

**MINUTES
CITY OF LAKE WORTH BEACH
REGULAR CITY COMMISSION MEETING
BY TELECONFERENCE
TUESDAY, AUGUST 18, 2020 - 6:00 PM**

The meeting was called to order by Mayor Triolo on the above date at 6:00 PM by teleconference from 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 and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Glen Torcivia and City Clerk Deborah M. Andrea. Commissioner Omari Hardy was absent.

INVOCATION OR MOMENT OF SILENCE: led by Commissioner Scott Maxwell.

PLEDGE OF ALLEGIANCE: led by Vice Mayor Andy Amoroso.

AGENDA - Additions/Deletions/Reordering:

New Business Item A, Agreement with Racial Equity Institute to provide consulting services, is deleted from the agenda. this item has been postponed until September, 2020 because more time was needed to work through the details of the agreement.

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

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

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

A. Proclamation in honor of Lineman Appreciation Day

Mayor Triolo read the proclamation in honor of Lineman Appreciation Day and requested that she be able to present the proclamation to the linemen at an outdoor setting.

Ed Liberty, Electric Utility Director, added that the linepersons did a great job for the City and were a wonderful group filled with energy and commitment.

COMMISSION LIAISON REPORTS AND COMMENTS:

Commissioner Robinson: expressed hope that the proclamation considered the linemen's safety during hurricane season. He spoke about the possibility of the Gulfstream Hotel moving forward and praised William Waters, Community Sustainability Director, City staff, Joan Oliva, CRA Director, and City Manager Bornstein. He said that the CRA had done a great job finding an outfit for the former Rhum Shak space and that 1750 N. Dixie would move forward with a 120-unit development. He stated that the teams from the CRA, Community Sustainability, staff and the Commission would work together to bring great projects to the City. He thanked PBSO for not increasing the amount of their agreement with the City. He said that he looked forward to discussions regarding maintaining water to homes that had their

electricity shut off for non-payment and on racial equality. He stated that good things were happening in Lake Worth Beach.

Vice Mayor Amoroso: said that great things were happening in Lake Worth Beach, but the City was in the middle of a pandemic yet storefronts were being rented, houses sold and great development was coming into the City. He thanked Ms. Oliva and Mr. Waters and their staffs for working together and making the developments happen. He reported that the Sober Homes Task Force and Florida League of Cities had many meetings via zoom and the Palm Beach County League of Cities had held their annual conference virtually. He announced that Feeding South Florida and the CRA were continuing drive-through food distribution on Tuesdays through the end of September; he gave a shout out to Jamie Brown, Public Works Director, and his staff for helping with the distribution. He stated that 1300 residents were being fed by Buccan and Grotto restaurants every week. He said that the City was no longer last in the census, but the numbers were not good, therefore residents should complete the census as soon as possible because the counting would be completed by the end of September.

Commissioner Maxwell: thanked Commissioner Robinson and Vice Mayor Amoroso for covering many of the positive happenings in the City. He thanked City Manager Bornstein and City staff for keeping all of the departments functioning, especially the staff doing an exceptional job taking care of bereaved families. He stated that P.W. Odoms, Jr., a City pioneer, had passed away. He relayed that he had some high level conversations with the City Attorney and asked if there could be a discussion on the agenda to determine a process regarding the resign to run law and how the Commission could best govern; he requested that City Attorney Torcivia bring something back to discuss at a future meeting. He said that everyone should keep Patrick Livingston in their prayers as he lost a family member recently.

Mayor Triolo: stated that there was great food distribution at Arms of Hope at which she presented the proclamation to Patrick Livingston. She thanked him and Source One for stepping up for the community. She reported that she was on the auditor committee to choose the new outside auditor and that the pension was doing well for the City. She stressed the importance of the census and that residents should ask their neighbors to fill the census out; the City count was undervalued last time and could not wait another ten years for a correct count to receive the services to which it was entitled.

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

Deborah Andrea, City Clerk, read the public comment submitted by the following:

Dustin Zacks wrote to send best wishes to Mark Easton in health and recovery and to thank Commissioner Hardy for sticking up for the City's residents, wishing him good luck for the primary election.

