

**MINUTES
CITY OF LAKE WORTH
SPECIAL MEETING OF THE CITY COMMISSION
SEPTEMBER 5, 2014 – 5:30 PM**

The meeting was called to order by Mayor Triolo on the above date at 5:33 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth, Florida.

1. ROLL CALL:

Present were Mayor Pam Triolo; Vice Mayor Scott Maxwell; and Commissioners Christopher McVoy, Andy Amoroso, and John Szerdi. Also present were City Manager Michael Bornstein, City Attorney Glen Torcivia, and City Clerk Pamela Lopez.

2. PLEDGE OF ALLEGIANCE:

The pledge of allegiance was led by Vice Mayor Scott Maxwell.

Consensus: To allow question and answer dialogue with the public providing comments.

3. NEW BUSINESS:

A. Discuss the August 26, 2014, election process and disenfranchisement of voters

City Attorney Torcivia explained that there was a Primary and Referendum Election held on August 26, 2014, for Lake Worth and many communities. Afterwards, there were many voters who were disenfranchised over the election process and issues they experienced. He said the purpose of this meeting was to hear from disenfranchised voters.

The new election process included pollworkers' use of iPads to verify voter registrations instead of the former voter registration books. He said many pollworkers were not able to find the registered voter names, which explained the increase of votes by Provisional Ballot. He explained the Provisional Ballot process and said the sealed ballots were to be placed in a sealed box. Several voters, who voted by Provisional Ballots, were given back their ballot and allowed to vote in person.

He said those attending the Canvassing Board meeting to observe the members reviewing the Provisional Ballots were Mayor Triolo, City Clerk Lopez, and either he or the Assistant City Attorney or both during some portion of the meeting. This Board was subject to the Sunshine Law; however, he said that, when he was in attendance, he saw that there was no microphone used and many of the individuals in attendance could not hear the Board's discussion and determination of whether or not to count the Ballot and the reasons why.

His office made a public record request to the County Supervisor of Elections to inspect the Provisional Ballots and it was found that fourteen of the voters' Provisional Ballots were not counted because pollworkers made mistakes and did not fill out the Provisional Ballots. The questions being asked are: whether the Canvassing Board met in the Sunshine, did the Board members properly count the Provisional Ballots, and should those Ballots have been counted because the voter was not at fault. He cited some examples of disenfranchised voters who were turned away from the polling location and not able to come back to vote.

Mayor Triolo said that she asked the Canvassing Board members why the Provisional Ballots were not counted due to pollworker error and if there was a law or policy that addressed Provisional Ballots that were properly filled out by voters but not counted because of pollworker clerical error. She also stated that she observed Canvassing Board members conversing outside of the Sunshine Law. At one point during the Canvassing Board recess, the County Supervisor of Elections announced to those in attendance that it appeared two cartridges were not read, but they were not Lake Worth. She later came back and said the cartridges were from Lake Worth precincts and that it appeared the cartridges came from one of the polling locations with two precincts. The Supervisor of Elections advised that one of the cartridges was read and the other not and that she would delete the previously read cartridges and reload them both. When the Supervisor of Elections returned, she stated that both cartridges were originally counted because the vote results were the same.

City Attorney Torcivia said the Supervisor of Elections was charging \$400 for data requested through his public records request and was waiting for a response explaining the expenditure. The purpose of this meeting was to determine if there were enough issues to move forward and make an issue of the election process.

Commissioner McVoy said there were many residents dedicated to democracy. Everyone had an opportunity to vote and everyone had a commitment to do that. The comments raised have caused him to have serious concerns. He said he had detailed knowledge to evaluate the Supervisor of Elections job. Every effort should be made to get the votes. He said he had concerns about the City Attorney's comments regarding the Canvassing Board. If the concerns were county-wide, then he supported hearing from Lake Worth citizens to make sure they were legally applicable. Then the City may want to step back and work with other communities to see if Lake Worth's issues were unusual or proceed collectively with other communities with the Supervisor of Elections.

Mayor Triolo announced that it was time for public comment.

Peggy Fisher said she voted early in the morning and did not have an issue; however, outside the polling location a voter said that a pollworker was

suggesting how he should vote. That behavior was against the law and they should not be doing that or influencing the voter. The integrity of the vote was needed and every vote counted. She said she saw pollworkers pulling Provisional Ballots out of a box or pulling them from everywhere. She said that everyone who was a legal voter should have their vote counted.

