CITY and EMPLOYEE will work together to mutually agree upon such goals and performance objectives, generally as a result of the budget process, which they determine to be essential for the proper operation of the CITY and progress towards attaining the CITY's policy directives and shall further establish a relative priority among those various goals and objectives. All agreed-upon goals and objectives shall be realistic and have resources committed to be effectively implemented.

During the Term and any Subsequent Term, the CITY Commission will endeavor to evaluate EMPLOYEE's performance annually on or before the November regular City Commission Meeting. The PARTIES will agree upon an evaluation format in compliance with applicable Florida laws. If the EMPLOYEE's performance is determined to be at least satisfactory based on an average score of all submitted evaluations, the CITY Commission may award an increase in Base Salary as agreed by the CITY Commission in its sole discretion and subject to budget considerations. Any such increase shall not require a written amendment to this agreement provided a majority of the CITY Commissioners in attendance at a public meeting vote in favor of such increase.

In the event the CITY Commission determines that the performance of EMPLOYEE is unsatisfactory in any respect or needs significant improvement in any area, the CITY Commission shall describe these concerns in writing and in reasonable detail or with specific examples so as to be objective and positive and an adequate opportunity shall be provided for the EMPLOYEE to discuss the evaluation with the CITY Commission.

VIII. PAYMENT UPON SEPARATION; SEVERANCE PAY

A. Final Paycheck. If EMPLOYEE separates from employment for any reason under Section V, she shall be paid in full any unpaid balance of her Base Salary then earned and due through the final date of employment. EMPLOYEE shall also be paid any accrued and unused Vacation Leave up to a maximum established by CITY policy, as amended from time to time. Holidays and Sick Leave are not payable upon separation for any reason. Such payments shall be made on the next regularly scheduled pay date after separation.

B. Severance Pay.

1. Termination Without Cause. If EMPLOYEE is terminated Without Cause she shall be eligible to receive Severance Pay equal to the gross amount Base Salary in effect at the time of termination, and shall not include any Benefits or perquisites as may be permitted by §215.425, F.S. (hereafter referred to as "Severance Pay") of twenty (20) weeks' severance pay.

Severance Pay shall be made within 30 calendar days after receipt of an executed Separation Agreement and General Release, in substantially the same form as attached hereto as Exhibit "A", by EMPLOYEE in favor of CITY in a lump sum payment, less applicable withholdings and other required deductions.

2. Termination With Cause. EMPLOYEE shall not be eligible for or receive Severance Pay.

3. Resignation by EMPLOYEE. EMPLOYEE shall not be eligible for or receive Severance Pay.

4. Expiration of Term or Subsequent Term. EMPLOYEE shall not be eligible for or receive Severance Pay.

5. Death or Disability. EMPLOYEE, or his heirs or assigns, shall not be eligible for or receive Severance Pay.

IX. RELOCATION EXPENSES

- A. The CITY will reimburse EMPLOYEE up to \$2,500 for EMPLOYEE and her spouse to visit Lake Worth Beach and its surrounding area in order to obtain housing. Travel expenses that would be reimbursable for such a trip would include airfare, food, lodging, and rental car expenses for EMPLOYEE and her spouse while searching for housing. Payment of said reimbursement will be made by the CITY upon proof of submission of proper documentation by EMPLOYEE to the CITY.
- B. The CITY will pay EMPLOYEE directly a lump sum of \$15,000 for moving expenses to a residence within Palm Beach County. One-half (\$7,500) of said payment shall be made by November 15, 2021 and the other half (\$7,500) shall be made by December 10, 2021.
- C. In the event that EMPLOYEE either resigns her position with the CITY or her employment is terminated with cause by the CITY prior to December 5, 2022, the EMPLOYEE shall reimburse the CITY for 50% of the moving expenses (\$7,500) paid by the CITY. EMPLOYEE authorizes the CITY to deduct said sums from any payments due her from the CITY including, but not limited, to base salary, payment for leave balances and any other sums that may be due to the EMPLOYEE from the CITY, up to the amount to be refunded to the CITY.

X. COMMUNICATION AND OVERSIGHT

The EMPLOYEE shall regularly communicate with all CITY Commissioners.

EMPLOYEE agrees to notify the CITY Commission in writing within three (3) business days of being provided or notified of any complaint filed with the Florida Commission on Ethics, the Palm Beach County Commission on Ethics, the Palm Beach County Inspector General, any charge or subpoena from any law enforcement agency, or any other civil or administrative claim against EMPLOYEE.

XI. GENERAL PROVISIONS

- A. The text herein shall constitute the entire Agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.
- C. This Agreement may not be modified or changed in any way whatsoever except by mutual written consent of both parties.
- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- E. Failure of the CITY to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of CITY's right to enforce or exercise said right(s) at any time thereafter.
- F. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

- G. The Separation Agreement and General Release (for Severance Pay) referenced in this Agreement has been provided to EMPLOYEE and is attached hereto as Exhibit "A". By entering into this Agreement, EMPLOYEE acknowledges that he has been advised to consult with personal legal counsel to review such Separation Agreement and General Release and has had adequate time to consider same.
- H. All the provisions contained in this Agreement are subject to and conditioned upon compliance with all applicable laws of the State of Florida and local ordinances. Such laws shall take precedent over any part or portion of provisions as contained herein.
- I. This Agreement shall be governed exclusively by Florida law and venue of any action or proceeding relating to this Agreement shall be in Palm Beach County, Florida, exclusively, with each party to bear its own attorneys' fees and costs, up through and including any appellate action. EMPLOYEE expressly consents to the personal jurisdiction of the courts of Palm Beach County, Florida.
- J. All notices required to be given under the terms of this Agreement or which any of the parties desires to give hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, addressed as follows:

TO: Mayor Betty Resch
 CITY OF LAKE WORTH BEACH
 7 North Dixie Highway
 Lake Worth Beach, FL 33460

TO: Carmen Y. Davis

With a copy to City Attorney:

Glen J. Torcivia, Esquire
 Torcivia, Donlon, Goddeau & Rubin, P.A.
 701 Northpoint Parkway, Suite 209
 West Palm Beach, Florida 33407

Any party may designate a change of address at any time by giving written notice thereof to the other party.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on this 10th day of November 2021.

CITY OF LAKE WORTH BEACH

EMPLOYEE – CARMEN Y. DAVIS

BY: [Signature]
 Mayor Betty Resch

[Signature]
 Carmen Y. Davis

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature] FOR

[Signature]

GLEN J. TORCIVIA, CITY ATTORNEY

Melissa Ann Coyne, City Clerk

STAFF REPORT REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: City Attorney (and PBSO)

TITLE:

Ordinance No. 2022-22 – First Reading - Amending Section 15-24.1 “Definitions” and Section 15-24.5 “Enforcement,” to modify the enforcement process for a noise control violation and for other purposes

SUMMARY:

An ordinance amending the City’s Noise Ordinance to allow for enforcement of violations by the Palm Beach County Sheriff’s Office through the issuance of City civil citations. The City will also have alternative enforcement options including the issuance of a notice to appear, injunctive relief and any other available legal or equitable remedy.

BACKGROUND AND JUSTIFICATION:

The City has adopted noise control regulations in Chapter 15 “Offenses-Miscellaneous,” Article I “In General,” Section 15-24 “Noise control.” The definitions section of the ordinance is being amended to include a definition of “person” so that it includes businesses in addition to individuals. Currently, a noise violation may only be enforced through the issuance of a notice to appear which is handled through the county court system. The amendments to the ordinance will authorize the Palm Beach County Sheriff’s Office to issue a City civil citation that is processed through the City’s special magistrate. Violations may also be enforced through the issuance of a notice to appeal and any other available alternative legal or equitable remedy.

MOTION:

Move to approve/disapprove Ordinance No. 2022-22 on first reading and setting the second reading and public hearing for November 1, 2022.

ATTACHMENT(S):

Fiscal Impact Analysis – N/A
Ordinance 2022-22

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ORDINANCE NO. 2022-22 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 15, “OFFENSES--MISCELLANEOUS,” ARTICLE I, “IN GENERAL,” BY AMENDING SECTION 15-24.1 “DEFINITIONS” AND SECTION 15-24.5, “ENFORCEMENT,” WHICH SHALL MODIFY THE ENFORCEMENT PROCESS FOR A NOISE CONTROL VIOLATION AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida (the “City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, noise has been a topic of concern within the City for a significant period of time, and has recently been the subject of discussion regarding the modification of enforcement and legislative solutions; and

WHEREAS, the purpose of the City's Noise Control Ordinance is to obtain compliance of unnecessary and excessive noise violations before imposing fines and other penalties; and

WHEREAS, in order to strike a balance between the concerns of the business community and residents, a warning and violation system has been developed which takes into account the diverse character of the City; and

WHEREAS, the provisions of this Ordinance are intended to preserve the quality of life in all City neighborhoods, to allow businesses to provide an inviting environment for their patrons, and to strike the proper balance in the enforcement of noise violations; and

WHEREAS, the amendments to the Ordinance seek to streamline the enforcement provision through the option for law enforcement to issue a City civil citation and to provide alternatives means of enforcement; and

WHEREAS, the City’s civil citation procedure, as set forth in Chapter 2, Article 10 of the Code of Ordinances, is also being amended to provide for a graduated fine for subsequent noise violations at the same property; and

WHEREAS, the City Commission has reviewed the recommended amendments and has determined that they serve a valid public purpose and are in the best interest of the public health, safety, and general welfare of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA that:

Section 1. Recitals. The foregoing recitals are hereby affirmed and ratified.