APPROVAL OF MINUTES:

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

A. Special Meeting - June 30, 2020

- B. Regular Meeting - July 7, 2020
- C. Regular Meeting - July 21, 2020
- D. Special Meeting -- July 28, 2020

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell, Hardy and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

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. Resolution No. 31-2020 – COVID-19 Federally Funded Subaward and Grant Agreement Z2079
- B. Resolution No. 32-2020 – FY 2020 Justice Assistance Grant Application
- C. Agreement with KVA, Inc., d/b/a KVA Power Protection & Control for a prefabricated control house
- D. Consideration of settlement with Alide Cajuste in the amount of \$35,000 (inclusive of attorney’s fees)
- E. Ratification of advisory board appointments and reappointments
- F. Tenth Addendum to the Law Enforcement Service Agreement (LESA)

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

PUBLIC HEARINGS:

- A. Ordinance No. 2020-11 – Second Reading - Amend the City’s Code of Ordinances Chapter 23 Land Development Regulations

City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2020-11 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION,” DIVISION 1 “IN GENERAL,” SECTIONS 2-4, 2-7, 2-10.2 AND 2-11.3 RELATED TO APPLICATION FEES; AND AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS, BY AMENDING ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 1, “GENERALLY,” SECTIONS 23.1-5 AND 23.1-6 RELATED TO OFFICIAL MAPS; ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 2, “DEFINITIONS,” SECTION 23.1-12 - DEFINITIONS; ARTICLE 2 “ADMINISTRATION” DIVISION 3, “PERMITS,” SEC. 23.2-30. – SITE PLAN REVIEW; ARTICLE 3, “ZONING DISTRICTS” SEC. 23.3-2. –OFFICIAL ZONING MAP; ARTICLE 4, “DEVELOPMENT STANDARDS” - SECTION 23.4-4. – FENCES, WALLS AND GATES; ARTICLE 4, “DEVELOPMENT STANDARDS” SECTION 23.4-10 – OFF-STREET PARKING; ARTICLE 4, “DEVELOPMENT STANDARDS” SECTION 23.4-19 – OUTDOOR STORAGE; ARTICLE 4 “DEVELOPMENT ARTICLE 6 “ENVIRONMENTAL REGULATIONS”, SECTION 23.6-1(C)(3) LANDSCAPE REGULATIONS OF THE

CITY’S CODE OF ORDINANCES; AND PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE

Action: Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Ordinance No. 2020-11 amending the City’s Code of Ordinances Chapter 23 Land Development Regulations.

Mayor Triolo reminded the Commission that this was the second reading of the ordinance.

City Clerk Andrea said that there were no public comment cards.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

B. Ordinance No. 2020-12 – Second Reading - Amend the City’s Code of Ordinances Chapter 23 Land Development Regulations
City Attorney Torcivia read the ordinance by title only.

ORDINANCE 2020-12 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS, BY AMENDING ARTICLE 1 “GENERAL PROVISIONS,” DIVISION 2, “DEFINITIONS,” SECTION 23.1-12 - DEFINITIONS; ARTICLE 3 “ZONING DISTRICTS,” DIVISION 1, “GENERALLY,” SECTION 23.3-6 – USE TABLES; AND ARTICLE 4 “DEVELOPMENT STANDARDS,” SECTION 23.4-12 – ADMINISTRATIVE USES AND CONDITIONAL USES OF THE CITY’S CODE OF ORDINANCES; AND PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE

Action: Motion made by Commissioner Maxwell and seconded by Vice Mayor Amoroso to approve Ordinance No. 2020-12 amending the City’s Code of Ordinances Chapter 23 Land Development Regulations.

Comments/request summary;

1. Commissioner Robinson thanked William Waters, Community Sustainability Director, for all of his hard work and stated that the ordinance showed that the City was ready to build.

City Clerk Andrea said that there were no public comment cards.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

UNFINISHED BUSINESS:

There were no Unfinished Business items on the agenda.

NEW BUSINESS:

- A. (deleted) Agreement with Racial Equity Institute to provide consulting services

B. AT&T and City of Lake Worth Beach Settlement Agreement and Joint Use Pole Attachment Agreement

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to approve the Settlement Agreement and Joint Use Pole Attachment Agreement with AT&T.

