

**MINUTES
CITY OF LAKE WORTH BEACH
SPECIAL CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
THURSDAY, MARCH 19, 2020, - 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:18 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL:

Present were Mayor Pam Triolo; Vice Mayor Andy Amoroso; and Commissioners Scott Maxwell, Omari Hardy and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Christy L. Goddeau and City Clerk Deborah M. Andrea.

PLEDGE OF ALLEGIANCE: led by Commissioner Herman Robinson.

Mayor Triolo reminded everyone to fill out the 2020 Census in spite of the trying times. She stated that out of concern and in order to minimize the risk to citizens, staff, fellow Commissioners in the building, she outlined the procedure for the meeting, which included a five-minute time limit for each Commissioner to speak.

Commissioner Hardy strongly objected, opining that the implementation of a time limit was creating a new rule and he asked not to limit the commission meeting.

Mayor Triolo responded that the time limit was not a new rule as there was a 30-minute discussion per item rule in the Rules and Procedures for Commission meetings after which the item would go to a work session and she was preventing that from happening.

City Attorney Goddeau said that setting a time limit was within the Mayor's discretion. She stated that the Chair was able to fill in any gaps in the Rules and Procedures or in Robert's Rules and any Commissioner could appeal the decision of the Chair.

Discussion ensued regarding changing rules and implementing new rules.

AGENDA - Additions/Deletions/Reordering:

Commissioner Robinson asked for an explanation of Consent Item A.

Commissioner Hardy requested that Consent Items B through I be pulled because there was no consent.

Mayor Triolo asked for a motion to change the agenda, which was required to amend the agenda.

City Attorney Goddeau clarified that according to the Rules and Procedures, a vote was necessary to change the agenda that had been presented.

Commissioner Robinson stated that he did not intend to make a motion, only to get an explanation of Consent Item A.

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

- Action:** Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve the Consent Agenda.
- A. Appointment of Vice Mayor Amoroso to the Palm Beach County Issues Forum
 - B. Resolution No. 08-2020 – FY 2020 – 2021 Community Development Block Grant application
 - C. Resolution No. 09-2020 – Healthier Lake Worth Beach grant application
 - D. Resolution No. 10-2020 – Census Rapid Response grant application
 - E. Second Amendment to Work Order No.1 with the L.E. Myers Co., for Phase 1 1W13 System Hardening
 - F. Utility Easement by and between Lake Worth Beach Community Redevelopment Agency and the City of Lake Worth Beach
 - G. Agreement with B&B Underground Construction, Inc. for construction of the Wastewater Pump Station Nos. 12 and 14 Improvements Project
 - H. Sixth Amendment to the agreement with Vantage Services Consulting LLC
 - I. Agreement between Property Registration Champions, LLC, dba PROCHAMPS for vacant, abandoned and foreclosed property registration

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

NEW BUSINESS:

- A. Resolution No. 11-2020 - Mayor's and City Manager's Emergency Powers

City Attorney Goddeau read the resolution by title only:

RESOLUTION NO. 11-2020 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING THAT THE MAYOR MAY DECLARE A LOCAL STATE OF EMERGENCY AS NEEDED; PROVIDING THAT THE CITY MANAGER MAY SUSPEND, CANCEL OR RESCHEDULE NON-ESSENTIAL PUBLIC MEETINGS AND OUTSIDE EVENTS AND SERVICES, MAY LIMIT ACCESS TO NON-ESSENTIAL CITY FACILITIES AND SERVICES, AND MAY ADDRESS OTHER MATTERS FOR EFFICIENT AND SAFE OPERATIONS OF THE CITY'S BUSINESS AND FOR THE HEALTH, SAFETY AND WELFARE OF THE CITY'S RESIDENTS AND THE PUBLIC AT LARGE DURING A FEDERAL, STATE, COUNTY AND/OR LOCAL EMERGENCY; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

Mayor Triolo invited City Manager Bornstein to give a five-minute presentation.

