

**MINUTES
CITY OF LAKE WORTH BEACH
REGULAR MEETING OF THE CITY
TUESDAY, FEBRUARY 4, 2020 - 6:00 PM**

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.

INVOCATION OR MOMENT OF SILENCE: on behalf of Commissioner Scott Maxwell.

PLEDGE OF ALLEGIANCE: led by Commissioner Herman Robinson.

AGENDA - Additions/Deletions/Reordering:

New Business Item B, Second Amendment to the Incentive Agreement with The Mid, was added to the agenda. Vice Mayor Amoroso asked to reorder The Mid Dixie Highway Corridor items.

Action: Motion made by Vice Mayor Amoroso and seconded by Commissioner Maxwell to change the order of New Business.

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

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

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

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

- A. Nicole Patterson, Principal of North Grade Elementary School, gave an overview of the Title One School, including its history, demographics, extracurricular activities, partnerships and grants. She said that there was an additional teacher in each room for one hour a day to help prepare the kids to advance to the next grade and that the staff had worked hard to get the parents involved by having curriculum nights. She reported that the school was dual language and they anticipated that their grade would be a B+ by the summer. She spoke about the keys to her success like participation in motivating academic programs, parent training and extracurricular opportunities/clubs and some of the challenges such as demographics, attendance, math/writing/science proficiency, parent participation, teacher retention and having a transient population.
- B. Commissioner Maxwell read the Proclamation declaring February 11-17, 2020 as 2-1-1 Awareness Week and presented it to Patrice Schroeder, Community Relations Specialist at 211 Palm Beach/Treasure Coast. Ms. Schroeder relayed that 2-1-1 had received approximately 2,300 calls from the City's residents including elderly facing financial crises, parents concerned about a child's development, veterans with PTSD and people contemplating suicide. She reported that the call volume would double or triple during a

storm and that many volunteers who called seniors would be the only call the elderly resident received all day. She stated that more mental health facilities and affordable housing were needed.

Commissioner Maxwell thanked 2-1-1 for all they did and mentioned the need for volunteers.

Vice Mayor Amoroso asked why no shelters had been open in Palm Beach County during the cold snap and said that the policy should be rewritten so people could get help before the temperature hit 30 degrees.

COMMISSION LIAISON REPORTS AND COMMENTS:

Commissioner Maxwell: said that abandoned shopping carts were still a problem and that there was an uptick in graffiti; he asked if the sheriff's office could help.

Commissioner Hardy: said the CDBG application cycle was beginning and urged the Commission to consider funds for the For the Children building, which was City-owned.

Vice Mayor Amoroso: stated that he attended the Sober Home Task Force and that there would be funding to assist veterans. He spoke about the importance of getting involved and being counted in the 2020 Census and gave a shout out to Yolanda Robinson, Community Code Manager, for responding to a bonfire and solving the problem on Dixie Highway on a Saturday.

Commissioner Robinson: thanked all City employees for their efforts to make Lake Worth Beach a better place to live. He said that the public should participate in the upcoming CDBG meeting and sent condolences to the two PBSO deputies who had passed.

Mayor Triolo: asked Captain Baer to notify the City of any important events related to the City's district. She described the incredible Mayor's Crime Walk, which had passed through some of the hot spots in the district to highlight and address the problems. She stated that new nuisance laws had recently been passed to give the City the ability to go after chronic offenders. She said that the chili cook-off and the Daddy-Daughter/Mother-Son event were great. She reported about the Pension Board meeting saying that the numbers were way up and the pensions were safe and secure.

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

Cheryl Rashkin, President of the South Palm Park Neighborhood Association, thanked Mayor Triolo and Commissioner Robinson for getting the crime walk in her neighborhood, which was the start of something new and great for Lake Worth Beach and good for morale in the neighborhood.

Todd Townsend said that William Waters was working to get a hotel built on the beach.

Rachel Shapiro asked if a property sold on East Coast Drive had to be demolished within six months of purchase.

