

**MINUTES
CITY OF LAKE WORTH
REGULAR MEETING OF THE CITY COMMISSION
FEBRUARY 16, 2016 – 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:00 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 OR MOMENT OF SILENCE:

A moment of silence was offered by Commissioner Andy Amoroso.

3. PLEDGE OF ALLEGIANCE:

The pledge of allegiance was led by Commissioner Christopher McVoy.

4. AGENDA - Additions/Deletions/Reordering:

Action: Motion made by Commissioner Amoroso and seconded by Vice Mayor Maxwell to waive the rules to:

- Add to Presentation, before Item A – Comments from County Commissioner Shelley Vana;
- Add to Consent Agenda, Item C – Resolution No. 11-2016 – support legislation to allow for local regulation of disposable plastic bags; and
- Approve the agenda as amended.

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

Comments/requests summaries:

1. Commissioner Amoroso announced that Compass requested the elected officials sign an endorsement letter to include in their Gay Pride Parade literature.

Consensus: To sign the endorsement letter.

2. Commissioner McVoy asked someone to follow up on a request for an endorsement letter for the Street Painting Festival.

5. PRESENTATIONS:

A. Rotary of Lake Worth to present a plaque to the City for its participation in the Peace Pole project

Retha Lowe presented the City with a plaque in recognition of the tireless commitment to unite, improve and grow through the City's Peace Pole Installation on September 20, 2015.

B. (Added) Comments from County Commissioner Shelley Vana

County Commissioner Vana said she was happy that the City would be receiving a \$1,389,100 award from the Federal Economic Development Administration (EDA). She commented that the direction Lake Worth was moving was amazing. She said there was a special place in her heart for Lake Worth and was proud to be associated with the good work Lake Worth was doing.

C. Firefighter Pension Trust fund update

Mark Lamb, Chairperson, provided the Commission with an update on the Board's 2015 financial activities.

D. Firefighters Pension Board, Division II update

Scott Conley, Chairperson, provided the Commission with an update on the Board's 2015 financial activities.

E. Neighborhood Association President's Council update

Anthony Marotta, Treasurer, commented that he was not present to provide the Neighborhood Association President's Council (NAPC) update, but asked that it be rescheduled. He announced the NAPC was hosting the Great Taste of Lake Worth on February 17, 2016.

6. COMMISSION LIAISON REPORTS AND COMMENTS:

Commissioner Maier: thanked everyone, including the City Tree Board members, for participating in the Festival of Trees event held last weekend. He commented that he would be attending the Treasure Coast Regional Planning Council meeting on February 19, 2016, and looked forward to providing an update to the Commission at a future meeting.

Commissioner Amoroso: announced that businesses along the Dixie Highway corridor would be participating, for the first time, in the Great Taste of Lake Worth event. He commented that this event was a fund

raiser for the Neighborhood Association President's Council. He announced the Street Painting Festival was on February 20-21, 2016, and volunteers were still needed. He announced the Easter Egg Hunt event was scheduled on March 26, 2016.

Commissioner McVoy: announced his attendance at the Festival of Trees event and said there was a large turnout; representatives from The Marshall Foundation also attended, and they transferred an award to the Tree Board; said a bicycle valet was provided; and that people were asking about the City Tree Board's Tree Give-Away event. He commented that an item was removed from the February 8, 2016, Commission work session regarding changing the City's electric voltage. He said he did some research on the subject and wanted to make sure that when the issue was discussed he would be well informed about other practices.

Vice Mayor Maxwell: invited everyone to attend the Street Painting Festival; over 100,000 people were expected to attend; those attending could see what Lake Worth had to offer and see all of the cottages; and announced roadwork on 6th Avenue South would be done in the spring.

Mayor Triolo: announced that potholes on 2nd Avenue South would be filled in on February 17, 2016. She said she attended the Tree Festival and Finlandia Day events. She commented that the City was trying to return the Finlandia Day event to Bryant Park and asked for them to return sooner rather than later. She announced the President of Finland would be attending next year's Finlandia Day event. She asked for the event to be held at Bryant Park and for the community to be involved with the planning. She announced, during a press conference at 5 PM today on the City Hall steps, that the City received an Economic Development Administration (EDA) award of over \$1.3 million for the Park of Commerce. The award funds were to be used towards job creation and economic development and could not be used for road projects. She announced that no taxpayer dollars would be used for the Park of Commerce. She explained that taxes from businesses in the Park of Commerce helped subsidize the City because they did not use many City services. She announced her attendance at the next Metropolitan Planning Organization's meeting on February 18, 2016.

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

The following individuals spoke on various issues; however, they did not write anything on their comment cards: Barbara Aubel, Maryann Polizzi, Greg Rice, Jo-Ann Golden, and Peggy Fisher.

The following individual spoke on issues written on his comment card:

Michael Chase Fox announced that the Lake Worth Citizens Advisory Group held their first in a series of meetings to discuss the homeless issue on February 11, 2016. He said the Group came up with small solutions. He announced that June Evans had returned from England.