City Manager Bornstein explained that the resolution covered some issues that had arisen regarding the Mayor being able to sign a Declaration of Emergency and his operational duties as Chief Administrative Officer of the City. He stated that the Mayor had always signed the Declaration of Emergency as long as he had been at the City, but the verbiage in the Charter was not specific so he had gotten advice from the City Attorney. He said that the Mayor had always signed the Declaration of Emergency and the resolution was an attempt to clarify and reaffirm the practice. He reported that although the City had not declared a state of emergency, the City was acting under the Federal and State Declarations; the City declaration concerned union contracts, which was for emergencies within the City limits such as hurricanes, terrorist attacks, train derailments, etc., and not currently relevant to a pandemic. He stated that pertinent to his operational duties during an emergency, traditionally he had been able to adapt to changing circumstances in real time without continually having to go before the policy board, which would be impossible logistically. He described how things were changing on an hourly basis and that there would not be time to wait for a policy decision that might be obsolete due to new circumstances. He stated that he had never had an issue dealing with any emergencies in his career as City Manager including 9/11, Hurricanes Frances, Wilma and Gene, the bird flu, and the most recent hurricanes. He said that the system had always worked and for operational issues like closing buildings, adopting personnel policies, adjusting hours of operation, that it was not a usurpation of authority but rather formalizing and reaffirming the issue.

Comments/requests summary:

1. Commissioner Robinson reserved his right to speak, as he did not have any questions.
2. Commissioner Hardy questioned City Manager Bornstein about types of declarations to deal with different emergencies and about his request to hold a special meeting the previous week to address policy issues.

City Manager Bornstein responded that the City was working under the State and National declaration to handle the emergency, which was affecting people, not property. He iterated that City declarations were tailored to address events involving physical damage and altering union contracts. He said that he had received Commissioner Hardy's special meeting request upon returning from Washington and was upset about being required to have a public meeting when policy was already being discussed internally with staff and was ill advised according to CDC regulations. He stated that he had given his professional advice about holding a meeting to the other Commissioners.

Commissioner Hardy asked City Manager Bornstein if he had not wanted direction from the Commission regarding policy, which had to take place at a public meeting.

City Manager Bornstein replied that a public meeting had not been advisable at the time and any policy made by the Commission would have had to be readjusted due to continually changing circumstances. He affirmed that it was well within his authority to address the issues.

Mayor Triolo stated that City Manager Bornstein had taken direction from the Commission because he had asked each Commissioner about holding a meeting; she

said no due to health concerns and danger to the public. She iterated that the City had never held special meetings in the past to address emergencies.

Commissioner Hardy said that he had asked for a legal opinion concerning clarification of how the Mayor was permitted to sign a Declaration of Emergency based on a sentence in Article III, section 3 of the Charter.

City Attorney Goddeau explained that historically, the continued practice was for the Mayor to sign a declaration prepared in the City Clerk's Office and that no one had ever questioned that authority before; she did not have information regarding how the practice had come about.

Commissioner Hardy reported that City Attorney Goddeau's response to him had stated that neither the Charter nor the Code had provided any specific guidance regarding States of Emergency, but she had not answered his question. He asked how the language in the Charter vindicated the current practice and why the resolution before them stated reaffirming her authority when it had not been affirmed in the first place.

Mayor Triolo replied that the authority was affirmed by its practice throughout history.

Commissioner Hardy asked if the practice had been subjected to judicial review.

City Attorney Goddeau stated that other cities had specific provisions in their charters and the Commission could have an ordinance to do so, but the issue had never been brought up during her time as City Attorney.

Commissioner Hardy objected to creating a right that was not mentioned in the Charter and giving it to the Mayor.

City Attorney Goddeau responded that it would be the Commission's right to reaffirm or not reaffirm that practice at the meeting.

City Manager Bornstein said four City Attorneys had spent about ten hours of time being questioned repetitively about the legalities of the Mayor's and City Manager's abilities pertaining to the Charter throughout history. He explained that the fundamental disagreement in between the Charter and past practices could be remedied by adopting the resolution, which granted the authority to fill in the gaps in the charter. He stated that he had taken the advice of the attorneys and recommended that the Commission do so as well.