APPROVAL OF MINUTES:

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

- A. Regular Meeting - January 7, 2020
- B. Regular Meeting - January 21, 2020
- C. Work Session - January 27, 2020

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

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. Work Order #7 with JW Cheatham for the District 3, Year 4 Pushbutton Neighborhood Road Program Project
- B. Task Order #12 with Baxter Woodman, Inc. for the Construction Engineering and Inspection Services (CEI) for the District 3, Year 4 Neighborhood Road Program
- C. Agreement with Environmental Services, Inc. for Historic Resources Survey Update, Phase IV
- D. Resolution No 04-2020 – Amending the fees and charges schedule
- E. Purchase authorization for Quicklime from LHoist North America of Alabama, LLC for the Water Treatment Plant
- F. Authorize Amendment 3 to Drinking Water State Revolving Fund Loan Agreement DW501710 for the 2-inch watermain phases 1A and 2 replacement projects

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

PUBLIC HEARINGS:

- A. Appeal by Daniel Hiatt and Frederick Schmidt of PZB case # 19-00500004: approval by the Planning and Zoning Board (PZB) of a Conditional Use Permit at 1812 Aragon Avenue, Unit A

Mayor Triolo read the title of the case into the record, that this was an appeal by Daniel Hiatt and Frederick Schmidt of PZB case number 19-00500004: approval by the Planning and Zoning Board of a Conditional Use Permit at 1812 Aragon Avenue, Unit A. She announced that the meeting was a quasi-judicial hearing to hear an appeal pursuant to section 23.2-17 of the City's Code of Ordinances. She said that, as we had stated in other cases, because this was an appeal, no new evidence would be taken. The City and the appellants would be given ten minutes to make a presentation and thereafter, public comment would be allowed.

Mayor Triolo asked if the Commissioners had had any *ex parte* communications, personal investigations or campaign contributions to disclose.

Commissioner Robinson stated that he visited the site with Dan Hiatt.

Vice Mayor Amoroso said that he had been to the site.

Commissioner Hardy stated that he had been on the site and spoken with the appellant after the first meeting. He said that he received campaign contributions from the appellant.

Commissioner Maxwell reported that he had been on the site and spoken with Mr. Hiatt. He said that he received campaign contributions from the appellant.

Mayor Triolo said that she drove by the site and had received campaign contributions from the appellant.

Mayor Triolo told all those giving testimony, presenting or speaking under public comment to stand, raise their right hands, face City Clerk Deborah Andrea, and be sworn-in. City Clerk Andrea swore in all those giving testimony and announced that those testifying should state their names and addresses for the record and whom they represented, if applicable.

Mayor Triolo told Community Sustainability staff to give their ten-minute presentation.

Mark Stivers, Community Sustainability Deputy Director, gave the background regarding the original request to the PZB for a conditional use permit to operate a 4400 square foot fabrication service excluding retail display and sales for fabricating stone countertops, which was approved on October 2, 2019. Mr. Stivers presented the timeline of the business, the site and floor plans and the lengthy conditions of approval. He reported that the City had received a notice of appeal from Mr. Hiatt and Mr. Schmidt on November 21, 2019 and the Basis of Appeal on December 5. He stated that the business was consistent with the Comp and Strategic Plans as well as specific standards for all conditional uses and industrial/manufacturing facilities design and performance standards.

Mayor Triolo stated that the applicant could make its presentation, which could be no longer than ten minutes.

Jason Bono spoke on the owners' behalf. He said that the appeal letter stated that the requirements were not met, but they were; the application was complete and had met all requirements. He stated that there were no residential neighborhoods within 400 feet of the location and if they had to keep their bay doors closed, then all other owners in the industrial park should do so. He iterated that wet saws were used to keep the dust down and they had met every demand, except for the fence and the business license, which were on hold pending the outcome of the hearing.

Mayor Triolo stated that the appellants could now make their presentation, which could be no longer than ten minutes. All other persons would be heard under public comment.