Section 2. Chapter 15 OFFENSES--MISCELLANEOUS, Article I, “IN GENERAL,” Section 15-24.1 shall be amended to read as follows:

1 **Sec. 15-24.1. – Definitions.**

2
3 The following words, terms and phrases, when used in this article, shall
4 have the meanings ascribed to them in this section, except where the context
5 clearly indicates a different meaning:

6 * * *

7 Person means individuals, firms, associations, joint adventures,
8 partnerships, estates, trusts, business trusts, syndicates, fiduciaries,
9 corporations, and all other business entities, groups or combinations.

10 Section 3. Chapter 15 OFFENSES--MISCELLANEOUS, Article I, "IN
11 GENERAL," Section 15-24.5 shall be amended to read as follows:

12
13 **Sec. 15-24.5. – Enforcement.**

- 14
15 (a) Whenever a law enforcement officer is notified of or observes a violation of the
16 ordinance from which this section derives, the officer shall issue a warning in writing to
17 the ~~person(s) individual, or individuals,~~ responsible for the violation. The warning shall
18 advise the ~~person(s) individual or individuals~~ of the specific violation of the noise control
19 ordinance and shall specify a reasonable time to reduce the sound level to an
20 appropriate level as set forth within the noise control ordinance. Absent special
21 circumstances, a reasonable time shall not exceed ten (10) minutes.
22
- 23 (b) If the violation is not eliminated within a reasonable time after the warning has been
24 issued, or if the violation recurs within ninety (90) days of the issuance of the warning,
25 the ~~individual or individuals so warned and not complying, shall be charged with a~~
26 ~~violation of the noise control ordinance and shall be subject to enforcement,~~
27 ~~prosecution and punishment~~ as set forth herein.
28
- 29 (c) Each re-measurement, after warning, which exceeds the maximum permissible sound
30 levels established by the noise control ordinance, shall constitute a separate violation.
31
- 32 (d) The city's law enforcement agency is hereby authorized to enforce this subsection
33 through the issuance of a city civil citation as set forth in Chapter 2, Article X of this
34 Code. Law enforcement may, in the alternative, issue a notice to appear ~~A violation of~~
35 ~~the noise control ordinance is a criminal offense,~~ for which violators may be subject to
36 a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not
37 exceeding sixty (60) days or by both such fine and imprisonment. The city may also
38 choose to pursue injunctive relief and/or any other remedy available at law or in equity.
39

40 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion
41 of this Ordinance is for any reason held invalid or unconstitutional by any court of
42 competent jurisdiction, such portion shall be deemed a separate, distinct, and
43 independent provision, and such holding shall not affect the validity of the remaining
44 portions thereof.
45

46 Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict
47 herewith are hereby repealed to the extent of such conflict.
48

1 Section 6. Codification. The sections of the ordinance may be made a part of the City
2 Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish
3 such, and the word "ordinance" may be changed to "section", "division", or any other
4 appropriate word.

5
6 Section 7. Effective Date. This ordinance shall take effect ten days after its adoption.
7

8 The passage of this ordinance on first reading was moved by
9 _____, seconded by _____, and upon
10 being put to a vote, the vote was as follows:

- 11
- 12 Mayor Betty Resch
- 13 Vice Mayor Christopher McVoy
- 14 Commissioner Sarah Malega
- 15 Commissioner Kimberly Stokes
- 16 Commissioner Reinaldo Diaz
- 17

18 The Mayor thereupon declared this ordinance duly passed on first reading on the
19 _____ day of _____, 2022.

20
21
22 The passage of this ordinance on second reading was moved by
23 _____, seconded by _____, and upon being put to a vote,
24 the vote was as follows:

- 25
- 26 Mayor Betty Resch
- 27 Vice Mayor Christopher McVoy
- 28 Commissioner Sarah Malega
- 29 Commissioner Kimberly Stokes
- 30 Commissioner Reinaldo Diaz
- 31

32 The Mayor thereupon declared this ordinance duly passed on the _____ day of
33 _____, 2022.

34 LAKE WORTH BEACH CITY COMMISSION

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37
38 By: _____
39 Betty Resch, Mayor

40 ATTEST:
41
42
43 _____
44 Melissa Ann Coyne, City Clerk

STAFF REPORT REGULAR MEETING

AGENDA DATE: October 18, 2022

DEPARTMENT: City Attorney and
Community Sustainability

TITLE:

Ordinance No. 2022-23 – First Reading - Amending Chapter 2 “Administration,” Article X “Supplemental Code Compliance Procedures,” Section 2-86 “Code Citation Procedures; Appeals,” Section 2-87 “Civil Penalties,” and Section 2-88 “Classification of Infractions”

SUMMARY:

An ordinance amending the City’s Civil Citation process to streamline the contesting of a citation and to address penalties for the City’s new ordinance prohibiting smoking and vaping at City parks and the beach and to address graduated penalties for repeat noise ordinance violations.

BACKGROUND AND JUSTIFICATION:

The City has adopted supplemental code enforcement procedures in Chapter 2 “Administration,” Article X “Supplemental Code Enforcement Procedures.” Currently, the civil citation form includes the fine and the date of the scheduled special magistrate hearing if the violator wishes to contest the citation. The City wishes to amend the process to require a violator to make a written request for a hearing if he or she wishes to contest the violation. This will allow the City to better manage special magistrate agendas and hearings. Further, the City is amending its noise ordinance to allow for the issuance of City civil citations for noise violations. The civil citation penalties provision requires amending to include graduated penalties for noise ordinance violations and to also include violations of the City’s recently adopted ordinance that prohibits smoking and vaping in City parks and beach.

MOTION:

Move to approve/disapprove Ordinance No. 2022-23 on first reading, setting the second reading and public hearing for November 1, 2022.

ATTACHMENT(S):

Fiscal Impact Analysis – N/A
Ordinance 2022-23

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ORDINANCE 2022-23 – AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION,” ARTICLE X “SUPPLEMENTAL CODE COMPLIANCE PROCEDURES,” SECTION 2-86 “CODE CITATION PROCEDURES; APPEALS,” SECTION 2-87 “CIVIL PENALTIES,” AND SECTION 2-88 “CLASSIFICATION OF INFRACTIONS,” PROVIDING FOR CONSISTENCY WITH CHANGES IN CODES TO BE ENFORCED AND FOR OTHER PURPOSES; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City has adopted supplemental code enforcement procedures in Chapter 2 “Administration”, Article X “Supplemental Code Enforcement Procedures”; and

WHEREAS, Ch. 162, Florida Statutes, and Florida case law permit a municipality to enforce its codes by alternative procedures as long as due process is provided; and

WHEREAS, the City wishes to streamline its civil citation process to provide for the payment of such citation or, in the alternative, to request a hearing to challenge such citation; to include additional penalties; and to address additional violations of the Code, including but not limited to graduated penalties for repeat noise violations and violations involving conduct in parks, recreation areas and at the municipal beach (e.g., smoking and vaping violations); and

WHEREAS, the City Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the City, its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this ordinance as if set forth herein.

Section 2: Chapter 2 “Administration,” Article X “Supplemental Code Compliance Procedures,” Section 2-86 “Code citation procedures; appeals” is hereby amended to read as follows:

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Sec. 2-86. - Code citation procedures; appeals.

(a) As used in this article, "code officer" means any designated employee or agent of the city whose duty it is to enforce the codes and ordinances enacted by the city.

(b) The city may designate certain of its employees or agents as code officers. The training and qualifications of the employees or agents for such designation shall be determined by the city. Employees or agents who may be designated as code officers may include, but are not limited to, code officers, law enforcement officers, or fire safety inspectors. Designation as a code officer does not provide the code officer with the power of arrest or subject the code officer to the provisions of F.S. §§ 943.085 through 943.255.

(c) A code officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance for which a fine has been set under this article.