3. Commissioner Robinson said that the meeting was for the whole Commission and asked for respect for questions that were uncomfortable or offensive. He stated that he had two communications about a special meeting and was comfortable with the decisions made by staff, and complimented City Manager Bornstein for his early decisions. He iterated that more sweeping decisions would have to be made in the long term and it was important to have business as best as could be conducted. He opined that there were degrees of emergencies and the Commission needed to be part of the major, long-term decisions going forward. He requested a Blue Ribbon Charter Review Committee to move forward. He said that the Public deserved to hear the Commission's views in public asked to discuss how the meetings would be held

moving forward and what the schedule and process would be. He told the public that the Commission was working with staff and each other for the betterment of the City.

4. Mayor Triolo asked City Manager Bornstein to explain what the City had done to address the issues facing the community that week.

City Manager Bornstein responded that the issues included facility closures, event cancellations, limiting gatherings to ten people and actively engaging with the bar and restaurants to have public spaces for food pick up. He stated that the City was grappling with the beach and public parks, adjusting policy concerning City employees in real time while working on electronic issues so they could work from home and tracking purchases related to the emergency for reimbursement by FEMA. He stated that there were press releases for the media and a weekly video and Frequently Asked Questions on all social media platforms. He said that the City was in emergency mode, working under the Federal and State emergency orders. He announced that the City was first charged with providing clean water, sewer services, electric utilities, emergency permitting and removal of trash and debris, which were fundamentally important to people who were stuck in their homes. He reported that utility cut-offs had been discontinued since the previous day, following the utility policy locally.

Mayor Triolo stated for the record that utilities would not be turned off and employees would be taken care of and compensated for the duration. She said that other cities that had declared states of emergency had their own fire and police services.

City Manager Bornstein said that the City of Lake Worth Beach operated under the Unified Command Center, under the National Incident Management System (NIMS) model with PBSO and PBCFR, which were well resourced and at the table to provide policing and critical care.

Mayor Triolo asked if the states of emergency that were used in the past were to address the protocol and change in pay for union employees related to a hurricane scenario.

City Manager Bornstein replied affirmatively and added that companies contracted for debris removal were addressed as well, all of which were related to FEMA requirements.

Mayor Triolo stated that she had not made the state of emergency rules and different states of emergencies had not been considered for different circumstances; there was one approach to deal with public safety and turning the power back on.

Mayor Triolo announced that she would read the comment cards submitted online into the record. She read the comments for the following individuals:

Penny Darling wrote in favor of the resolution.

Cheryl Rashkin wrote in favor of the resolution.

Noam Brown wrote in favor of the resolution.

Rachel Kijewsky wrote requesting that utility shut-offs and red tagging vehicles be suspended.

Sue Stevens Welch wrote in favor of the resolution.

Mathi Mugilan Paguth Arivalan wrote in opposition to the resolution.

Nick Paliughi wrote in opposition to the resolution.

Jessica Shaw wrote in opposition to the resolution.

Kimberly Stokes wrote in opposition to the resolution.

Vice Mayor Amoroso left the meeting at 7:23 PM and returned at 7:25 PM.

Diane Freaney wrote in opposition to the resolution.

Tiffany Griffis wrote in favor of the resolution.

Deborah Isals wrote in opposition to the resolution.

Siena Mayers wrote in opposition to the resolution.

Dustin Zacks wrote in opposition to the resolution.

Silvia Ball spoke about on-street street parking; her impression was that cars had to be parked facing the direction of traffic.

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to approve Resolution No. 11-2020 - Mayor's and City Manager's Emergency Powers.

Comments/requests summary continued:

5. Commissioner Robinson spoke in favor of a State of Emergency Declaration and requested better communication in the future, not to question, but to be informed about, what the City Manager was doing. He stated that the State of Emergency should be more specific and in and the City should not ignore abandoned cars or shopping carts. He said that neither the Commissioners nor employees should traveling by airplane and urged citizens to take personal responsibility for their own health and safety. He stated that he would vote for a State of Emergency but requested more detail in the motion.
6. Mayor Triolo asked City Manager Bornstein if there was just one State of Emergency document and what would happen if the City were to issue a Declaration of Emergency.