Frederick Schmidt said that he was a resident of Lake Worth Beach, the owner and broker of Cornerstone Realty and an industrial expert with knowledge of the impact of different industrial tenants on neighboring properties, especially granite shops. He opined that the

good volunteers of PZB did not understand granite shops issues. He stated that the fabrication shop was within several feet of their building and that the Conditional Use process was to assure the appropriateness and compatibility of the use and the standards that it must meet. He requested that the Commission overturn the approval of the conditional use permit for the granite shop.

Daniel Hiatt said that the site inspections had not been accurate; no one had studied the permit history so the owner had built out the site without one and that the mess making had been going on for four years. He stated that the owner had a token tenant to turn the electric on through the back door and the representative was not a zoning lawyer and had only been hired to get the project approved. He reported that the owner still had not complied with the ten items on the list from the last hearing and that the Applicant still did not had a license.

Mayor Triolo asked if any member of the public wished to make a public comment, which would be limited to two minutes per current policy.

Sherrie Schmidt said that she was associated with the affected party and that the tenants of the building had been compatible with the regulations and zoning of the City, but the granite business was not compatible.

Archie Kleopfer said that the business was not compatible with the area and was concerning for health reasons.

Christopher Bild said that he had an automobile business and stated that there was constant dust on the vehicles, which was affecting his business.

Michael Glaser reported that he was a commercial real estate broker serving on the Planning and Zoning Board and expressed great concern about the health issue arising from the dust from the granite.

Dennis Bucell stated that he had been in the location for 22 years working on high-end cars, the granite dust was causing damage, and health effects were a concern.

Joe Sciouti spoke on behalf of the owner, saying that he had done everything asked of him and if the Commission closed him down, they should close down every other granite shop in that area.

Mayor Triolo asked if the Commissioners had questions for staff, the applicant or the appellants.

1. Vice Mayor Amoroso asked how long the owner had worked without a license, who owned the building, whose name was on the utilities and how did they get power without a license.

Mr. Stivers said that there had not been a license since 2015, Kadassa was the owner and the power was in Kadassa's name and had been turned on before the "no lights, no power" law went into effect.

Vice Mayor Amoroso asked where the water run-off went, where it was held, how seepage might happen and if the EPA had been called. He expressed concern about health and safety regarding the water run-off and the silt.

Mr. Stivers responded that he did not have information about the water and that he had not called the EPA.

Mr. Bono explained that the water and silt went into a water catchment basin where the silt settled to the bottom and the water was recycled, then the debris was emptied by hand into a roll-off dumpster, which was disposed of at a construction waste site.

Mr. Stivers said that the dumpster had to be on site and was currently in the right of way.

2. Commissioner Hardy stated that the “no greater harm” policy in the Code included a standard that a building had to be in harmony with existing property. He asked about the dust created by the granite cutting.

Mr. Bono replied that the dust might not be from his area but could not say with certainty that it was not all his dust.

Commissioner Hardy asked about having the site pressure cleaned.

Mr. Bono responded that the inside was cleaned daily and mopped two or three times a week. He stated that there was only dust during polishing, and the wet screens were to contain the dust.

Commissioner Hardy asked Mr. Bono if they had complied with the condition of outdoor storage and that all parking was supposed to be on site.

Mr. Bono said that some employees parked on the street. He stated that they were waiting until the appeal was decided to comply with the dumpster issue.

3. Commissioner Robinson asked if the shop on Barnett had required a conditional use permit.

Mr. Bono replied that there were no conditional use requirements nor regulations requiring an inspection because the space was smaller.

Commissioner Robinson asked if the City could give the owner 60 days to get into compliance as a viable business in an industrial area.

City Attorney Goddeau said that there were three options; grant the appeal, deny the appeal or remand it back to PZB with directions of what should be addressed. She stated that the Commission was looking at the criteria for granting this type of conditional use permit.

Commissioner Robinson asked if the owner would be fined if there was no license after the 21st and opined that the City should enforce the existing “no license” requirements.