Vice Mayor Maxwell asked if the Precinct Clerk had a key to the Provisional Ballot box.

City Attorney Torcivia asked the individuals making comments to provide him with the names of those people being referenced and the precinct location in case this issue went to court.

Ms. Fisher responded that her observations were at the First Congregational Church on North K Street.

Retha Lowe said she was frustrated with voting ever since her polling location was moved. She now voted at Oasis Health and Rehabilitation Center, there were no signs to get inside the Center, and no parking for the voters. There were three different doors into the Center. She said she had her identification with her and it took the pollworker six or eight times to zip it through the iPad before she was allowed to vote. There were three or four people behind her that were turned away because they were at the wrong precinct. She said four people lived in her house, the pollworker could not find her husband's information, he was told he could not vote, and her brother-in-law's Provisional Ballot was not counted. She said she was angry because voters were being turned away, the pollworker could not find her daughter and son in the voter registration system, she saw people getting angry and leaving the precinct, voters were not told to fill out a Provisional Ballot, no one called her family to come back and vote in person, and no one from the Supervisor of Elections Office came to fix the problem. She asked that the precinct be moved from the nursing home and said voters should not have to pay for pollworkers' mistakes.

City Attorney Torcivia commented that voters used their finger instead of a pen to sign the iPad. He asked how the pollworkers verified the signatures.

Vice Mayor Maxwell said it took the pollworker several minutes to find his name in the voter registration system and that he also had a problem signing on the iPad. He said he was told that no one from the Supervisor of Elections Office showed up to fix the problems at the Oasis Health and Rehabilitation Center. He asked why no one from the Supervisor of Elections Office was dispatched to the precinct because there were 45 "Super Pollworkers" in the field.

Ms. Lowe said she went back to the precinct later in the day and saw six people who were told to vote someplace else. When her husband went to

vote, there were four people who did not get a chance to vote.

Mayor Triolo said there were five to seven Provisional Ballots not counted because the voters voted in the wrong precinct.

Michael Mahoney said he went to vote at 9 AM at the First Congregational Church, gave the pollworker his driver license and voter registration card, and was told that they had no record of him. He said he filled out a Provisional Ballot, the pollworker did not place it in a box, and his Provisional Ballot was handed to a lady. He said he heard that people were told to go back and vote in person and that their Provisional Ballot would be pulled to allow the voter to vote in person. He said he never saw his Provisional Ballot. There were five people that came to vote and four of the five were told to fill out a Provisional Ballot. One of the individuals was given the Provisional Ballot and told to file at another place. Four of the voters were in the correct precinct, but had to vote by Provisional Ballot. He commented that the Provisional Ballots should have been dropped into a sealed box and not allowed to be taken back out.

Mayor Triolo commented that, during the Canvassing Board meeting, a reporter from the Palm Beach Post asked how voters could find out if their vote was counted or not. The Supervisor of Elections responded that voters were given an informational paper telling them that they had to call a telephone number or go online to find out if their Provisional Ballot was counted or not.

Mr. Mahoney responded that he would contact the other four voters and provide their names to the City Attorney.

City Manager Bornsten asked if pollworkers provided information to those voters who had to vote by Provisional Ballot on who to contact about the status of their Provisional Ballot.

Commissioner Amoroso left the meeting at 6:25 PM.

Vice Mayor Maxwell commented that voting by Provisional Ballot should be the last resort option to vote.

Commissioner Amoroso returned to the meeting at 6:28 PM.

Ginny Powell said she was disappointed that she could not offer constructive comments about the \$63.5 million bond question. She said it sounded like there were legitimate concerns by the voters, which needed to be addressed. She said she voted by absentee ballot, had no problem, and received a new voter registration card showing her new precinct location. She commented that she had concerns about the bond referendum process before the election and had constructive ideas that would not cost the taxpayers \$63.5 million.

David Winters commented that he voted early in the morning at the First Congregational Church and the iPad bar code could not find his name so he had to vote by Provisional Ballot. He said he was called by a pollworker at his precinct to come back and vote in person. He said he called the Supervisor of Elections Office three times to find out the status of his Provisional Ballot and called again today. He said voting was a privilege and asked why his Provisional Ballot was not counted due to a pollworker's error. He said he was disenfranchised because the Provisional Ballots were not counted due to pollworker error. He commented that his driver license was issued three months ago and could not be scanned.

