

**MINUTES
CITY OF LAKE WORTH
REGULAR MEETING OF THE CITY COMMISSION
SEPTEMBER 1, 2015 – 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:01 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 Ryan Maier. Also present were City Manager Michael Bornstein, Assistant City Attorney Christy Goddeau, and City Clerk Pamela Lopez.

2. INVOCATION:

The invocation was offered by Pastor Tony Cato, New Hope Baptist Church.

3. PLEDGE OF ALLEGIANCE:

The pledge of allegiance was led by Commissioner Christopher McVoy.

4. AGENDA - Additions/Deletions/Reordering:

5. PRESENTATIONS:

A. Mango Groves Neighborhood Association update

Greg Rice, President, described the association's boundary and provided an update on their meetings, events, projects, and new residential development and businesses since their last report.

6. COMMISSION LIAISON REPORTS AND COMMENTS:

Commissioner Maier: commented that, due to the length of the agenda, he would forgo his report.

Commissioner Amoroso: commented that the Community Redevelopment Agency and City were working on the Halloween events, which would be scheduled on October 30 and 31, 2015.

Commissioner McVoy: commented that he attended "The Good Government Initiatives" training event for elected officials on August 29 and 30, 2015. He said the event brought together many Broward and Dade County officials, he was the only official from Palm Beach County, excellent presentations and programs were offered, and he recommended the training to anyone.

Vice Mayor Maxwell: commented that he wanted to move the meeting along and would not offer any comments.

Mayor Triolo: commented that she would not offer any comments in order to move the meeting along.

7. **PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**

The following individuals commented on various issues written on their comment cards:

Ryan Hartman said it was great that the Commission's meeting started with a prayer, but that the pledge of allegiance words needed to change because it ended with "and liberty for all." He said the homeless were being harassed by the Sheriff's Office and that if it continued there would be push back. He commented that tax money was spent for police and removing water spigots. He suggested the City give him the money they spent on these items and he would use it to feed the homeless.

Juan Chevere said comments about homeless harassment was brought up at the last Commission meeting. During that meeting someone mentioned that homeless individuals had a negative impact on businesses. He said a report done by the University of California, Berkeley found that businesses were not negatively affected. A business owner's opinion should be taken with a grain of salt and that opinion should not trump human rights.

Lynn Anderson said she was concerned with the anger and volatility in the country. Church members and 67 police officers were murdered around the country. There was a lot of anger in the country, world, and Lake Worth. People were passionate about Lake Worth politics, a resident's life was destroyed because she used the "n" word, and suggested scanning equipment be installed in City Hall because someone could get hurt.

Mark Schneider, American Civil Liberties Union (ACLU), said the ACLU had a longstanding concern with government treatment of the homeless. He cited examples of Sarasota police officers' treatment of the homeless. The ACLU negotiated with the City of Miami to halt the arrests of homeless individuals. He said he hoped the members of the Commission would call upon the ACLU for constructive dialog about any problems experienced regarding the homeless community.

Niko Segal-Wright complained about the removal of water fountains in Bryant Park and the harassment of the homeless. He said the State was trying to harass the homeless and cities using the most harassment received the largest amount of State funds. He commented that several cities bussed their homeless out of their cities and removed benches.

Annie Rian complained about the harassment of the homeless and removal of benches and water spigots. These actions were harassment of individuals who could not afford housing and a way to remove the homeless. She said these individuals needed to be respected.

Sugar Bear asked, as a minister of information for the Lake Worth Catholic Worker Cottage, who authorized the removal of benches and drinking fountains because he said he had gathered contradictory information.

Autumn Barleselob asked if the Commission considered that all people deserved basic rights and water.

The following individuals spoke on various issues; however, they did not write anything on their comment cards: Mary Lindsey, Cara Jennings, Jo-Ann Golden, Katie McGiveron, and Peggy Fisher.

Comment/request summary:

1. Mayor Triolo asked the City Manager to add an item on the next meeting agenda to talk about the homeless.

8. APPROVAL OF MINUTES:

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Maier to approve the following minutes, as submitted:

- A. City Commission Budget Work Session – August 11, 2015**
- B. City Commission Meeting – August 18, 2015**

Comment/request summary:

1. Commissioner McVoy requested page 17 of the August 11, 2015, minutes be amended regarding his comments about the Village of Palm Springs.

Vice Mayor Maxwell and Commissioner Maier withdrew their motion and second.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Maier to approve the August 18, 2015, minutes and asked the City Clerk to listen to the August 11, 2015, meeting's audio.