- (d) A citation issued pursuant to this section shall contain:
- (1) The date and time of issuance.
 - (2) The name and address of the person (as defined in Section 1-2 of this Code) to whom the citation is issued.
 - (3) The date and time the civil infraction was committed.
 - (4) The facts constituting reasonable cause.
 - (5) The number or section of the code or ordinance violated.
 - (6) The name and authority of the code officer.
 - (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (8) The applicable civil penalty if the person elects to contest the citation.
 - (9) The applicable civil penalty if the person elects not to contest the citation.
 - (10) A conspicuous statement that if the person fails to pay the civil penalty or contest the citation within the time allowed, or if the person contests the citation and fails to appear before the special magistrate to contest the citation, he or she shall be deemed to have waived his or her right to contest the citation and that, in such case, an order may be entered against the person for an amount up to the maximum civil penalty.
 - (11) The date the property must be brought into compliance.
 - ~~(12) The hearing date, time, and location.~~

(e) A respondent may avoid an appearance before the special magistrate by timely complying with the code section cited, requesting and passing an inspection, and electing to pay a fine and administrative costs as provided on the issued citation. However, the respondent may otherwise elect to contest the violation cited and appear before the special magistrate to contest the violation cited, and at that time must bring any witnesses or evidence to be presented at the special magistrate hearing. If the respondent wishes to contest the violation, he or she shall deliver a written request for a hearing to the code enforcement clerk within the time given on the citation. The request shall include the respondent's name, citation number, code section/ordinance number that was violated, date of issuance of the citation, and the respondent's current telephone number and

99 mailing address. The city will mail the notice of hearing by regular mail to the mailing
100 address provided. If a fine or costs, or both, is not paid in accordance with the citation, if
101 the respondent fails to contest the citation within the time afforded by the citation, or if the
102 respondent fails to appear at the special magistrate hearing, the respondent shall have
103 waived all rights to a hearing. Thereafter, an order may be entered by the special
104 magistrate against the respondent in an amount up to the maximum permitted by law. If
105 the respondent fails to timely comply with the code section cited and the special
106 magistrate determines that the violation exists, the respondent may be subject to daily
107 fines as determined by the special magistrate. Further, if the fine and costs are not timely
108 paid prior to the hearing and the special magistrate determines a violation occurred, the
109 respondent will be subject to additional administrative costs and fees. Once a ~~find~~ fine is
110 paid, or if unpaid, after the date set for payment in the code citation, it is deemed to be
111 conclusive proof of the violation for the purpose of establishing a later repeat violation.
112

113 (f) The special magistrate, after a hearing on the citation, shall make a
114 determination whether or not a violation of the code has been committed. The hearing
115 shall be conducted in accordance with section 2-67 of this chapter. If a violation is found
116 to have occurred, the special magistrate may enter an order requiring compliance and the
117 payment of fines and administrative costs in accordance with subsection 2-67(d) of this
118 chapter. In the alternative, the city may forego the pursuit of a daily fine and request an
119 order be immediately entered assessing the citation fine and administrative costs.
120

121 (g) A certified order assessing fines and/or costs may be recorded as a lien against
122 the subject property as set forth in subsection 2-69(d) of this chapter or as otherwise
123 provided by law.
124

125 (h) Appeals. An aggrieved party, including the local governing body, may appeal a
126 final administrative order of a special magistrate to the circuit court. Such an appeal shall
127 not be a hearing de novo but shall be limited to appellate review of the record created
128 before the special magistrate. An appeal shall be filed with thirty (30) days of the execution
129 of the order to be appealed. The city attorney or designee is hereby authorized to defend
130 such appeals on behalf of the city and/or special magistrate.
131

132 Section 3: Chapter 2 “Administration,” Article X “Supplemental Code
133 Compliance Procedures,” Section 2-87 “Civil penalties” is hereby amended to read as
134 follows:
135

136 **Sec. 2-87. - Civil penalties.**

137 (a) The maximum civil penalty for a civil infraction cited under this article shall be
138 five hundred dollars (\$500.00). A civil penalty may also be referred to as a citation fine.
139 The fee set for a reinspection under this section shall be set by resolution of the city
140 commission.
141

142 (b) If the person who has committed a civil infraction does not contest the citation
143 and pays the penalty and complies the property in accordance with the citation, the civil
144 penalty shall be as follows:

- 145 (1) For a Class I infraction, fifty dollars (\$50.00) plus a reinspection fee, if
146 required.

- 147 (2) For a Class II infraction, seventy-five dollars (\$75.00) plus a reinspection
148 fee, if required.
- 149 (3) For a Class III infraction, one hundred twenty-five dollars (\$125.00) plus a
150 reinspection fee, if required.
- 151 (4) For a Class IV infraction, two hundred fifty dollars (\$250.00) plus a
152 reinspection fee, if required.
- 153 (5) For a Class V infraction, five hundred dollars (\$500.00) plus a reinspection
154 fee, if required.

155
156 Section 4: Chapter 2 "Administration," Article X "Supplemental Code
157 Compliance Procedures," Section 2-88 "Classification of infractions" is hereby amended
158 to read as follows:

159
160 **Sec. 2-88. - Classification of infractions.**

- 161 (a) *Class I.*
 - 162 (1) Violations of the building code of the city, as adopted in section 9-2 of the
163 Code of Ordinances, not specifically enumerated in this section.
 - 164 (2) Violations involving recreational vehicles or boats.
 - 165 (3) Obstruction of public right-of-way.
 - 166 (4) Violations involving conduct in parks and recreation areas, municipal beach
167 areas, and on public property, as adopted in Chapter 7 of the Code of
168 Ordinances, not specifically enumerated in this section.
- 169
170 (b) *Class II.*
 - 171 (1) Violations of the Property Maintenance Code, as adopted in section 2-
172 75.6 of the Code of Ordinances, not specifically enumerated in this section.
 - 173 (2) Violations involving solid waste, refuse, garbage, rubbish or trash.
 - 174 (3) Violations involving fences, walls or hedges.
 - 175 (4) Violations of the sign code, as adopted in ~~Chapter 23, Article XXVIII~~ section
176 23.5-1, of the Code of Ordinances, not specifically enumerated in this
177 section.
 - 178 (5) Abandoned property on private property.
 - 179 (6) Violations involving landscaping.
- 180
181 (c) *Class III.*
 - 182 (1) Performing work without a required permit.
 - 183 (2) Violations of the Code of Ordinances not specifically enumerated in this
184 section.
 - 185 (3) Violations of the zoning ordinance, as adopted in Chapter 23 of the Code of
186 Ordinances, not specifically enumerated in this section.
 - 187 (4) Violations of Chapter 14 of the Code of Ordinances (use and occupancy
188 certificates, business tax receipts, and business regulations).
 - 189 (5) Prohibited or unsafe signs.
 - 190 (6) Violations involving a required visibility triangle.
- 191
192 (d) *Class IV.*
 - 193 (1) Violations of "cease and desist" or "stop work" orders.
 - 194 (2) Repeat violations.

195 (3) Violations involving noise, as adopted in section 15-24 of the Code of
196 Ordinances, not specifically enumerated in this section.

197
198 (e) Class V.

199 (1) Repeat violations involving noise, as adopted in section 15-24 of the Code
200 of Ordinances, not specifically enumerated in this section.

201
202 Section 5: Severability. If any section, subsection, sentence, clause, phrase or
203 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
204 competent jurisdiction, such portion shall be deemed a separate, distinct, and
205 independent provision, and such holding shall not affect the validity of the remaining
206 portions thereof.

207
208 Section 6: Repeal of Laws in Conflict. All ordinances or parts of ordinances in
209 conflict herewith are hereby repealed to the extent of such conflict.

210
211 Section 7: Codification. The sections of the ordinance may be made a part of
212 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
213 accomplish such, and the word "ordinance" may be changed to "section", "division", or
214 any other appropriate word.

215
216 Section 8: Effective Date. This ordinance shall become effective 10 days after
217 passage.

218
219 The passage of this ordinance on first reading was moved by
220 _____, seconded by _____, and upon
221 being put to a vote, the vote was as follows:

- 222
223 Mayor Betty Resch
224 Vice Mayor Christopher McVoy
225 Commissioner Sarah Malega
226 Commissioner Kimberly Stokes
227 Commissioner Reinaldo Diaz
228

229 The Mayor thereupon declared this ordinance duly passed on first reading on the
230 _____ day of _____, 2022.

231
232
233 The passage of this ordinance on second reading was moved by
234 _____, seconded by _____, and upon being put to a vote,
235 the vote was as follows:

- 236
237 Mayor Betty Resch
238 Vice Mayor Christopher McVoy
239 Commissioner Sarah Malega
240 Commissioner Kimberly Stokes
241 Commissioner Reinaldo Diaz
242

243 The Mayor thereupon declared this ordinance duly passed on the _____ day of
244 _____, 2022.

245 LAKE WORTH BEACH CITY COMMISSION

246
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248
249 By: _____
250 Betty Resch, Mayor

251
252 ATTEST:

253
254
255 _____
256 Melissa Ann Coyne, City Clerk
257

**TORCIVIA, DONLON,
GODDEAU & RUBIN,
P.A.**

701 NORTHPOINT PARKWAY, SUITE 209
WEST PALM BEACH, FLORIDA 33407-1950
561-686-8700 TELEPHONE / 561-686-8764 FACSIMILE
WWW.TORCIVIALAW.COM

GLEN J. TORCIVIA

LARA DONLON

CHRISTY L. GODDEAU*

LEONARD G. RUBIN*

JENNIFER H.R.
HUNECKE

SUSAN M. GARRETT

ELIZABETH V.
LENIHAN*

DENISE A.
MUTAMBA

KARA L. LAND

*FLORIDA BAR BOARD CERTIFIED
CITY COUNTY AND LOCAL GOVERNMENT ATTORNEY

October 4, 2022

Via E-Mail Only

Mayor and Commissioners
City of Lake Worth Beach
7 N. Dixie Highway
Lake Worth Beach, FL 33460

RE: Analysis and History of Lake Worth Beach CRA and other CRAs

Dear Mayor and Commissioners:

At your request, we have prepared this analysis and history of Community Redevelopment Agencies (CRA's). In 1993, the Board of Commissioners of the Lake Worth Beach CRA was created by resolution of the City Commission and was composed of the members of the City Commission plus two (2) additional members. Section 2-59, originally adopted in 1993, established that the board of commissioners of the CRA "shall hereafter" be a seven-member board appointed by the City Commission. There have been amendments to this Section of the Code in 1995 (added Section 2-59.1), 1997 (City Commission appointing itself as CRA board), and 2001 (reinstating the original language from 1993).