Mr. Liberty said that the City had been working with several Utility Agency Owners (UAO's) to update the Joint Use and Pole Attachment Agreements which were severely outdated operationally and technically, beyond expiration, and no longer in line with market value. He stated that a pole attachment audit to identify UAO attachments on LWB Electric Utility Poles was commissioned and that relations with AT&T had improved greatly. He announced that the audit revealed that AT&T was attached to many more poles than had been paid for under the 2006 Agreement; that there were 5,955 attachments on City owned poles. He said that there were discrepancies between the City and AT&T audits, but a settlement had been reached for the following:

- AT&T conceded to CLWB 2018 pole audit numbers and new rates
AT&T attached to CLWB poles; 5,955 @ \$16.50 (\$98,257.50)
LWB attached to AT&T poles; 1,224 @ \$20.68 (\$25,312.32)
Net income to CLWB; \$72,945.18
- 5 Year Settlement Agreement includes back rent for additional attachments from 2014-2018
AT&T agreed to LWB pole audit which identified 1688 additional pole attachments
AT&T agreed to reduction in LWB attachments on AT&T poles (1,362 to 1,224)
AT&T would provide a one-time payment for additional pole attachments based on the aforementioned quantities over a 5 year period in the amount of \$79,909.92
AT&T agreed to pay a proportionate share of audit in the amount of \$16,000.

Mr. Liberty reported that the new rates would be on par with the average rate of \$16.50 per pole and the new rates were used for FY18 and 19 past due invoices. He stated that the new agreement had a 10 year term which would be automatically renewable for 4 successive 5-year terms, unless either party provided at least one year written notice of termination. He iterated that the new agreement contained updated provisions to address emergency response, pole ownership changes due to emergency replacements, and general relocation responsibilities, that the parties had agreed to updated provisions for pole depreciation and pole replacement costs and included annual 3% rate escalators.

Comments/requests summary:

1. Commissioner Maxwell thanked Mr. Liberty and asked when the agreements would have to be renegotiated.

Mr. Liberty said that the agreements were multi-year and would roll over annually; they would be better managed going forward.

Mr. Liberty thanked Paul Nicholas, Electric Utility Engineering Manager, and Brian King, Electric Utility Assistant Director for Power Generation, for their hard work on redoing the agreements from the 1940s, 50s and 60s, explaining that they had had to search for the old agreements. He said that the City attached to AT&T's poles so there was a Joint Use Agreement. He said that no one remembered AT&T replacing any poles after accidents;

there was no process to notify AT&T that a pole had been replaced.

2. Mayor Triolo asked why the City was paying more than it was being paid.

Mr. Liberty replied that the price was determined by the size of the poles and the loads the EU put on them. He said that the pole counts were incorrect and there was a Settlement Agreement for five prior years with AT&T agreeing to pay for a portion of the audit as well.

3. Commissioner Robinson asked Mr. Liberty to recognize the EUAB and Lisa Maxwell's stellar chairpersonship when the pole attachments were being discussed years ago.

Mr. Liberty responded that the process had begun in 2013 and was very complicated and time consuming. He said that it would be important how the contract was managed so poles needing replacement would be properly identified and the City could retain ownership. He reported that the EU would receive an increase in annualized revenue of \$160,000 from all the attachments contracts, not including the settlement agreement.

4. Vice Mayor Amoroso thanked Mr. Liberty and City Attorney Goddeau for their work on the contracts. He asked about poles with unidentified ownership.

Mr. Liberty replied that the City and AT&T would examine the poles to see who had installed them. He mused that the poles could have been bought on an emergency basis, not giving the City time to mark them.

City Clerk Andrea said that there were no public comment cards.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

CITY ATTORNEY'S REPORT:

City Attorney Torcivia stated that Governor DeSantis had extended the time to meet without a physically present quorum until October 1, 2020.

CITY MANAGER'S REPORT:

City Manager Bornstein provided the following report:

- The REAL agreement would be on the agenda when the details of the contract were worked out
- The pole attachment agreements had value in the marketplace and the City was working with the School District and the County IT Committee on transmitters for school children to receive free Wifi. The installation of the transmitters would not be completed before the end of September; those needing Wifi would be provided with free laptops and coupons to pay for internet service. There would be an agreement on the agenda for the Commission to consider an in-kind contribution to allow transmitters to be put on City-owned utility poles.

Commissioner Robinson inquired about progress related to the public-private partnership at the oceanfront park.

City Manager Bornstein responded that Juan Ruiz, Assistant City Manager, had held several meetings with staff and the consultants, but the City was currently tied up with the activities and items related to budget and COVID; he would come back to the Commission with a schedule.

- Between all the items with budget and COVID, the PPP discussion would have to happen after the budget process was done.

ADJOURNMENT:

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to adjourn the meeting at 6:54 PM.

Vote: Voice vote showed: AYES: Mayor Triolo, Vice Mayor Amoroso and Commissioners Maxwell and Robinson. NAYS: None. ABSENT: Commissioner Hardy.

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved: September 1, 2020

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