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

9. CONSENT AGENDA:

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Maier to approve the Consent Agenda.

A. Resolution No. 43-2015 – refuse collection special assessment for Fiscal Year 2016

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 43-2015 OF THE CITY OF LAKE WORTH, FLORIDA, RELATING TO THE PROVISION OF SOLID WASTE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH, FLORIDA; IMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY; APPROVING THE RATE OF ASSESSMENT; CONFIRMING, APPROVING AND ADOPTING THE SOLID WASTE ASSESSMENT ROLL FOR FISCAL YEAR 2015-16; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD AND PROVIDING AN EFFECTIVE DATE.

B. Resolution No. 44-2015 – stormwater special assessment for Fiscal Year 2016

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 44-2015 OF THE CITY OF LAKE WORTH, FLORIDA, RELATING TO THE PROVISION OF STORMWATER SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH, FLORIDA; IMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY; APPROVING THE RATE OF ASSESSMENT; CONFIRMING, APPROVING AND ADOPTING THE STORMWATER ASSESSMENT ROLL FOR FISCAL YEAR 2015-2016; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD AND PROVIDING AN EFFECTIVE DATE.

C. Resolution No. 49-2015 – grant an ad valorem tax exemption for property located at 728 North Lakeside Drive

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 49-2015 OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, GRANTING AN AD VALOREM TAX

EXEMPTION FOR THE PROPERTY LOCATED AT 728 NORTH LAKESIDE DRIVE, LAKE WORTH, FLORIDA AS A RESULT OF THE HISTORIC PRESERVATION/REHABILITATION OF THE PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

- D. **First Amendment to an Easement Agreement with DR Horton, Inc. on property located at 1100 Boutwell Road**
- E. **Change Order No. 1 with Johnson-Davis, Inc. for additional time on the Regional Wastewater Forcemain Air Release Valve Replacement project**
- F. **Agreement with Image Janitorial Services, Inc. for city-wide janitorial services**
- G. **Purchase a replacement vehicle for the Electric Utilities Department**
- H. **Agreement with LV Superior Landscaping, Inc. for city-wide lawn maintenance services**
- I. **Agreement for legal services with the Law Offices of Andrew DeGraffenreidt**
- J. **Ratify board members to various City advisory boards**
- K. **Designate the Community Redevelopment Agency's chair and vice-chair for a two year term**

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

10. **PUBLIC HEARINGS:**

There were no Public Hearings items on the agenda.

11. **UNFNISHED BUSINESS:**

There were no Unfinished Business items on the agenda.

12. **NEW BUSINESS:**

- A. **Ordinance No. 2015-09 – First Reading – amend the City's rights-of-way regulations and schedule the public hearing date for September 15, 2015**

Assistant City Attorney Goddeau read the following ordinance by title only:

ORDINANCE NO. 2015-09 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 19, "STREETS AND SIDEWALKS", BY DELETING SECTION 19-7, "PERMIT REQUIRED FOR EXCAVATIONS IN, UPON, UNDER OR THROUGH PUBLIC WAYS", SECTION 19-8, "EXCAVATION PERMIT FEES", SECTION 19-9, "REFILLING, WATER TEMPING BY EXCAVATOR; RESURFACING BY CITY", SECTION 19-10, "PERMISSION REQUIRED FOR CONSTRUCTION IN, UPON OR OVER PUBLIC WAYS", AND ARTICLE II, "CONSTRUCTION", AS THESE SECTIONS ARE OUTDATED; ENACTING A NEW ARTICLE II, "UTILITIES IN THE RIGHTS OF WAY" AND ARTICLE VII, "COMMUNICATION FACILITIES IN THE RIGHTS OF WAY", TO PROMULGATE REGULATIONS REGARDING THE ADMINISTRATION OF THE CITY'S RIGHTS OF WAY; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve Ordinance No. 2015-09 on first reading and schedule the public hearing date for September 15, 2015.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

B. Ordinance No. 2015-10 – First Reading – amend the City's Health and Sanitation Code and schedule the public hearing date for September 15, 2015

Assistant City Attorney Goddeau read the following ordinance by title only:

ORDINANCE NO. 2015-10 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 12 "HEALTH AND SANITATION", ARTICLE II, "SOLID WASTE COLLECTION AND DISPOSAL", TO REMOVE OUTDATED LANGUAGE AND TO MODIFY THE REQUIREMENTS FOR THE COLLECTION OF CONSTRUCTION AND DEMOLITION DEBRIS AND THE USE OF DUMPSTERS AND ROLL-OFF CONTAINERS; PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, CODIFICATION AND AN EFFECTIVE DATE.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve Ordinance No. 2015-10 and schedule the second reading and public hearing for September 15, 2015.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