City Manager Bornstein replied that the Mayor would issue a State of Emergency if warranted, to cover the emergency to be dealt with. He stated that a Declaration would complicate pay issues in union contracts and would not add any value to what was already being done by the City to address the crisis. He reiterated that a Declaration was to activate extra shifts to repair physical damage, which was not the current circumstance, and the City was operating under the States of Emergency already declared by the State and Federal governments.

Commissioner Robinson commented that the union contracts were reversed, sending employees home for their own protection rather than having them work extra shifts.

City Manager Bornstein stated that employees who were affected by the coronavirus would not have to draw against their sick and vacation accruals, which was allowed under the City Manager's operational authority under the State and Federal declarations; a City declaration was not necessary.

7. Commissioner Robinson asked for more communication in order to share in the long-term decisions to work in concert, because there would be blame no matter what was done, and everyone was in this together.
8. Mayor Triolo said that the process was showing the flaws in the system and issues that needed tightening up related to the legalities, which should be discussed, but it was a time to offer some consolation and coordinate with neighboring cities. She stated that legislation could be created and ordinances and issues could be addressed, such as different types of emergency declarations perhaps in the next bargaining process so that nothing was done to endanger the City.
9. Vice Mayor Amoroso thanked the residents for being involved and self-quarantining, and the City Manager and his staff, the Palm Beach Post and Lake Worth Herald for getting the right information out. He said that there should be a discussion in the future about the budget and all the extra hours the City Attorneys had spent on this issue. He expressed confidence in Mayor Triolo taking the lead as she was the lead, and he spoke directly with staff on a regular basis. He said that the City worked in partnership with other cities in the County and their good work was reflected in the City's vision, but there were always things that could be done better. He called the question.

Discussion ensued regarding the calling of the question before Commissioner Hardy was allowed his five minutes to speak.

The meeting recessed at 7:43 PM and reconvened at 7:52 PM.

10. Commissioner Maxwell opined that he thought that the business at the meeting was straightforward and probably unnecessary. He stated that he had served the City during many hurricane seasons and during 9/11 and that the relationship between the City Manager and the Commission as policy maker had not deviated in all the years he had served. He reported that when emergency declaration was announced in 2017, no one challenged the power of the Mayor. He said that the pandemic was very dangerous and should be taken seriously and he had been in constant contact with City administration who were working day and night and making the best possible decisions in a changing environment. He explained that the City Manager was in charge of the day-to-day operations of the City and the Commissioners were the policy makers and it was not the time to make policy. He stated that many issues such as utility disconnections and employee compensation had been addressed in the City's emergency operations planning and while the nature of the emergency was different, the roles and activities were consistent. He said that the NIMS training was available, which he had taken, and once an emergency was called, it was vital to adhere to the chain of command. He said that this was the time for calm and straightforward communication, but confusion and division in the community were being caused in the time of emergency. He stated

that whatever situation went on between any of the five Commissioners and the City Manager should be handled one-on-one, not in public or in the media. He relayed to the residents that the City had a competent team of professionals on all levels who were making the best possible decisions on an hourly basis and he did not suspect or question any of the decisions. He said that there had always been a policy to work with people whose power had been disconnected. He said that the issue was an inflammatory and being whipped up in parts of the City, but he was comfortable with what was being done and the City would adapt and continue to make the best possible decisions going forward. He affirmed that no utilities would be turned off and the City would prioritize the innumerable tasks to be done. He said that he spoke from the heart and expressed pride in the residents who were being respectful and helping each other. He stated that the City was in good shape and thanked the City Manager, City staff and his colleagues.

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

CITY ATTORNEY'S REPORT:

City Attorney Goddeau did not provide a report.

CITY MANAGER'S REPORT:

City Manager Bornstein did not provide a report.

ADJOURNMENT:

Action: Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to adjourn the meeting at 8:06 PM.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. DID NOT VOTE: Commissioner Hardy.

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved:

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