City Attorney Torcia advised that, according to law, the ballot of a person shall be counted unless the Canvassing Board determined that the voter was not eligible to vote.

Vice Mayor Maxwell asked if it was the Supervisor of Election's policy to have pollworkers call voters, who filed a Provisional Ballot, to come back and vote in person.

Mayor Triolo commented that Ms. Lowe's family was not called back so it was not a policy or it was not a consistent policy.

City Manager Bornstein asked if Mr. Winters received instructions on who to contact for the status of his Provisional Ballot.

Mr. Winter's replied that he did not receive any instructional information.

Helen Vogt Greene said she wrote an article for the Lake Worth Herald because her voting experience was interesting. She said she arrived at the First Congregational Church at 7:15 AM, and the entrance into her precinct had been changed. Use of iPads by pollworkers was a new process; however, she gave them her driver license but was told she was not eligible to vote. There were four other voters who were in the similar situation. She said the process was the same as stated by Mr. Mahoney. The pollworkers were not prepared. The Precinct Clerk did not know what she was doing and she said she suggested the Clerk call the Supervisor of Elections Office to find out what to do. At that time, the word "Provisional Ballot" was not brought up. She said she did receive a Provisional Ballot, filled it out, and handed it to the pollworker. The pollworker was going to accept it, but I asked her to sign it first. She commented that the pollworker would not have signed her Provisional Ballot had she not suggested it. She said her Provisional Ballot was set aside along with other papers. Both her husband and neighbor had similar problems, and they partially filled out Provisional Ballots. She said she told them both to make sure the pollworker signed the ballots. She commented that the print on the Provisional Ballot was small and found out later that magnifying glasses were available, but was not told. She said that, at some point, the problem was fixed, and her husband and

neighbor voted without the Provisional Ballot. She commented that she went back to the precinct, a pollworker removed her Provisional Ballot and gave it to a Super Pollworker, and she was allowed to vote. One of four voters was very frustrated and could not vote because she had to go to work. There was also a gentleman who was also frustrated and did not vote. She said it took her about one hour to vote and there were five people who were not given an opportunity to vote.

Commissioner Amoroso asked if the box containing Provisional Ballots was suppose to be locked.

City Attorney Torcivia replied that he did not have that conversation with the Supervisor of Elections because his staff was not allowed to photocopy the Provisional Ballots. Once a voter submitted a Provisional Ballot, it was to be placed in a locked box.

Mayor Triolo left the meeting at 6:53 PM and gave the gavel to Vice Mayor Maxwell.

Dale Hulen said he voted at Lake Avenue and South A Street and was told by the pollworker that they could not find his name in the voter registration system. The pollworker filled out everything for him on the Provisional Ballot envelope, he signed the envelope, and placed it into a sealed box. He said he voted at 9 AM and, at that time, there were already so many Provisional Ballots in the box that it had to be shaken to get his in.

Jo-Ann Golden commented that the purpose of this meeting was a good thing to have and knew that there were a lot of issues with the election. She said she supported getting other communities involved and had a problem with the process. There were issues with voters knowing where to vote; however, that was the voter's responsibility. There was a need for the Canvassing Board members to have spoken up for everyone in attendance to hear. There were 1,400 disenfranchised voters when the height restriction issue was on the ballot. The legal process was important and votes should count. She said she was ashamed that the process was so lax and more pollworker training was needed. She commented that it took her one hour to vote. There was a need to join with other municipalities to tighten up the process. She said South E Street and 10th Avenue South was under construction and it was difficult to get to the polling location.

Commissioner Amoroso commented that the Shuffleboard Courts used to be a polling location, but there was no sign or documentation telling voters where they needed to vote. He said City staff did not know where to send the voters.

Loretta Sharpe said that between 1:30 and 2 PM she visited the First Congregational Church precinct just as Susan Bucher, the Supervisor of Elections, was coming out of the precinct. She said she told Ms. Bucher

that she had never experienced an election where voters were stomping out or filing Provisional Ballots. She said that Ms. Bucher replied that every Provisional Ballot would be counted. Ms. Bucher then asked her to call Lori Miller to come back to the precinct and vote in person, and that the pollworker would remove her Provisional Ballot. She said that the box to place Provisional Ballots then would not have been locked.