C. Ordinance No. 2015-11 – First Reading – amend the Unsafe Building Abatement Code and schedule the public hearing date for September 15, 2015

Assistant City Attorney Goddeau read the following ordinance by title only:

ORDINANCE NO. 2015-11 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 9 "BUILDINGS AND STRUCTURAL REGULATIONS", ARTICLE I "IN GENERAL", SUBSECTION 9-2.2(G) TO CLARIFY NOTICE AND THE PROCEDURE FOR AN EMERGENCY DEMOLITION HEARING REQUEST; AMENDING SUBSECTION 9-2.2(I) TO REDUCE THE PUBLICATION REQUIREMENTS; AMENDING SUBSECTION 9-2.2(L) TO CLARIFY THE SPECIAL MAGISTRATE'S AUTHORITY TO ISSUE ORDERS AND TO ADDRESS CONFLICTS BETWEEN TIMES SET FOR COMPLIANCE AND PERMIT TIMELINES; AMENDING SUBSECTION 9-2.2(Q) TO REMOVE THE MANDATORY RECORDING REQUIREMENT FOR LIENS AND TO CLARIFY THE CITY'S REMEDIES; PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, CODIFICATION, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve Ordinance No. 2015-11 on first reading and schedule the public hearing for September 15, 2015.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

D. Ordinance No. 2015-12 – First Reading – amend various sections in the City's Land Development Regulations and schedule the public hearing date for September 15, 2015

Assistant City Attorney Goddeau read the following ordinance by title only:

ORDINANCE NO. 2015-12 OF THE CITY COMMISSION OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 23 OF THE CODE OF ORDINANCES BY AMENDING ARTICLE 2 DIVISION 2, SECTION 23.2-36, REZONING OF LAND AND FUTURE LAND USE MAP (FLUM); ARTICLE 3, DIVISION 2, SECTION 23.3-7, RESIDENTIAL DISTRICTS; ARTICLE 3 DIVISION 6, SECTION 23.3-25(e), MIXED USE URBAN PLANNED DEVELOPMENT; PROVIDING FOR

SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve Ordinance No. 2015-12 on first reading and schedule the public hearing for September 15, 2015.

Comments/requests summaries:

1. Commissioner McVoy commented that this ordinance was part of a larger set of Land Development Regulation (LDR) changes. Several meetings ago the Commission had recommended these issues be scheduled at a future work session. He asked for this ordinance to be scheduled at a work session.

William Waters, Community Sustainability Director, replied that he met with Commissioner McVoy today and said that most of the controversial issues were dealing with the Historic Resources Preservation Board (HRPB) and sea turtles. He advised that those issues were not included in this ordinance. He said that later this year a landscape ordinance would be brought before the Commission.

He explained that this ordinance clarified, edited, and added changes to Administration, Rezoning of Land and Future Land Use Map, Single-Family Residential, and Mixed Use Urban Planned Development. He said a rezoning application was submitted to staff, but there were no rules in place. He asked the Commission to bring forward this ordinance and said there were statutory rules for Comprehensive Plan Amendments.

2. Commissioner Amoroso commented that he was comfortable with moving this ordinance forward and that the other issues having more passion would be addressed later.
3. Commissioner Maier commented that staff pulled elements out of this ordinance, which were agreed upon to be scheduled at a work session, but now, because of an urgency, wanted this ordinance to move forward. He said the items pulled from a past amended LDR ordinance needed further discussion. He commented that it was interesting that the City would look at this issue when the Palm Beach Post newspaper just had an article about the Gulfstream Hotel. He said he could not understand why the Commission was discussing this ordinance without first being scheduled at a work session. Over the past several weeks there were promises made to the people that the issues would be discussed at a work session. The City was not living up to its word. He said that, if this ordinance

was not scheduled to a work session, he would vote against it.

Mr. Waters replied that the sea turtle and HRPB penalties were removed from the ordinance. This ordinance addressed Mixed Use, Plan Development, and Rezoning, which was perfunctory language that was required. For the record, he stated that the Gulfstream Hotel had not submitted a site plan to the City.

4. Commissioner McVoy commented that he met with Mr. Waters to discuss this ordinance. There were three items in the ordinance and he said that he had concerns about impervious surface, but had no problem with Exhibit B and would support it. He commented that he had a concern because a work session was promised. He said he had specific concerns about Exhibit C regarding zoning and Exhibit A, which also included different zoning. He commented that he looked at code language from other cities, after his meeting with Mr. Waters, and was sensitive about there being nothing in the City's Code for rezoning. He recommended not doing anything without scheduling a public discussion. He said he could not vote on Exhibits A and C, but would support Exhibit B.