As stated above, in 1997, the City Commission adopted Resolution No. 44-97, declaring itself as the Board of Commissioners of the Lake Worth Beach CRA and allowing for the appointment of two (2) additional members. In 2001, the City Commission adopted Resolution No. 54-2001, declaring the seven (7) commissioners appointed by the City Commission as the CRA, allowing for appointment of five (5) additional members, and appointing the Chair and Vice Chair of the CRA: All of the above Ordinances and Resolutions are attached as composite Exhibit 1.

The primary Florida Statutes governing CRA's are F.S. 163.356-Creation of CRA (Exhibit 2) and F.S. 163.357-Governing body as the CRA (Exhibit 3).

As to the appointment of a board to govern the CRA, F.S. 163.356(2) provides: "When the governing body adopts a resolution declaring the need for a community redevelopment agency, that body shall, by ordinance, appoint a board of commissioners of the community redevelopment agency, which shall consist of not fewer than five or more than nine commissioners. The terms of office of the commissioners shall be for 4 years..."

F.S. 163.357(1)(a) provides: "As an alternative to the appointment of not fewer than five or more than seven members of the agency, the governing body may, at the time of the adoption of a resolution under s. 163.355, or at any time thereafter by adoption of a resolution, declare itself to be an agency, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred."

The chair and vice-chair of the CRA Board are appointed by the City Commission F.S. 163.356(3)(c). Historically, the Lake Worth Beach CRA Board selects the chair and vice-chair, subject to the approval of the City Commission.

In 2019, the Florida Attorney General issued an opinion (AGO 2019-12) (Exhibit 4) that there is no statutory authority to transfer the power and authority of the CRA board to an independent board once it has been given to the governing body (City Commission). In that opinion, the Attorney General cites to different language in the relevant statutes, particularly that, in Section 163.356, F.S., the City Commission "shall, by ordinance" appoint a CRA board, with specific terms as set forth in F.S., at the time it adopts the resolution declaring the need for the CRA; and in Section 163.357, F.S., in the alternative, the City Commission "may, by resolution" declare itself (and up to two others) as the CRA board, at the time it adopts the resolution declaring the need for the CRA, or anytime thereafter.

There is some debate as to whether this Attorney General opinion, as to the ability to transfer the authority to a non-city commission board after the City Commission has assumed that responsibility, is correct. There is some argument to be made regarding the statutory construction, the methods of adoption (ordinance or resolution) and the consistency with other law prohibiting one governing board binding a future board.

As is noted above, Fla. Stat. Sec. 163.357 (1)(a) (which was also cited in AGO 2019-12) provides that the governing body "may, at the time of the adoption of a resolution...or at any time thereafter by adoption of resolution, declare itself to be an agency, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred." The language of Sec. 163.357 anticipates and expressly authorizes the Commission to declare itself to be the agency, by resolution, at any time and declares the powers of the agency to vest in the Commission (under the above conditions).The City of Lake Worth Beach has previously made such transfers. Martin County did as well, changing the composition of the CRA board by

Ordinance each time. Similarly, the City of Boynton Beach has changed the compositions of their CRA Board.

You also inquired as to the creation and composition of the other CRAs in Palm Beach County. We have prepared the following chart to reflect this:

Municipality	Organizational Structure	Procedural History & Applicable Ordinances & Resolutions
Boca Raton CRA	City Commission	Res. 162-80
Boynton Beach CRA	City Commission (5) + non-binding advisory board of 7 members, appointed by Commission.	<p>1981 formation where City Council appointed 5 members with staggered terms via Res. 81-SS; Res. 82-BBBB expands previous blighted area; Res. 84-II expands area; Ord. 87-15 Repeals board size from 7 to 5 and appoints City Commission as CRA Board.</p> <p>Ord. 89-11 establishes two Community Redevelopment Agencies and two different districts. It also sets out the specific appointment of 5 members for 1 portion of one of those districts, the “Central Business District.”</p> <p>Ord. 90-21 consolidates the two Community Redevelopment Agencies into one CRA; Sec. 1 declares that the City Commission shall serve as the governing body for the CRA; and</p> <p>Sec. 5 provides that the previous appointments are vacated and that those who held positions on the Board are discharged;</p> <p>Sec. 8 reserves the right to create an advisory board to make non-binding</p>

		recommendations. Ord. 98-33 CRA plan approval
Municipality	Organizational Structure	Procedural History & Applicable Ordinances & Resolutions
City of Belle Glade CRA	City Commission	City Ordinance 03-08; Resolutions 03-01, 2399
CRA of the Town of Lake Park	7-member board – 5 Town Commissioners & 2 appointees; Town Manager serves as Executive Director (serving staggered 4-year terms)	See CRA Plan & Res.65-1996
Delray Beach CRA	7-member board with 5 City Commissioners & 2 Commissioner appointees	Appointed by City Counsel via Ord. 46-85
Lake Clarke Shores CRA	Town Council appoints themselves	Res. 16-03; 16-14
Northwood / Pleasant City CRA	City Commission “but strong consideration is given to the comments and recommendations of the CRA Advisory Board”	1993 formation. Res. 281-94; 282-94
Palm Springs CRA	Village Council plus 2 appointees	Res. 130-84; 2019-19; Ord. 35-4
Riviera Beach CRA	5 members of City Council	Sec. 24-22
Town of Jupiter CRA	5 Town Council Members	Created in 2003. Sec. 24-226; Ord. 60-01; Res. 98-01
West Palm Beach CRA	City Commission	Ordinance No. 1805-84 on September 10, 1984,

In addition to differences in the governing board, CRAs also differ in who serves as the Executive Director and staff. While some have the City Manager and City staff fill these rolls, many have a separate Executive Director and outside consultants filling the staff roles. I trust that the above is of assistance in providing an overview of CRA’s in general and of the Lake Worth Beach CRA. Of course, I will be available to answer any questions regarding this matter.

Sincerely,

Glen J. Torcivia
c: Carmen Davis
c: Juan Ruiz
c: William Waters
c: Joan Oliva

DRAFT

RESOLUTION NO. 47-89 OF THE CITY OF LAKE WORTH, FLORIDA, DECLARING THE CITY COMMISSION TO BE A COMMUNITY REDEVELOPMENT AGENCY; REQUIRING THE CITY COMMISSION TO APPOINT TWO ADDITIONAL PERSONS TO THE CRA; PROVIDING FOR LENGTH OF TERMS OF OFFICE OF TWO ADDITIONAL MEMBERS; INCORPORATING BY REFERENCE COMMUNITY REDEVELOPMENT ACT OF 1969, AS AMENDED; CONFLICTING RESOLUTIONS REPEALED; SEVERABILITY CLAUSE; EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. The City Commission of the City of Lake Worth, Florida, hereby declares itself to be a community redevelopment agency under the Community Redevelopment Act of 1969, as amended.

Section 2. The City Commission shall appoint two additional persons to act as members of the Community Redevelopment Agency. The terms of office of the additional members shall be for 4 years, except that the first person appointed shall initially serve a term of 2 years.

Section 3. The Community Redevelopment Agency shall be organized and exercise its authority in accord with the Community Redevelopment Act of 1969, as amended, which is fully incorporated herein by reference.

Section 4. All resolutions in conflict herewith are hereby repealed.

Section 5. If any provision of this resolution, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 6. This Resolution shall take effect immediately upon passage.

The passage of this Resolution was moved by Commissioner Coonerty, seconded by Commissioner Wright, and upon being put to a vote, the vote was as follows:

Mayor Ronald E. Exline	<u>AYE</u>
Vice Mayor Jim Jones	<u>ABSENT</u>
Commissioner Michael Coonerty	<u>AYE</u>
Commissioner Charles Wright	<u>AYE</u>
Commissioner Roy D. Strohacker	<u>AYE</u>

The Mayor thereupon declared this Resolution duly passed and adopted this 3rd day of July, 1989.