Commissioner McVoy said he was concerned that people were voting by Provisional Ballot then allowed to come back and vote in person.

Vice Mayor Maxwell said he received a phone call between 8:30 and 9 AM about voters leaving the First Congregational Church precinct. He then called the City Clerk who would follow up and call the Supervisor of Elections. He said the technical problem was fixed around 10 AM.

Elise Latorre said she could attest to the problems that she had heard. She said she arrived early to vote, had changed her voter registration address, and was told to vote by Provisional Ballot. She said the box to place Provisional Ballots was not locked. She commented that she went back to the precinct later, voted in person, and her Provisional Ballot was removed from the box. A pollworker told her how she should vote at Precinct 3046 and how everyone was voting. She said she called the Supervisor of Elections Office about what the pollworker was doing and was told that the pollworker would be removed. Ms. Bucher knew about the issue and responded back to her at 10:15 AM. She said she took her neighbor to vote at noon because the technical problem was fixed, a pollworker removed her Provisional Ballot, and handed it to her. She said she retained the Provisional Ballot, threw it away when she got home, and voted in person. At noon, the pollworker who was suppose to have been removed was still working at the poll.

Mayor Triolo returned to the meeting at 7:13 PM and resumed the gavel.

Commissioner McVoy commented that he was concerned with any pollworker telling people how to vote.

Mayor Triolo said pollworker's told people how to vote and about the results before the ballots went to the Supervisor of Elections. She said the Provisional Ballots needed to be placed into a locked box.

Jon Faust said he used to vote on South M Street, then it was changed to the Shuffleboard Courts. He commented that he went to the Shuffleboard Courts to vote at 11 AM, but was directed to vote at Our Savior Lutheran Church on South A Street. There were three people at the precinct with three different iPads, said he was told to vote at South M Street, and was allowed to vote; however, the Precinct number was not on the outside signs. He said he received a sample ballot in the mail, but did not receive notification that his polling location had changed nor receive a new voter

registration card. He commented that he was in his precinct from 11:30 AM until 12:05 PM and said he was wondering how many people did not vote because of the problems.

Peter Timm asked why everyone was at the meeting. The City lost the bond issue by 25 votes. He said he had no problem voting, but was concerned that the City would spend a lot of money to change something. He said he was hearing more hearsay than fact.

Mayor Triolo explained that the purpose of the meeting was about everybody's right to vote.

Brian Elyer said he voted at 7:15 AM at the First Baptist Church on South M Street. He handed the pollworker his driver's license, his name came up in the registration system, but was told he needed to change his address. The Precinct Clerk called the Supervisor of Elections Office for technical support and was told that he had to file a Provisional Ballot. Ms. Bucher got on the phone with the Precinct Clerk so she knew there was a problem at this precinct at 7:30 AM. The Precinct Clerk was told to write something on his Provisional Ballot and let him vote. He said between 40 and 60 people were told to go to other precincts and heard that this issue was occurring at every polling location.

Mayor Triolo read the comment written by Laurence McNamara. Mr. McNamara wrote about the ballot issue and not on the election process.

Mayor Triolo read the comment written by Barbara Jean Weber. Ms. Weber wrote that there was obviously a problem. [She wrote asking] what did you, as a Commission, intend to do. Please join other communities and get this situation cleared up. Could [the City] sue the Supervisor of Elections or anyone else? Could the Commission find out how to change the law controlling the pollworkers? Could the Mayor's question to the Supervisor of Elections be answered?

Mayor Triolo read the comment written by Marg Watson. Ms Watson wrote that she felt disenfranchised, not by the voting process, but by the Commission who ignored her vote in March and [was] now seeing the same process again. [She wrote that she] voted and [her] vote should count.

Michael Chase Flack said he showed up at the polling location in the morning. He and his partner never had a Florida driver's license, but his partner was told that he could not vote with an out of state driver's license. He used his federally issued identification, but was told that he could not vote. He said they both went home and got their passports, then returned and voted. He said he could not find a reason why the pollworker pushed him away. They had both voted in the past using the same identification. The Oasis Health and Rehabilitation Center polling location was a locked facility, and their staff would not let him in at 7:15 AM for patient security

reasons. He said he did not understand why this was a voting location.

City Attorney Torcivia commented that a State identification was allowable proper voter identification, and Mr. Flack and his partner were allowed to vote in the past.