Mayor Triolo announced that this was the time for public comment.

Jo-Ann Golden said she was concerned about avoiding a work session and receiving public comments and about the reduced amount of area in the Planned Unit Development's language. She asked for a reason why the changes were being made and for a work session.

Greg Rice said he attended the Commission meetings and remembered a request for a work session. He advised that the Planning & Zoning (P&Z) and HRP Boards held a work session, which was publicly noticed. The work session was available to the public, broadcast live, and sea turtles and HRPB penalties were discussed at length. He said he wanted everyone to realize that there was an opportunity to attend and listen to the discussion.

Comments/requests summaries:

5. Mr. Waters commented that the P&Z and HRPB members unanimously approved the issues and no one from the public spoke against the changes.
6. Vice Mayor Maxwell asked what would be accomplished by scheduling a work session when the public already had an opportunity to comment at the P&Z and HRPB joint meeting.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Maxwell, and Commissioner Amoroso. NAYS: Commissioners McVoy and Maier.

E. Resolution No. 46-2015 – establish the rates, fees and charges for the Water System

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 46-2015 OF THE CITY OF LAKE WORTH, FLORIDA, PROVIDING FOR WATER SYSTEM RATES AND CHARGES; 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 Commissioner McVoy and seconded by Commissioner Maier to approve Resolution No. 46-2015 establishing the Fiscal Year 2016 rates and charges for the City water utility.

Comments/requests summaries:

1. Vice Mayor Maxwell commented that he would vote against the resolution because the rate increase was a consequence of the City not paying its annual Casino debt payment back to the Water Fund. He said that, had the City paid its debt, there would be no reason to increase the water rates.

Commissioner Amoroso left the meeting at 7:08 PM.

Larry Johnson, Water Utility Director, responded that a quick investigation of the records were done and currently the difference between the Casino debt loan schedule and what the City actually paid was \$750,000, of which \$500,000 would have been paid to the Water Fund. If another \$250,000 or \$500,000 payment was made in Fiscal Year 2016, it would cause a Water Fund deficit of \$1 million. He said Burton & Associates analyzed the impact and found that the rate increase would have been reduced by 0.5% for Fiscal Years 2015 and 2016.

Commissioner Amoroso returned to the meeting at 7:10 PM.

2. Commissioner McVoy asked about the typical water usage.

Mr. Johnson replied that the typical residential use was 5,000 gallons. He cited the monthly rates in Fiscal Year 2016 at a 3.5% increase.

3. Commissioner McVoy commented that a 0.5% change would save customers \$1 per month by changing the Casino debt payment terms from 12 to 14 years.

4. Mr. Johnson commented that the resolution established a 3.5% water rate increase according to the 2015-16 rate sufficiency analysis.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

Vote: Voice vote showed: AYES: Mayor Triolo and Commissioners McVoy, Amoroso, and Maier. NAYS: Vice Mayor Maxwell.

F. Resolution No. 47-2015 – establish the rates, fees and charges for the Local Sewer System

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 47-2015 OF THE CITY OF LAKE WORTH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES FOR USE OF SEWAGE DISPOSAL SYSTEM OF THE CITY OF LAKE WORTH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS OR PARTS OF RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Larry Johnson, Water Utility Director, explained that the resolution established a 5% sewer rate increase according to the 2015-16 rate sufficiency analysis. He said the Casino debt loan did not impact the sewer rate. He advised that the Commission received an amended resolution prior to this meeting.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve the amended Resolution No. 47-2015 establishing the Fiscal Year 2016 rates and charges for the City local sewer utility.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

G. Resolution No. 48-2015 – establish the rates, fees and charges for the Subregional Sewer System

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 48-2015 OF THE CITY OF LAKE WORTH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES FOR USE OF THE

REGIONAL SEWAGE DISPOSAL SYSTEM OF THE CITY OF LAKE WORTH; 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 McVoy and seconded by Commissioner Amoroso to approve Resolution No. 48-2015 establishing the Fiscal Year 2016 rates and charges for the City sub-regional sewer utility.

Larry Johnson, Water Utility Director, explained that the resolution established the rates and charges for the sub-regional sewer utility based upon the recommendations of the sub-regional board for Fiscal Year 2016. The rates included operations and maintenance charges, rehabilitation and replacement charges, and a capital reserve charge to collect funds required for a Palm Beach County shared force main rehabilitation project. He commented that this fund was not impacted by the Casino building debt.