LAKE WORTH CITY COMMISSION

By: Ronald E. Exline
Mayor

ATTEST:

Barbara A. Joseph
City Clerk

Submitted: 7/3/89



ORDINANCE NO. 93-2 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, OF THE CODE OF ORDINANCES IN ITS ENTIRETY; PROVIDING FOR A SEVEN-PERSON BOARD OF COMMISSIONERS OF THE CRA, APPOINTED BY THE CITY COMMISSION; SEVERABILITY CLAUSE; CONFLICTING ORDINANCES REPEALED; CODIFICATION CLAUSE; EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. Chapter 2, Article V, of the Code of Ordinances is amended in its entirety to read:

Chapter 2

ADMINISTRATION

ARTICLE V. COMMUNITY REDEVELOPMENT AGENCY

Sec. 2-59. Organization.

The board of commissioners of the Lake Worth Community Redevelopment Agency, which was previously created by resolution of the city commission and consisted of the five members of the city commission plus two additional persons, shall hereafter consist of seven commissioners appointed by the city commission. Said board shall be organized and shall operate as provided in section 163.356, Florida Statutes (1991), as amended from time to time.

Sec. 2-60 -- 2-62. Reserved.

Section 2. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 3. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. Section 1 of this Ordinance shall be codified.

Section 5. This Ordinance shall become effective ten (10) days after passage.

ORIGINAL DOCUMENT

The passage of this Ordinance on first reading was moved by Commissioner Shepherd, seconded by Commissioner Clager, and upon being put to a vote, the vote was as follows:

Mayor David Hinsa	AYE
Commissioner C. L. Clarke	AYE
Commissioner Dennis F. Dorsey	NAY
Commissioner Daniel T. Shepherd	AYE
Commissioner Lloyd A. Clager	AYE

The Mayor thereupon declared this Ordinance duly passed on first reading on the 20th day of January, 1993.

The passage of this Ordinance on second reading was moved by Commissioner Shepherd, seconded by Commissioner Clarke, and upon being put to a vote, the vote was as follows:

Mayor David Hinsa	AYE
Commissioner C. L. Clarke	AYE
Commissioner Dennis F. Dorsey	ABSENT
Commissioner Daniel T. Shepherd	AYE
Commissioner Lloyd A. Clager	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on the 3rd day of February, 1993.

Signed this 11th day of February, 1993.

By: [Signature]
David Hinsa, Mayor

ATTEST:

[Signature]
Barbara O'Polyn, Deputy City Clerk

Submitted: January 20, 1993



ORIGINAL DOCUMENT

ORDINANCE NO. 95-18 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTERS 2, 9, 13, AND 23 OF THE CODE OF ORDINANCES REGARDING ATTENDANCE REQUIREMENTS FOR MEMBERS OF CITY BOARDS, PROVIDING FOR VACANCIES ON BOARDS FOR NON-ATTENDANCE; SEVERABILITY CLAUSE; CONFLICTING ORDINANCES REPEALED; CODIFICATION CLAUSE; EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. Chapter 2 of the Code of Ordinances is amended by adding the words and figures shown in underlined type and by deleting the words and figures shown in struck-through type as follows:

Chapter 2

ADMINISTRATION

* * *

ARTICLE IV. UTILITIES ADVISORY BOARD

Sec. 2-48. Created; organization.

(a) *Creation.* There is hereby created a seven-member Lake Worth Utilities Advisory Board to be appointed by the city commission. Six (6) members shall be residents of the city. One (1) member shall not be a resident of the city but shall be a resident of the geographic area served by the city's electric utility.

(b) *Initial appointments; vacancies.* The initial appointments to the board shall be as follows:

- (1) Two (2) members appointed for a term of one (1) year each.
- (2) Three (3) members appointed for a term of two (2) years each.
- (3) Two (2) members appointed for a term of three (3) years each.

Thereafter, any appointment shall be made for a term of three (3) years. An appointment to fill a vacancy on the board shall be for the remainder of the unexpired term. If any member of the board shall fail fails to be present at attend three (3) consecutive regularly scheduled meetings or at twenty-five percent (25%) of the meetings of the board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records without board approval; then the board shall declare a vacancy at the conclusion of the third meeting and the city commission shall promptly fill the vacancy.

(c) *Chairman and vice-chairman.* The members of the board shall elect a chairman and vice-chairman, who shall be voting members, from among its members. The initial election shall take place at the initial meeting of the board. Thereafter, the election shall take place at the first meeting of each calendar year.

* * *

ARTICLE V. COMMUNITY REDEVELOPMENT AGENCY

Sec. 2-59. Organization.

ORIGINAL DOCUMENT

The board of commissioners of the Lake Worth Community Redevelopment Agency, which was previously created by resolution of the city commission and consisted of five (5) members of the city commission plus two (2) additional persons, shall hereafter consist of seven commissioners appointed by the city commission. The board shall be organized and shall operate as provided in section 163.356, Florida Statutes (1991), as amended from time to time.

Sec. 2-59.1 Forfeiture of membership on board for absenteeism.

The city commission hereby declares that if any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five percent (25%) of the meetings of the Board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records.

Secs. 2-60 -- 2-62. Reserved.

* * *

ARTICLE VI. CODE ENFORCEMENT BOARDS

* * *

Sec. 2-64. Created; organization.

(a) *Creation; terms; appointments.* There are hereby created two (2) seven-member Lake Worth Code Enforcement Boards to be appointed by the city commission. The city commission shall also appoint legal counsel for the boards. Members shall be residents of the city. Appointments shall be made on the basis of experience or interest in the fields of zoning and building control. Membership shall, whenever possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor and a realtor.

(b) *Initial appointments; vacancies.* The initial appointments to the boards shall be as follows:

- (1) Two (2) members appointed for a term of one (1) year each.
- (2) Three (3) members appointed for a term of two (2) years each.
- (3) Three (3) members appointed for a term of three (3) years each.

Thereafter, any appointment shall be made for a term of three (3) years. A member may be reappointed for successive terms without limitation upon approval of the city commission. An appointment to fill any vacancy on either board shall be for the remainder of the unexpired term of office. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five percent (25%) of the meetings of the board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records. ~~If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman, the board shall declare the member's office vacant, and the city commission shall promptly fill such vacancy.~~

(c) *Organization; quorum; compensation.* The members of each board shall elect a chairman, who shall be a voting member, from among the members of the board. The presence of four (4) or more members shall constitute a quorum of each board. Members shall serve without compensation but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the city commission or otherwise provided by law.

ORIGINAL DOCUMENT

* * *

ARTICLE IX. CITY TREE BOARD

* * *

Sec. 2-83.1 Forfeiture of membership on board for absenteeism.

If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty five percent (25%) of the meetings of the Board held within any twelve (12) month period. a vacancy in the board shall occur, unless the absences shall be excused by the City Commission and the reason therefore entered into the City's records

* * *

Section 2. Chapter 9 of the Code of Ordinances is amended by adding the words and figures shown in underlined type as follows:

Chapter 9

BUILDINGS AND STRUCTURAL REGULATIONS

* * *

ARTICLE I. IN GENERAL

* * *

Sec. 9-2.3. Amendments to the 1988 Palm Beach County Amendments to the Standard Building Code, 1988 edition.

* * *

Section 105. Construction board of adjustments and appeals.

* * *

Subsection 105.2.2. Terms. Delete existing paragraph and substitute the following:

Of the members appointed, two (2) shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, one (1) for a term of three (3) years, and thereafter they shall be appointed for terms of four (4) years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty five percent (25%) of the meetings of the board held within any twelve (12) month period. a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records. Continued absence of any member from regular meetings of the board shall, at the discretion of the chief

* * *

Sec. 9-2.4. Amendments to Standard Unsafe Building Abatement Code, 1985 edition, fifth printing.

* * *

ORIGINAL DOCUMENT

Section 105. Delete existing subsection 105.2 and substitute the following:

* * *

Subsection 105.2. *Term of office.*

Of the members appointed, two (2) shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, one (1) for a term of three (3) years, and thereafter they shall be appointed for terms of four (4) years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty five percent (25%) of the meetings of the board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records. ~~Continued absence of any member from regular meetings of the board shall, at the discretion of the chief appointing authority render any such member liable to immediate removal from office:~~

* * *

Section 3. Chapter 13 of the Code of Ordinances is amended by adding the words and figures shown in underlined type as follows:

Chapter 13

LIBRARY

* * *

Sec. 13-2. Board membership.

The library board shall consist of five (5) members appointed by the city commission who shall serve without compensation. As presently constituted, the library board terms are staggered terms, each term being a duration of five (5) years. With the expiration of each term, the city commission shall continue to appoint for new terms, and for interim vacancies created by resignation or by the city commission. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty five percent (25%) of the meetings of the board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records.