8. APPROVAL OF MINUTES:

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

A. City Commission Meeting – February 2, 2016

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 as amended.

A. First Amendment to an Agreement with U.S. Peroxide, LLC for odor control chemicals

B. Management Contract with Mildly Delirious Design, Inc. dba Lake Worth Farmers Market

C. (Added) Resolution No. 11-2016 – support legislation to allow for local regulation of disposable plastic bags

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

RESOLUTION NO. 11-2016 OF THE CITY OF LAKE WORTH, FLORIDA, SUPPORTING THE STATE LEGISLATURE'S EFFORTS TO AMEND SECTION 403.7033, FLORIDA STATUTES, TO PROVIDE FOR LOCAL REGULATION OF PLASTIC BAGS OR, ALTERNATIVELY, FOR THE REPEAL OF SAID STATUTORY SECTION SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING LEGISLATION REGULATING PLASTIC BAGS; AND PROVIDING AN EFFECTIVE DATE.

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

10. PUBLIC HEARINGS:

A. Resolution No. 09-2016 – declare one property as surplus and directing the method of disposition

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

RESOLUTION NO. 09-2016 OF THE CITY OF LAKE WORTH, FLORIDA, DECLARING CITY OWNED PROPERTY AT 128 S. E STREET AS SURPLUS; FINDING SAID PROPERTY APPROPRIATE FOR AFFORDABLE HOUSING; DIRECTING THE METHOD OF SALE; AND, PROVIDING AN EFFECTIVE DATE.

Jerry Kelly, Grants Analyst, explained that on August 18, 2015, the County conveyed an unimproved parcel located at 128 South E Street to the City with the understanding that the City would transfer ownership to the Lake Worth Community Redevelopment Agency (CRA) for the development of affordable housing. This Resolution would declare the property as surplus and suitable for affordable housing and convey it to the CRA.

Action: Motion made by Commissioner Amoroso and seconded by Commissioner McVoy to approve Resolution No. 09-2016.

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. Resolution No. 10-2016 – abandon a 40 ft. strip of land on 4th Avenue South

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

RESOLUTION NO. 10-2016 OF THE CITY OF LAKE WORTH, FLORIDA, APPROVING THE ABANDONMENT OF THE 40 FOOT WIDE STRIP OF 4TH AVENUE SOUTH RIGHT-OF-WAY RUNNING EAST TO WEST FROM THE WESTERN EDGE OF S. EAST COAST STREET RIGHT-OF-WAY TO THE EASTERN EDGE OF THE FLORIDA EAST COAST RAILWAY COMPANY RIGHT-OF-WAY (A DISTANCE OF APPROXIMATELY 112 FEET); AND PROVIDING AN EFFECTIVE DATE.

Action: Motion made by Commissioner Amoroso and seconded by Commissioner Maier to approve Resolution No. 10-2016.

Dolores Key, Economic Development Manager, explained that the Resolution provided for the abandonment of a portion of 4th Avenue South right-of-way (ROW) between the Florida East Coast Railway (FEC) and South East Coast Street. She said a portion of the ROW for 4th Avenue South was dedicated; however, it was not clear whether the ROW extended from the western edge of South East Coast Street to the eastern edge of the FEC's ROW, a distance of approximately 112 feet. Over time, the City entered into agreements with FEC and Wm. Thies for use of the area, and in 2002, a revocable permit was issued to Wm. Thies for use of the area. After reviewing the recorded documents, the City Attorney found that the original dedication was unclear. If the Resolution was approved, the revocable permit issued in 2002 would be terminated. She said that this was a clean up item.

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.

11. UNFINISHED BUSINESS:

There were no Unfinished Business items on the agenda.

12. NEW BUSINESS:

A. Declare REG Architects, Inc., The Morganti Group, Inc., and The Insurance Company of the State of Pennsylvania in default

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to declare REG Architects, Inc., The Morganti Group, Inc., and The Insurance Company of the State of Pennsylvania in default.

Michael Olenick, The Morganti Group (TMG), said that as of 4 PM today he did not know that this item was on the agenda. To his knowledge, TMG had never been in this situation and understood the seriousness of this issue. He explained that TMG built the Casino Building based on REG Architects' (REG) specifications. He said correspondence to find a solution was still going on. He requested the Commission not make a decision to default on their bonding company for a couple of weeks and pledged to push REG. He asked the Commission for forgiveness and time.

Assistant City Attorney Goddeau explained that this item would declare the design and construction firms and the construction firm's surety in default of their respective contracts with the City regarding the Casino

Building. Attorney Michael Kennedy had been working on behalf of the City to find a solution, but the parties would not respond to the City.