Mayor Triolo announced that this was the time for public comment. No one from the public commented.

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

H. Adopt the Public Services Policy and Procedures Manual

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to adopt the Public Services Policy and Procedure Manual.

Comments/requests summaries:

1. Commissioner McVoy commented that he supported the development of policy and procedure manuals (PPM), but with the threat of Tropical Storm Erika over the weekend, he said he felt that he did not have enough time to read 900 pages of backup material of which the manual contained 200 pages. He said he was happy to vote in support, but did not know what was included in the manual. He commented that this meeting's agenda had too many items on it.
2. Commissioner Maier commented that he was glad to see a PPM for Public Services and said he wanted to see PPMs for every department.

City Manager Bornstein responded that he was working with all of the departments to create their manuals. The Water Department's manual was already approved by the Commission.

Mayor Triolo announced that this was the time for public comment. No one

from the public commented.

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

Mayor Triolo recessed the meeting at 7:23 PM and reconvened at 7:34 PM.

I. Resolution No. 50-2015 – Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp and the associated Escrow Agreement

Assistant City Attorney Goddeau did not read the following resolution by title only:

RESOLUTION NO. 50-2015 OF THE CITY OF LAKE WORTH, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE/PURCHASE AGREEMENT WITH RESPECT TO THE ACQUISITION, PURCHASE, FINANCING AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS RESOLUTION; AND PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

City Manager Bornstein explained that the next three agenda items were related to each other and would be discussed together. He explained that Item I provided the funding source for a master equipment lease/purchase agreement with Banc of America Public Capital Corp; Item J provided for the Energy Services Agreement with Siemens Industry, Inc.; and Item K provided for a Work Order with URS for energy efficiency program construction management services.

Hector Samario, Siemens Industry, thanked staff, legal counsel, and bond counsel for their months of work to bring this before the Commission. He explained that, performance contracting was regulated by Florida Statutes and the savings generated needed to cover the cost of the project for 15 years. He said Siemens guaranteed energy and water savings, equipment performance, and meter accuracy.

Comments/requests summaries:

1. Vice Mayor Maxwell asked if the Florida Statutes required the dollars spent to be recovered from the savings and if these items had a zero net cost to the City. He commented that no taxpayer dollars would be spent, Siemens would cover any difference if the savings were not received, and that he heard from residents about this having a negative impact on the taxpayers.

Mr. Samario replied that performance contracting was a redirection of the costs.

2. Mayor Triolo commented that discussions about covering the costs began in 2011 or 2012 and that she was very comfortable with the issue and the agenda items.
3. Commissioner Maier commented that the solar array component would produce 2% of the energy used by the City and that the agreement stated that the City would ultimately receive the savings by increasing the electric rates by 3% over the next five year.

Bryan Riardon, Siemens, replied that each of the projects' financial modeling were done on the impact over 15 years. The modeling projected inflation and the cost of energy over 15 years. Building in an escalating 3% rate process each year did not bind or require the City to increase its rates. Siemens was guaranteeing the efficiency of the solar array.

4. Commissioner Maier commented that the City would not get the savings guarantee if the electric rates were not increased.

Mr. Riardon replied that Commissioner Maier's comment was correct.

5. Commissioner Maier commented that, if the new meters provided a more accurate read, then residents would receive an increase in their water rates.

Mr. Samario replied that residents' water consumption and not rate would increase. The City would be collecting money for residents' accurate consumption.

6. Commissioner Maier commented that the City would be doing a separate capital improvement project, which would increase residents' water flow.

Mr. Samario replied that the meters would measure consumption and not efficiency.

7. Commissioner Maier commented that the project included: 1) new meters and that the Advanced Metering Infrastructure (AMI) portion could increase residents' rates; 2) the solar savings would not be seen unless the City increased its electric rates; and 3) the City just purchased a lot of light fixtures and bulbs and asked if any of those costs were factored in. He commented that he had the biggest problem with lighting technology and, in 10 years, this equipment would be outdated and no longer be on the cutting edge. This issue

was a 30 year contract that the City was entering into. Technology changed rapidly and it was the wrong time to jump into this industry.

He commented that he was in communication with the former electric utility director who told him that he proceeded slowly in spending the City's bond money and technology was switched out slowly to incorporate the new. This method would allow the City to stay up on "the times."