* * *

Section 4. Chapter 23 of the Code of Ordinances is amended by adding the words and figures shown in underlined type and by deleting the words and figures shown in struck-through type as follows:

* * *

Chapter 23

ZONING

* * *

ORIGINAL DOCUMENT

ARTICLE XXIII. ADMINISTRATION

* * *

ORIGINAL DOCUMENT

23.23.01.00. City planning board.

23.23.01.01. *Created; members; terms; vacancies.* Pursuant to paragraph 23 of section 4 of the city Charter authorizing the establishment of a city planning board, and pursuant to Chapter 163.180, Florida Statutes, there is hereby created a city planning board, which shall consist of five (5) members. The five (5) members shall be appointed by the city commission. The first five (5) members shall be appointed for the following terms: one (1) for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years. Thereafter, all succeeding members of said board shall be appointed for a term of three (3) years. In addition to the regular board members, the city commission shall appoint two (2) additional members to be designated as alternate number 1 and alternate number 2, to serve in that order in place of absent or disabled regular members. Effective June 28, 1990, the alternate members shall become regular voting members, with terms expiring on December 31, 1990, and the board shall consist of seven (7) regular members and no alternate members. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five percent (25%) of the meetings of the board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records. Vacancies in the board membership by resignation, illness or other causes shall be filled by the city commission for the unexpired term of the member involved. Members of the city planning board may be removed from office by the city commission upon written charges and after public hearing. The board shall select its own chairman and vice-chairman annually at the first meeting in January. The director of planning and engineering shall serve as secretary and advisor to the board.

* * *

Sec. 23.23.02.00. Zoning board of appeals.

* * *

23.23.02.02. *Personnel and organization.* The zoning board of appeals shall consist of five (5) regular members appointed by the city commission and who shall serve without compensation. The first five (5) members shall be appointed for the following terms: one (1) for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years. Thereafter, all succeeding members of said board shall be appointed for a term of three (3) years

In addition to the regular board members, the city commission shall appoint two (2) additional members, to be designated as alternate number 1 and alternate number 2, to serve in that order at meetings of the board whenever one (1) or more regular members are absent or excused or otherwise unable to participate. Four (4) voting members on said board shall be deemed a quorum. Alternate members shall serve for two (2) years, but of the first appointed alternate members, one (1) shall serve for one (1) year and one (1) shall serve for two (2) years. Thereafter, alternate members shall be appointed for two-year terms. If any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five percent (25%) of the meetings of the board held within any twelve (12) month period, a vacancy in the board shall occur, unless the absences shall be excused by the city commission and the reason therefore entered into the city's records. Vacancies in the board membership by resignation, illness or other causes shall be filled by the city commission for the unexpired term of the member involved. Members of the zoning board of appeals may be removed from office by the city commission upon written charges and after public hearing. The board shall select its own chairman and vice-chairman annually at the

first meeting in January. The building and zoning director or his designated representative shall serve as secretary and advisor to the board.

* * *

Section 5. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Sections 1, 2, 3 and 4 of this Ordinance shall be codified.

Section 8. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Dovey, seconded by Commissioner Ramiccio, and upon being put to a vote, the vote was as follows:

Mayor Rodney G. Romano	AYE
Commissioner Retha Lowe	AYE
Commissioner Robert E. Dovey, Jr.	AYE
Commissioner Tom Ramiccio	AYE
Commissioner Lloyd A. Clager	AYE

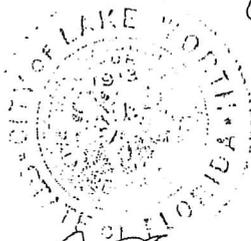
The Mayor thereupon declared this Ordinance duly passed on first reading on the 5th day of July, 1995.

The passage of this Ordinance on second reading was moved by Commissioner Dovey, seconded by Commissioner Ramiccio, and upon being put to a vote, the vote was as follows:

Mayor Rodney G. Romano	AYE
Commissioner Retha Lowe	AYE
Commissioner Robert E. Dovey, Jr.	AYE
Commissioner Tom Ramiccio	AYE
Commissioner Lloyd A. Clager	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on second reading on the 18th day of July, 1995.

Signed this 25th day of July, 1995.



LAKE WORTH CITY COMMISSION

By: [Signature]
Mayor

ATTEST:

[Signature]
City Clerk

Submitted: July 5, 1995

ORIGINAL DOCUMENT

ORDINANCE NO. 97-18 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, OF THE CODE OF ORDINANCES; REGARDING COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR THE CITY COMMISSION TO BE A COMMUNITY REDEVELOPMENT AGENCY; SEVERABILITY CLAUSE; CONFLICTING ORDINANCES REPEALED; CODIFICATION CLAUSE; EFFECTIVE DATE.

WHEREAS, on February 3, 1993, the City of Lake Worth passed Ordinance No. 93-2 declaring the Community Redevelopment Agency members to be appointed according to section 163.356, Florida Statutes; and

WHEREAS, the city commission at this time has determined that the city will be better served by the appointment of the governing body of the city as the Community Redevelopment Agency pursuant to section 163.357, Florida Statutes; and

WHEREAS, the Community Redevelopment Agency previously organized under section 163.356, Florida Statutes, is being amended to be organized under section 163.357, Florida Statutes, naming the city commission as the Community Redevelopment Agency

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. Chapter 2, Article V, of the Code of Ordinances is amended by adding the words and figures shown in underlined type and deleting the words and figures shown in struck-through type as follows:

Chapter 2

ADMINISTRATION

ARTICLE V. COMMUNITY REDEVELOPMENT AGENCY

Sec. 2-59. Organization.

The city commission of the City of Lake Worth, Florida hereby declares itself to serve as the Community Redevelopment Agency. The city commission shall appoint two (2) additional members to act as members of the Community Redevelopment Agency. The term of office of the additional members shall be for four (4) years, except that the first person appointed shall initially serve a term of two (2) years. The board of commissioners of the Lake Worth Community Redevelopment Agency, which was previously created by resolution of the city commission and consisted of the five (5) members of the city commission plus two (2) additional members, shall hereafter consist of seven commissioners appointed by the city commission. The board shall be organized and shall operate as provided in section 163.357 163.356, Florida Statutes (1991), as amended from time to time.

Sec. 2-59.1. Forfeiture of membership on board for absenteeism.

The city commission hereby declares that if any member of the board shall fail to be present at three (3) consecutive regularly scheduled meetings or at twenty-five (25) percent of the meetings of the board held within any twelve-month period, without cause and without prior approval of the chairman and the reason therefor entered into the board's minutes, the board shall declare the member's office vacant, and the city commission shall promptly fill such vacancy.

Secs. 2-60--2-62. Reserved.

3-1-93
97-18
ORDINANCE NO. 97-18
OF THE CITY OF LAKE WORTH,
FLORIDA, AMENDING
CHAPTER 2, ARTICLE V,
OF THE CODE OF ORDINANCES;
REGARDING COMMUNITY
REDEVELOPMENT AGENCY;
PROVIDING FOR THE CITY
COMMISSION TO BE A
COMMUNITY REDEVELOPMENT
AGENCY; SEVERABILITY
CLAUSE; CONFLICTING
ORDINANCES REPEALED;
CODIFICATION CLAUSE;
EFFECTIVE DATE.

Section 2. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Section 1 of this Ordinance shall be codified.

Section 5. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Clager, seconded by Commissioner Lowe, and upon being put to a vote, the vote was as follows:

Mayor Tom Ramiccio	AYE
Commissioner Retha Lowe	AYE
Commissioner Jose M. Sosa	Not present
Commissioner Gary Bo Allen	AYE
Commissioner Lloyd A. Clager	AYE

The Mayor thereupon declared this Ordinance duly passed on first reading on the 15th day of July, 1997.

The passage of this Ordinance on second reading was moved by Commissioner Lowe, seconded by Commissioner Allen, and upon being put to a vote, the vote was as follows:

Mayor Tom Ramiccio	AYE
Commissioner Retha Lowe	AYE
Commissioner Jose M. Sosa	AYE
Commissioner Gary Bo Allen	AYE
Commissioner Lloyd A. Clager	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on second reading on the 5th day of August, 1997.

Signed this 13th day of August, 1997.



LAKE WORTH CITY COMMISSION

By: Tom Ramiccio
Mayor

ATTEST:

Barbara A. Graybe
City Clerk

Submitted: July 15, 1997

ORIGINAL DOCUMENT

ORDINANCE NO. 2001-19 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING SECTION 2-59 OF THE CODE OF ORDINANCES; REGARDING COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR A SEVEN MEMBER BOARD APPOINTED BY THE CITY COMMISSION TO BE A COMMUNITY REDEVELOPMENT AGENCY; APPOINTING FIVE ADDITIONAL MEMBERS TO THE BOARD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 3, 1993, the City of Lake Worth passed Ordinance No. 93-2 declaring the Community Redevelopment Agency members to be appointed according to section 163.356, Florida Statutes; and

WHEREAS, on August 13, 1997, the City of Lake Worth passed Ordinance No 97-18 declaring that the City Commission and two additional appointed members would act as members of the Community Redevelopment Agency; and

WHEREAS, the City Commission at this time has determined that the City will be better served by the appointment of seven commissioners as the Community Redevelopment Agency pursuant to section 163.356, Florida Statutes; and

WHEREAS, the Community Redevelopment Agency previously organized under section 163.357, Florida Statutes, is being amended to be organized under section 163.356, Florida Statutes, naming the five additional commissioners to serve with the two present commissioners as the Community Redevelopment Agency;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. Section 2-59 of the City of Lake Worth Code of Ordinances is amended to read as follows:

Chapter 2

ADMINISTRATION

ARTICLE V. COMMUNITY REDEVELOPMENT AGENCY

Sec. 2-59. Organization.