Attorney Michael Kennedy explained that there was a Tolling Agreement that expired and he had been asking REG for critical information, but they were not responsive. During the construction, the City notified REG and TMG about various issues occurring at the Casino Building including, but not limited to, water intrusion through and/or around the doors on the second story and water pooling on the second story deck. He had been trying to work with REG, but there was a Statute of Limitation, which was why a Tolling Agreement was approved. The City and two hired consultants pushed back on the latest proposed solutions, and the City received little response from REG representatives. If REG, TMG, and The Insurance Company of the State of Pennsylvania were declared in default, the City's outside counsel and City Attorney would notify them and immediately proceed with filing a lawsuit.

Assistant City Attorney Goddeau advised that, until the City declared them in default, a closed door attorney-client session could not be scheduled. If the time was extended then the Tolling Agreement also needed to be extended because of the Statute of Limitation.

Attorney Kennedy announced that there was a provision in the contracts to extend for six months, which was too long. He said he had been asking for critical information.

Comments/requests summaries:

1. Commissioner McVoy asked if TMG knew about this situation.

Attorney Kennedy replied that he dealt with the REG's attorney because he was the point person and knew they were moving into default.

2. Commissioner McVoy commented that there were issues at the Casino Building and a resolution was needed. Three entities would be declared in default while at least one of them did not know about it.

Assistant City Attorney Goddeau replied that notice would come after the Commission voted to default. The City was not required to notify them that this item was on the agenda. This issue was the only way to get their attention.

3. Commissioner McVoy suggested communicating with all three entities and suggested giving them a three week extension. He said

he supported the concept, but there was a need for all parties to sort the issue out.

4. Vice Mayor Maxwell commented that there was no legal requirement to notify the parties that this item was on the agenda and that a notice would be sent to them after the City declared them in default.

Assistant City Attorney Goddeau responded that REG and TMG knew about the issues.

5. Vice Mayor Maxwell commented that he found it hard to swallow that TMG did not know about the communications between Attorney Kennedy and REG and the issues. Representatives from REG were not present and said he would not withdraw his motion.
6. Commissioner Maier commented that the Casino Building issues had gone on too long and the parties would have known what was going on. This was a public forum and anyone could listen to the meeting from their home. There were two attorneys present representing the City. He said action needed to be taken without taking on any more damage to itself while giving TMG time to have legal representation.
7. Commissioner Amoroso commented that the City retained Attorney Kennedy two years ago, which was a financial burden to the taxpayers. He said this burden concerned him. If one party knew, then all of the parties knew. This issue had been going on for two years, and said he stood by his second to the motion.

Mr. Olenick advised that there was mediation last year and correspondence and efforts made from REG. TMG built the construction based on specifications and it was TMG's bonding company that would also be declared in default. He asked not to hold TMG in default today.

Comments/requests summaries:

8. Commissioner Amoroso asked who Attorney Kennedy had been dealing with for TMG and why TMG's bonding was in question.

Attorney Kennedy replied that he had been waiting for specific drainage answers for the upper level deck. REG had an Errors and Omission policy, but not a bond. He advised that REG was hired by the City.

9. Commissioner Maier asked if TMG could be separated from the group in order to have legal representation and if not, then he asked the Commission not to go in this direction.

10. Mayor Triolo commented that she was comfortable giving them a two week extension. She said the City needed to be taken seriously.

Mr. Olenick replied that the City hired REG, but TMG built the Casino Building based on their specifications. He said he was angry with REG for putting TMG in the position of default.

11. Commissioner McVoy commented that he recognized the seriousness of the declaration of default. He said he was concerned about being in the same situation two weeks from now.

City Manager Bornstein suggested tabling this item to the next meeting. He commented that two weeks would not do anything and everyone was already hearing that it was the architect's fault.

12. Vice Mayor Maxwell asked TMG if they could exercise some muscle with REG.

Mr. Olenick replied that REG worked for the City and TMG was just the builder. He advised that REG did not work for them. The City's consultants needed proof that a solution would work.

13. Vice Mayor Maxwell said both REG and TMG were asked about their experience with coastal construction as part of the contract selection. If TMG had the experience then they should have advised the City. The City was losing money.

Action: Substitute motion made by Vice Mayor Maxwell to allow for a one week extension and schedule a special meeting. Motion failed for lack of a second.

Action: Motion made by Commissioner McVoy and seconded by Commissioner Maier to table this item for two weeks.

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

Peggy Fisher said that, as a resident and taxpayer, this issue had cost all of the taxpayers money for three years and that it was atrocious that it took this long.

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

13. LAKE WORTH ELECTRIC UTILITY:

A. CONSENT AGENDA:

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

B. PUBLIC HEARING:

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

C. NEW BUSINESS:

There were no 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

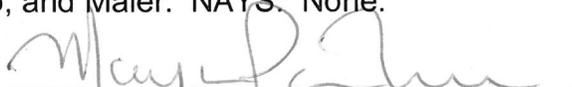
A. March 1, 2016 – draft Commission agenda

City Manager Bornstein introduced Marie Elianor as the City's new Finance Director. He said she began today and came with government experience.

16. ADJOURNMENT:

Action: Motion made by Commissioner McVoy and seconded by Commissioner Amoroso to adjourn the meeting at 7:20 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: March 1, 2016

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