He commented that another reason for not changing everything out at once was because everything could go out at the same time due to them being installed at the same time. This issue was a "shiny penny" that was free without paying for anything. The City was entering into a contract that was not fiscally responsible. There was no thought to the value because it was free. He said he appreciated the time taken for this item, but it was not the right plan for the City.

8. Commissioner Amoroso asked how the utility poles could adapt to future technology.

Mr. Riardon replied that there was always discussion about future technology. The City could wait five years, but then it would still be using older equipment. He explained that technology was moving forward quickly and the light fixtures had a universal adaptor so that new features could be added and installed without replacing the entire fixture.

Commissioner Amoroso left the meeting at 7:56 PM and returned at 7:56 PM.

9. Mayor Triolo asked about Photo Altaic being expanded to provide more energy.

Mr. Samario replied that this item was a 15 year project and everything would be paid in 15 years while the equipment had a 20-30 year life.

10. Mayor Triolo commented that the street lights were part of a bond issue that was not approved by the voters. This process would get the City what it needed. She said utility poles were knocked down and not replaced after past hurricanes. Performance contracting was a "tried and true" method used in other municipalities. If this item was not approved, she said someone would ask her at the next meeting how the City was going to pay for street lights. This item was a way to invest in the City's future.

11. Vice Mayor Maxwell commented that Siemens was not suggesting that the City must raise its electric rates to experience the savings.

Mr. Riardon replied that there was nothing in the contract which required the City to raise its rates. At some point an inflationary value to generate electricity needed to be modeled.

12. Vice Mayor Maxwell asked if the City could maintain its electric rates moving forward without the solar portion.

Mr. Riardon replied that there was no other components in the project where an electric rate was addressed. Any rate increase would be based on the cost to purchase energy and not the rate charged to its customers.

Jack Borsch, Electric Utility Director, responded that, if the cost to produce electricity decreased, then the need to increase rates would also decrease.

13. Vice Mayor Maxwell commented that, if the solar component of the project was not a part of the financial mix, then there would be no need to change the electric rates.

14. Commissioner McVoy commented that Siemens would install solar panels, which could produce 2% of the City's source of power and they did not require much maintenance. He asked if Siemens put a value on the slow gradual inflation costs to produce electricity, which was reasonably set at 3%. He also asked if installation of the solar panels locked the City into increasing its electricity rates to cover the solar costs. He commented that he did not want to lock the City into a rate increase.

Mr. Samario replied that Siemens looked at the City's current electric rate and production of the solar panels into the modeling. The City was not contractually obligated to increase its rates, but without the increase, the City would be "eating" into its Electric Fund reserves.

15. Mayor Triolo commented that there was a need to discuss the bottom line for capital things. Soon the Commission would need to discuss what it wanted to do with the Tom Smith Power Plant in order to reduce residents' rates. She said the Commission needed to look long term.

16. Commissioner McVoy commented that the City would not only receive savings with the solar panels, but would also receive renewable energy credits.

17. Vice Mayor Maxwell commented that the Commission needed to make a decision soon about the power plant. He asked if the solar panels could be added back into the project in the future.

Mr. Samario replied that the Commission needed to make a decision now about the solar panels because of the financial component.

18. Larry Johnson, Water Utility Director, commented that there was a percentage of water usage that was a part of the water revenue savings.
19. Vice Mayor Maxwell commented that if the City did nothing, then this same discussion about changing technology would be had five years from now. The City was using a lot of antiquated and obsolete equipment, and there was a point where the City needed to do something. He said the City did not have the capacity, time, or finances to stay ahead of technology changes. This item was a 15 year financing plan, and the components would exceed those 15 years. Afterwards, the City would have the time to address technology.

Vice Mayor Maxwell left the meeting at 8:23 PM.

20. Commissioner Amoroso commented that he was concerned about the City only getting 2% of its energy from the solar panels and was more comfortable with tabling the solar array portion at this time.

Mr. Borsch replied the solar panel costs would be hard to justify. There would be a need for renewable credits when the City went for a new power plant. He said he was not sure if it was better to get the credits now or wait until the power plant was retooled. He commented that the other items were "break even." He said the City installed a lot of meters, which could be sold in the market. Overall, he said he needed more information on whether to do the solar panels now or later.

Vice Mayor Maxwell returned to the meeting at 8:26 PM.

21. Commissioner McVoy commented that the State would want to see more renewable credits whether they were done now or later. It was unlikely that the State or federal government would not give out more credits if the City already was receiving them. He said he had a concern about the street lighting.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner McVoy to approve Resolution No. 50-2015 contingent upon the approval of agenda Item J.