~~The city commission of the City of Lake Worth, Florida hereby declares itself to serve as the Community Redevelopment Agency. The city commission shall appoint two (2) additional members to act as members of the Community Redevelopment Agency. The term of office of the additional members shall be for four (4) years, except that the first person appointed shall initially serve a term of two (2) years. The board of commissioners of the Lake Worth Community Redevelopment Agency, which was previously created by resolution of the city commission and consisted of the five (5) members of the city commission plus two (2) additional members, shall hereafter consist of seven commissioners appointed by the city commission. The board shall be organized and shall operate as provided in section 163.357 163.356, Florida Statutes (1994), as amended from time to time.~~

Section 2. The additional five commissioners who shall serve along with the present two commissioners, are: Elizabeth Arevalo; Luke Mittner; Laurel Robinson; Tom Shea; and Bruce Webber; The Chair of this Agency is Laurel Robinson. The Vice-Chair of this Agency is Christopher F. Fleming.

Section 3. If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

ORIGINAL DOCUMENT

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Section 1 of this Ordinance shall be codified.

Section 5. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner McKinnon, seconded by Commissioner Egly, and upon being put to a vote, the vote was as follows:

Mayor Rodney G. Romano	AYE
Commissioner Scott Maxwell	NAY
Commissioner Colburn H. McKinnon	AYE
Commissioner Gary Bo Allen	ABSENT
Commissioner Joe Egly	AYE

The Mayor thereupon declared this Ordinance duly passed on first reading on the 7th day of August, 2001.

The passage of this Ordinance on second reading was moved by Commissioner Maxwell, seconded by Commissioner Egly, and upon being put to a vote, the vote was as follows:

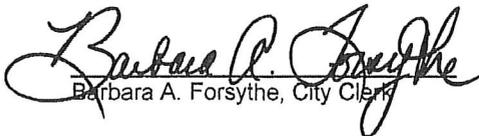
Mayor Rodney G. Romano	AYE
Commissioner Scott Maxwell	AYE
Commissioner Colburn H. McKinnon	ABSENT
Commissioner Gary Bo Allen	AYE
Commissioner Joe Egly	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on second reading on the 21st day of August, 2001.

LAKE WORTH CITY COMMISSION

By: 
Rodney G. Romano, Mayor

ATTEST:


Barbara A. Forsythe, City Clerk

Submitted: August 7, 2001



ORIGINAL DOCUMENT

RESOLUTION NO. 44-97 OF THE CITY OF LAKE WORTH, FLORIDA, DECLARING THE CITY COMMISSION TO BE A COMMUNITY REDEVELOPMENT AGENCY; REQUIRING THE CITY COMMISSION TO APPOINT TWO ADDITIONAL PERSONS TO THE COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR LENGTH OF TERMS OF OFFICE OF TWO ADDITIONAL MEMBERS; INCORPORATING BY REFERENCE COMMUNITY REDEVELOPMENT ACT OF 1969, AS AMENDED; CONFLICTING RESOLUTIONS REPEALED; SEVERABILITY CLAUSE; EFFECTIVE DATE.

WHEREAS, on February 3, 1993, the City of Lake Worth passed Ordinance No. 93-2 declaring the Community Redevelopment Agency members to be appointed according to section 163.356, Florida Statutes; and

WHEREAS, the City Commission at this time has determined that the City will be better served by the appointment of the governing body of the City as the Community Redevelopment Agency pursuant to section 163.357, Florida Statutes; and

WHEREAS, the Community Redevelopment Agency previously organized according to section 163.356, Florida Statutes, is being amended to be organized under section 163.357, Florida Statutes, naming the City Commission as the Community Redevelopment Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

ORIGINAL DOCUMENT

Section 1. The City Commission of the City of Lake Worth, Florida, pursuant to section 163.357, Florida Statutes, hereby declares itself to be the Community Redevelopment Agency for the City of Lake Worth under the Community Redevelopment Act of 1969, as amended.

Section 2. The City Commission shall appoint two additional persons to act as members of the Community Redevelopment Agency. The terms of office of the additional members shall be for four (4) years, except that the first person appointed shall initially serve a term of two (2) years.

Section 3. The Community Redevelopment Agency shall be organized and exercise its authority in accord with the Community Redevelopment Act of 1969, as amended, which is fully incorporated herein by reference.

Section 4. All resolutions in conflict herewith are hereby repealed.

Section 5. If any provision of this resolution, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 6. This Resolution shall take effect immediately upon its passage.

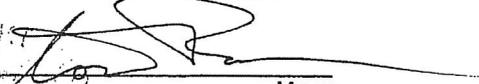
The passage of this Resolution was moved by Commissioner Clager, seconded by Commissioner Lowe, and upon being put to a vote, the vote was as follows:

Mayor Thomas M. Ramiccio	AYE
Commissioner Retha Lowe	AYE
Commissioner Jose M. Sosa	Not present
Commissioner Gary Bo Allen	AYE
Commissioner Lloyd A. Clager	AYE

The Mayor, thereupon declared this Resolution duly passed and adopted on the 15th day of July, 1997.

Signed this 17th day of July, 1997.

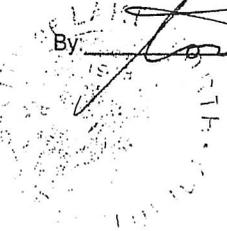
LAKE WORTH CITY COMMISSION

By:  Mayor

ATTEST:

Barbara A. Joseph
City Clerk

Submitted: July 15, 1997



RESOLUTION NO. 54-2001 OF THE CITY OF LAKE WORTH, FLORIDA, DECLARING A SEVEN MEMBER BOARD APPOINTED BY THE CITY COMMISSION TO BE THE COMMUNITY REDEVELOPMENT AGENCY; REQUIRING THE CITY COMMISSION TO APPOINT FIVE ADDITIONAL PERSONS TO THE COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR LENGTH OF TERMS OF OFFICE OF FIVE ADDITIONAL MEMBERS; DECLARING A CHAIR AND VICE-CHAIR OF THE AGENCY; INCORPORATING BY REFERENCE COMMUNITY REDEVELOPMENT ACT OF 1969, AS AMENDED; CONFLICTING RESOLUTIONS REPEALED; SEVERABILITY CLAUSE; EFFECTIVE DATE.

WHEREAS, on February 3, 1993, the City of Lake Worth passed Ordinance No. 93-2 declaring the Community Redevelopment Agency members to be appointed according to section 163.356, Florida Statutes; and

WHEREAS, on August 13, 1997, the City of Lake Worth passed Ordinance No. 97-18 declaring that the City Commission and two additional appointed members would act as members of the Community Redevelopment Agency; and

WHEREAS, the City Commission at this time has determined that the City will be better served by the appointment of seven commissioners as the Community Redevelopment Agency pursuant to section 163.356, Florida Statutes; and

WHEREAS, the Community Redevelopment Agency previously organized according to section 163.357, Florida Statutes, is being amended to be organized under section 163.356, Florida Statutes, providing for the City Commission to appoint five additional members, along with the present two members as the Community Redevelopment Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. The City Commission of the City of Lake Worth, Florida, pursuant to section 163.356, Florida Statutes, hereby declares that seven commissioners appointed by the City Commission shall be the Community Redevelopment Agency for the City of Lake Worth under the Community Redevelopment Act of 1969, as amended.

Section 2. The City Commission shall appoint five additional persons to act as members of the Community Redevelopment Agency. The terms of office of the additional members shall be for four (4) years; The Chair of this Agency is Laurel Robinson. The Vice-Chair of this Agency is Christopher F. Fleming.

Section 3. The Community Redevelopment Agency shall be organized and exercise its authority in accord with the Community Redevelopment Act of 1969, as amended, which is fully incorporated herein by reference.

Section 4. All resolutions in conflict herewith are hereby repealed.

Section 5. If any provision of this resolution, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 6. This Resolution shall take effect immediately upon its passage.

The passage of this Resolution was moved by Commissioner Maxwell, seconded by Commissioner Egly, and upon being put to a vote, the vote was as follows:

Mayor Rodney G. Romano	AYE
Commissioner Scott Maxwell	AYE
Commissioner Colburn H. McKinnon	ABSENT
Commissioner Gary Bo Allen	AYE
Commissioner Joe Egly	AYE

ORIGINAL DOCUMENT

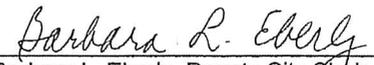
The Mayor, thereupon declared this Resolution duly passed and adopted on the 21st day of August, 2001.

Signed this 28th day of August, 2001.