Greg Rice said his experience echoed the others. He voted at the First Baptist Church at 7 AM, gave the pollworker his driver's license, but the iPad could not read the license. The pollworker could not find him in the registration system and asked if he was sure he was in the right precinct. The iPad finally read his driver's license and he was allowed to vote. A lady next to him also had the same problem, but she could not stay and left. He said he did not know if the woman came back to vote. Lori Miller also had to vote by Provisional Ballot. Ms. Miller told him that she spoke to someone and was told to go back and vote. Ms. Miller told him that she handed the pollworker her Provisional Ballot, which was then placed on a chair along with other envelopes. He said there was definitely a problem, and he appreciated the Commission having this meeting. Everyone's vote should count.

Commissioner Amoroso left the meeting at 7:38 PM and returned at 7:41 PM.

Tammy Pansa said that she did not come to the meeting to speak, did not care who won, and wanted everyone's vote to count. If the votes had not been counted, then she said she was not pleased. She said she would not have wanted to win an election unfairly. She commented that she voted early because it was easier and did not understand why the process was so difficult. Since moving to Lake Worth, she said she had voted in four different locations.

City Attorney Torcivia asked which direction the Commission wanted to go. Did they want him to follow up with those individuals who spoke tonight in case there was a lawsuit while the witnesses' memories were fresh. Some options were: 1) file a potential lawsuit for the conduct of the election and ask a judge to look at the August 26, 2014, election on whether it was done fairly; 2) pursue the Sunshine Law and if the Canvassing Board was done in compliance with the Sunshine Law; and 3) the issue of how the Supervisor of Elections handled his public records request. Since the City was not challenging the election results, there was no time limit. He said he could contact other municipalities and have a joint effort.

Mayor Triolo commented that, if a pollworker made a mistake, there had to be a rule as to why the Provisional Ballot would not have been counted.

Commissioner Amoroso said the issue was about everyone's right to have their vote counted.

Commissioner Szerdi said he was uncomfortable only signing an iPad as evidence that he was present and voted. He supported feedback on how the technology was going and why it was changed. He said he was interested in knowing if other municipalities held similar work sessions or were planning to schedule them. He asked if there was an interest in collectively getting information and giving it to the Supervisor of Elections.

Commissioner McVoy commented that he was not crazy about moving in the direction of a lawsuit; however, it seemed clear to him that there were technical difficulties early in the day. There was room for improving training on placing or accessing Provisional Ballots. He suggested putting together a list of concerns and sending them to other communities.

Vice Mayor Maxwell said no one would ever know how many people left the polls or how many Provisional Ballots were cast and accepted. Voters were told how to vote by a pollworker. The issues came from poor pollworker training by the Supervisor of Elections. There was a need for improvement of the Supervisor of Elections' credibility and running a successful election. He asked if the City was qualified to do an investigation of the election or should it be done by the State of Florida or Department of Justice.

City Attorney Torcivia replied that the Department of Justice should not, but the Attorney General or Secretary of State could investigate if the City gathered the facts. He said he would bring more information to the Commission at their next meeting on September 9, 2014. The election was held on August 26, 2014, but he would dig a little more, do research, and report back to the Commission. The more information the City gathered, the better the chances that another agency would run with it.

Vice Mayor Maxwell suggested the City Attorney identify the process and move forward to make sure the process was followed. He asked if the City should turn the investigation over to another agency.

Commissioner Szerdi asked if the Commission wanted to reach out to other cities to collect their feedback.

Consensus: To reach out to other cities to see what they were experiencing.

Commissioner McVoy commented that other communities' experiences would add strength to any list of issues that were observed. He supported the Commission "blessing" the list with a vote. He asked the City Attorney to prepare something.

City Attorney Torcivia agreed to prepare something. He said he heard much and could put something together and work with the City Clerk to prepare a list.

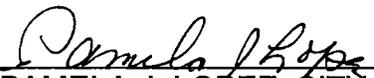
4. **ADJOURNMENT:**

Action: Motion made by Commissioner Szerdi and seconded by Commissioner McVoy to adjourn the meeting at 8:09 PM.

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Szerdi. NAYS: None.


PAM TRIOLO MAYOR

ATTEST:


PAMELA J. LOPEZ, CITY CLERK



Minutes Approved: September 23, 2014

A digital audio recording of this meeting will be available in the Office of the City Clerk.