Action: Motion made by Commissioner McVoy to approve Item J subject to specification changes to the street lighting.

Mayor Triolo advised that there was already a motion on the floor for Item I.

Commissioner McVoy withdrew his motion for Item J.

Mayor Triolo announced that this was the time for public comment on Items I, J, and K.

Jo-Ann Golden asked about the age of the infrastructure and street lights and if change orders were part of the agreement. She said she had a problem with the City installing solar panels in the Osborne community. Residents in Osborne have suffered from having a landfill. She said she was a breast cancer survivor and street lights caused a loss of melatonin in the body.

Richard Stowe said he was co-chair of the Darkside of Lake Worth and was concerned with street light pollution, obscuring the sky, and the Siemens project. He said he brought forward a contract project between Siemens and Davis and encouraged the City Manager to contact the Florida Department of Transportation (FDOT) and request a 2700 degrees Kelvin. He asked the Commission to reject the agreement as written.

Eric Vandernoot commented that he was not a resident, but a visitor of Lake Worth. He said he was a physicist and was concerned about the street lighting color. He advised that this was not a color the City wanted because of the Deoxyribonucleic Acid (DNA) alteration.

David Simms read a letter about Kelvin degrees and said the FDOT was currently evaluating it. He encouraged the Commission to request a FDOT variance for 1500 degrees Kelvin and to not approve the agreement.

Katie McGiveron said a physicist's comments were cut off because of the Commission's two minute time limit. She said all consultants come before the Commission to do good for the City and asked, if there was a zero cost to the City, then how were the "do gooders" making their money. Technology was increasing faster and no one was proposing doing nothing except tie the City to a 15 year agreement.

Cara Jennings said that, if changes were to be made to the agreement, then she asked the Commission to take their time to make those changes. She

also asked for the agreement to include a requirement for public comment on the street lighting, have a 2700 degrees Kelvin, and have no more than 1900 kilowatts. She said more people would have attending this meeting if the cost of the project was included on the agenda. She commented that the City approved a local option training program when she was a Commissioner and said this project would require the training program.

Mayor Triolo read the comments written by Susan Ona. Ms. Ona wrote that [residents] live in a town where you can still see the stars and attracts exotic birds--both "gifts" of keeping dark skies. [Lake Worth] was noted as one of the "best bird watching" spots in South Florida. Let's not lose that to high [Light Emitting Diode] LEDs. [Residents] must think ahead and keep [city] lights low, below 3000.

Peggy Fisher said she thought there had been a public demonstration of the street lights and there was discussion about the 2700 degrees Kelvin. This project was already looked at. She said she was concerned about a Commissioner bringing up comments made by the former electric utility director. The City had problems and putting those problems on Siemens, using a State contracting method, was to the City's benefit. She asked how old the street lights were.

Comments/requests summaries:

22. Mayor Triolo commented that there were numerous Commission work session meeting discussions about this project and blue lights. She said she had issues with the blue lights and advocated for a 2700 degrees Kelvin, but was told that the County only allowed 4000 degrees Kelvin. The streets being discussed were either a federal road or in areas with high prostitution and drug dealings. She said she was concerned about the wattage in those areas. She commented that she supported dark skies and was comfortable with reducing the Kelvin, but would not agree to installing different colored lights.
23. Commissioner McVoy commented that he always supported the use of solar and LED lighting, but there was strong research on night lighting and links to breast cancer. Siemens was committed to installing the 2700 degrees Kelvin in residential areas, but that commitment was not included in their agreement, which needed to be amended. The FDOT had an openness and a procedure and if someone asked them, they would consider doing a different temperature. The City or Siemens could jointly agree to request a variance from the FDOT, and they would get test data for 2700 degrees Kelvin on their roads. This way the City would have 2700 degrees Kelvin across the city, and he would "be good" with the item. He said he would also ask for a little bit of budget money to add

shielding in cul-de-sacs.

24. Commissioner McVoy commented that he would make a motion on Item J to approve the agreement with modifications to include a commitment to install 2700 degrees Kelvin on residential streets, commit to doing a joint request from the City and Siemens to the FDOT, and to request a waiver that, if FDOT said "no" then the Commission would need to figure something out. He also asked to build in some plan for better shielding, which would not be needed for all of the lights.

Mr. Samario replied that Siemens would support the changes as part of the permitting package to the FDOT.