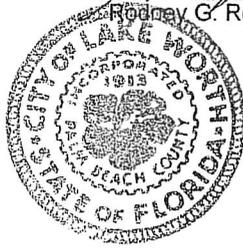
LAKE WORTH CITY COMMISSION

By: 
Rodney G. Romano, Mayor

ATTEST:


Barbara L. Eberly, Deputy City Clerk

Submitted: August 21, 2001



ORIGINAL DOCUMENT

The 2022 Florida Statutes

Title XI
COUNTY ORGANIZATION AND INTERGOVERNMENTAL
RELATIONS

Chapter 163
INTERGOVERNMENTAL
PROGRAMS

View Entire
Chapter

163.356 Creation of community redevelopment agency.—

(1) Upon a finding of necessity as set forth in s. [163.355](#), and upon a further finding that there is a need for a community redevelopment agency to function in the county or municipality to carry out the community redevelopment purposes of this part, any county or municipality may create a public body corporate and politic to be known as a “community redevelopment agency.” A charter county having a population less than or equal to 1.6 million may create, by a vote of at least a majority plus one of the entire governing body of the charter county, more than one community redevelopment agency. Each such agency shall be constituted as a public instrumentality, and the exercise by a community redevelopment agency of the powers conferred by this part shall be deemed and held to be the performance of an essential public function. Community redevelopment agencies of a county have the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan or plans proposed by the governing body of the county.

(2) When the governing body adopts a resolution declaring the need for a community redevelopment agency, that body shall, by ordinance, appoint a board of commissioners of the community redevelopment agency, which shall consist of not fewer than five or more than nine commissioners. The terms of office of the commissioners shall be for 4 years, except that three of the members first appointed shall be designated to serve terms of 1, 2, and 3 years, respectively, from the date of their appointments, and all other members shall be designated to serve for terms of 4 years from the date of their appointments. A vacancy occurring during a term shall be filled for the unexpired term. As provided in an interlocal agreement between the governing body that created the agency and one or more taxing authorities, one or more members of the board of commissioners of the agency may be representatives of a taxing authority, including members of that taxing authority’s governing body, whose membership on the board of commissioners of the agency would be considered an additional duty of office as a member of the taxing authority governing body.

(3)(a) A commissioner shall receive no compensation for services, but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of duties. Each commissioner shall hold office until his or her successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the county or municipality, and such certificate is conclusive evidence of the due and proper appointment of such commissioner.

(b) The powers of a community redevelopment agency shall be exercised by the commissioners thereof. A majority of the commissioners constitutes a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws require a larger number. Any person may be appointed as commissioner if he or she resides or is engaged in business, which means owning a business, practicing a profession, or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the agency, which shall be coterminous with the area of operation of the county or municipality, and is otherwise eligible for such appointment under this part.

(c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their qualifications, duties, and compensation. For such legal service as it requires, an agency may employ or retain its own counsel and legal staff.



(d) An agency authorized to transact business and exercise powers under this part shall file with the governing body the report required pursuant to s. 163.371(2).

(e) At any time after the creation of a community redevelopment agency, the governing body of the county or municipality may appropriate to the agency such amounts as the governing body deems necessary for the administrative expenses and overhead of the agency, including the development and implementation of community policing innovations.

(4) The governing body may remove a commissioner for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he or she has been given a copy of the charges at least 10 days prior to such hearing and has had an opportunity to be heard in person or by counsel.

History.—s. 2, ch. 77-391; s. 1, ch. 83-231; s. 6, ch. 84-356; s. 903, ch. 95-147; s. 4, ch. 98-314; s. 41, ch. 2001-266; s. 4, ch. 2002-294; s. 2, ch. 2006-307; s. 2, ch. 2019-163; s. 28, ch. 2020-2.

The 2022 Florida Statutes

Title XI
COUNTY ORGANIZATION AND INTERGOVERNMENTAL
RELATIONS

Chapter 163
INTERGOVERNMENTAL
PROGRAMS

View Entire
Chapter

163.357 Governing body as the community redevelopment agency.—

(1)(a) As an alternative to the appointment of not fewer than five or more than seven members of the agency, the governing body may, at the time of the adoption of a resolution under s. [163.355](#), or at any time thereafter by adoption of a resolution, declare itself to be an agency, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred.

(b) The members of the governing body shall be the members of the agency, but such members constitute the head of a legal entity, separate, distinct, and independent from the governing body of the county or municipality. If the governing body declares itself to be an agency which already exists, the new agency is subject to all of the responsibilities and liabilities imposed or incurred by the existing agency.

(c) A governing body which consists of five members may appoint two additional persons to act as members of the community redevelopment agency. The terms of office of the additional members shall be for 4 years, except that the first person appointed shall initially serve a term of 2 years. Persons appointed under this section are subject to all provisions of this part relating to appointed members of a community redevelopment agency.

(d) As provided in an interlocal agreement between the governing body that created the agency and one or more taxing authorities, one or more members of the board of commissioners of the agency may be representatives of a taxing authority, including members of that taxing authority's governing body, whose membership on the board of commissioners of the agency would be considered an additional duty of office as a member of the taxing authority governing body.

(2) Nothing in this part prevents the governing body from conferring the rights, powers, privileges, duties, and immunities of a community redevelopment agency upon any entity in existence on July 1, 1977, which has been authorized by law to function as a downtown development board or authority or as any other body the purpose of which is to prevent and eliminate slums and blight through community redevelopment plans. Any entity in existence on July 1, 1977, which has been vested with the rights, powers, privileges, duties, and immunities of a community redevelopment agency is subject to all provisions and responsibilities imposed by this part, notwithstanding any provisions to the contrary in any law or amendment thereto which established the entity. Nothing in this act shall be construed to impair or diminish any powers of any redevelopment agency or other entity as referred to herein in existence on the effective date of this act or to repeal, modify, or amend any law establishing such entity, except as specifically set forth herein.

History.—s. 2, ch. 77-391; s. 75, ch. 79-400; s. 2, ch. 83-231; s. 5, ch. 84-356; s. 3, ch. 2006-307.



Florida Attorney General Advisory Legal Opinion

Number: AGO 2019-12

Date: November 1, 2019

Subject: Community redevelopment agency -- transfer of authority

Mr. Gerald T. Buhr
City Attorney, City of Avon Park
7747 US Open Look
Lakewood Ranch, FL 34202

Dear Mr. Buhr:

On behalf of the City of Avon Park, you have requested an opinion on the following question:

Whether the city council, presently sitting as the governing board of the city community redevelopment agency, can transfer its authority to an independent board?

In sum:

Chapter 163, Florida Statutes, does not authorize the city council to transfer its existing authority as the city community redevelopment agency to an independent board.

The Community Redevelopment Act of 1969, codified in chapter 163, Florida Statutes, permits county and municipal governments to create community redevelopment agencies to redevelop and revitalize slum and blighted areas. A community redevelopment agency may only be created after the local government adopts a resolution making a finding of need.^[1] Once created, a community redevelopment agency is a separate “public body corporate and politic”^[2] from the local government. Generally, the Act provides that such a separate public agency when formed may be governed in two ways. First, the local government may, by ordinance, appoint a board of commissioners which may be comprised of members distinct from the members of the board of the local government.^[3] Second, the local government’s “governing body” may instead designate itself as the community redevelopment agency board.^[4]

Consistent with chapter 163, Florida Statutes,^[5] and its own Code of Ordinances



city council of the City of Avon Park, in creating a city community redevelopment agency, chose the latter structure and declared its members, by resolution, to be the commissioners of the community redevelopment agency. The city council now asks whether it can designate, as the community development agency acting in its stead, a public agency configured as set forth in section 163.356, Florida Statutes.

Section 163.356(2), Florida Statutes, requires that a board of commissioners distinct from the city council be appointed “[w]hen the governing body adopts a resolution declaring the need for a community redevelopment agency.” The statute is clear that the board of commissioners be established when the community redevelopment agency is established. There is no provision for transfer of governance of an established community redevelopment agency to a later constituted board of commissioners. Notably, the converse is not true. Section 163.357(1)(a), Florida Statutes, provides that, “[a]s an alternative to the appointment of not fewer than five or more than seven members of the agency, the governing body may, *at the time of the adoption of a resolution under s. 163.355, or at any time thereafter by adoption of a resolution*, declare itself to be an agency, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred.”^[7] (Emphasis added.)

Therefore, I am of the opinion that the city council lacks statutory authority to transfer its authority as the community redevelopment agency of an existing agency to an independent board.

Sincerely,

Ashley Moody
Attorney General

AM/tlm

[1] § 163.355, Fla. Stat. (2019).

[2] § 163.356(1), Fla. Stat.

[3] § 166.356(2), Fla. Stat.

[4] § 163.357(1)(a), Fla. Stat.; see also § 163.40(3), Fla. Stat. (defining “governing body” as “the council, commission, or other legislative body charged with governing the county or municipality”).

[5] See § 163.357(1)(a), Fla. Stat. (2019).

[6] See Avon Park, Fla., Code of Ordinances Ch. 74, § 74-76 (“The city council shall, by resolution, declare themselves to be the commissioners of the community redevelopment agency.”).

[7] The reference in section 163.357(1)(a) to “not fewer than five or more than seven members of the agency” appears to be a cross-reference to section 163.356(2), which now provides for a board composition of “not fewer than five or more than nine commissioners.” This language was added to section 163.357(1)(a) at the same time that identical language concerning the number of board members was added to section 163.356(2). See Ch. 83-231, § 1-2, Laws of Fla.