25. Commissioner Amoroso stated that he could not support having dark streets.
26. Commissioner McVoy recommended hiring a lighting expert and that the wattage to be used would come from the expert.
27. Commissioner Amoroso commented that a study on crime on dark streets was already done. The biggest crime was committed on the darkest streets. He said people wanted well lit streets.
28. Commissioner Maier said he participated in the dark sky discussions and an expert reviewed the Siemen's project. According to the expert, he said the City deserved better, that Siemens was one of four leading companies, and that he heard about the benefits their grandiose company could have brought to the City.
29. Vice Mayor Maxwell asked if there were any Florida cities that used the lighting being proposed by Commissioner McVoy.

Mr. Samario replied that he did not know of any city that used 1900 kilowatts at the same height as Lake Worth's poles.

30. Vice Mayor Maxwell said he appreciated the science and comments made, but there could be eight different opinions heard. At the end of the day it was not so much about the science, but the safety factor. He said he did not care what wattage or color was used or if the poles were at 10 or 40 feet, but wanted to make sure residents were comfortable and felt safe with the level of lighting. He said he wanted surety that the agreement did not minimize visibility. He asked if the lighting was being improved or was it maintaining visibility.

Mr. Samario replied that it would be maintaining visibility.

31. Mayor Triolo commented that this agreement offered the ability to do something good and address public safety. The wattage would be an issue because of the pole heights and public safety was also an issue. She said she did not want to kick things "down the road." This was an opportunity to do the right thing. It took into account public safety and was an investment in the City's future.
32. Vice Mayor Maxwell said former Mayor Romano used to say "paralysis by analysis" which was true back then and was true now. He said he met with the dark sky folks, and everyone spoke about their initiatives. What was being proposed tonight met about 90% of the dark sky's requests.

Mr. Samario responded that 95% of what the dark sky individuals wanted would be met.

Mayor Triolo passed the gavel to Vice Mayor Maxwell; however, she did not leave the meeting.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Maxwell, and Commissioners McVoy and Amoroso. NAYS: Commissioner Maier.

J. Energy Services Agreement with Siemens Industry, Inc. Building Technologies Division

NOTE: Discussion and public comment on this item was held jointly with agenda Item I.

Action: Motion made by Commissioner McVoy and seconded by Commissioner Amoroso to amend the agreement to include a commitment to install 2700 degrees Kelvin on residential streets, for the City and Siemens to jointly request a variance from the Florida Department of Transportation, and to install light shields in residential cul-de-sac areas; to approve the amended agreement with Siemens Industry, Inc., Building Technologies Division, including a waiver as provided in section 2-112(j) of the City's purchasing code and with authorization to the Mayor and City Clerk to execute the Energy Services Agreement as may be modified hereafter with the approval of the City Attorney and City Manager.

Comment/request summary:

1. Vice Mayor Maxwell asked if the motion reduced or changed the lighting.

Mr. Samario replied, "no" and that the dark sky individuals would still want a reduction in wattage.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Maxwell, and Commissioners McVoy and Amoroso. NAYS: Commissioner Maier.

Mayor Triolo resumed the gavel.

K. Work Order with URS for Energy Efficiency Program Construction Management Services

NOTE: Discussion and public comment on this item was held jointly with agenda Item I.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve the draft work order with URS for Energy Efficiency Program Construction Management Services for a not-to-exceed amount of \$299,403; and authorize the Mayor to approve the final documents.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Maxwell, and Commissioners McVoy and Amoroso. NAYS: Commissioner Maier.

13. LAKE WORTH ELECTRIC UTILITY:

A. PRESENTATION:

1) Update on the electric utility system

No update was provided.

B. CONSENT AGENDA:

There were no Lake Worth Electric Utility Consent Agenda items on the agenda.

C. PUBLIC HEARING:

There were no Lake Worth Electric Utility Public Hearing items on the agenda.

D. NEW BUSINESS:

There were no Lake Worth Electric Utility New Business items on the agenda.

14. CITY ATTORNEY'S REPORT:

Assistant City Attorney Goddeau did not provide a report.

15. CITY MANAGER'S REPORT

A. September 15, 2015 – draft Commission agenda

City Manager Bornstein provided the following:

- Reported that staff got a chance to exercise the City's emergency plan during the threat of Tropical Storm Erika. He said communication with the County Fire/Rescue Department and Sheriff's Office did what it was supposed to have done and he thanked City staff.

16. ADJOURNMENT:

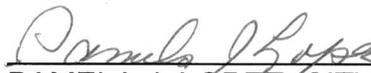
Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner McVoy to adjourn the meeting at 9:13 PM.

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



PAM TRIOLO, MAYOR

ATTEST:



PAMELA J. LOPEZ, CITY CLERK

Minutes Approved: September 15, 2015

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