4. Commissioner Maxwell asked Mr. Bono what capacity he worked in at the site.

Mr. Bono stated that he worked for Integrity First, which had a business license; he had just moved in and got a license for the construction company for the office area.

Commissioner Maxwell went over the timeline for the business and asked why a license was not issued in 2015.

Mr. Stivers responded that he did not know why the license was not issued.

Commissioner Maxwell asked the Applicant why he had waited for two years to get a license.

Mr. Sciuti translated for Mr. Arias who said that it had been an ongoing process but some inspections had been delayed. He said that there was a language barrier; Mr. Arias' intention was to get a license.

Commissioner Maxwell asked if there had been a permit for the fence being in the right of way.

Mr. Sciuti replied that the City approved the permit for the fence based on a drawing from the owner.

Mr. Stivers stated that staff relied on the site plan and approved the permit, which turned out to inaccurate as the dumpster was in the right of way.

Mr. Sciuti said that it would be easy to move the fence.

Commissioner Maxwell asked if there were any code violations.

Mr. Stivers replied that the fence was not in compliance and the business was not permitted.

Commissioner Maxwell opined that the owner had not played by the rules nor done enough. He expressed concern about the gate not being closed all the time, which was a condition, and that the impact should not be greater than that made by the neighbors.

5. Mayor Triolo asked if wet saws had always been used or were purchased after complaints about the dust, about the installation of the drainage system and if the wet curtain system was used all the time.

Mr. Sciuti replied that the smaller wet saws were purchased after the complaints. He stated that someone from the sewer department came out to inspect and said the drainage system was in compliance. He said that the wet system was always used, as the employees did not want to breathe in the dust either.

Mayor Triolo said that there were several granite shops on the other side of 10th Avenue but they were not near other types of businesses. She asked staff if the spray booths had to be completely sealed and if there were any DEP regulations.

Mr. Stivers responded that the DEP stipulated any type of business that created dust must maintain a healthy environment.

Mayor Triolo asked the Appellant if they had noted a difference since the wet system was installed.

Mr. Hiatt said no, it had not gotten better.

6. Commissioner Hardy asked the applicant who was engaged in business activity on the site.

Mr. Bono stated that the applicant was Kadassa and all the employees worked for Kadassa. He said that he had been asked to get involved to help with licensing.

Commissioner Hardy asked if there a permit for the fence.

Mr. Bono stated that he filled out the application and Felipe Lofaso, Public Works Assistant Director, came out and looked at the dumpster location.

Discussion ensued regarding the documentation that was submitted regarding the placement of the fence.

7. Commissioner Maxwell inquired what happened when the slurry dried and if the slurry would create a problem if it got into the storm system.

Mr. Sciouti replied that slurry was dried dust that became a hard clay-like substance and there was run-off every place in the county due to construction.

Mayor Triolo asked for a motion, stating that the considerations substantiating the decision shall be documented.

The meeting recessed at 8:39 PM and reconvened at 8:49 PM.

Action: Motion made by Commissioner Hardy and seconded by Commissioner Maxwell to grant the appeal on the grounds that: the conditional use exactly as proposed will result in greater harm than would result from use of the property from some use permitted by right or some other conditional use permitted on the property. I have to provide reasons according to our Code and the law. Basically, they have to show evidence that their use, exactly as proposed, won't cause greater harm and I didn't find that in the record, I found evidence to the contrary and in the record there was a bit of a back and forth between Mr. Hiatt, who's the Appellant, and the Applicant and this was at the August 7th meeting. Mr. Hiatt said screening won't dissipate the dust and that there's dust outside on the road near the drain. Staff showed us pictures of dust on the road and the drain. That's greater harm than would exist from any use permitted by right, dust running out into the street, dust running out into the drain. The Applicant himself said that despite his best efforts, and I'm just quoting him from the minutes, he said it's impossible to contain all the dust. Just on those grounds alone, I am going to move to grant the appeal.

Commissioner Maxwell seconded the motion because he agreed with Commissioner Hardy. He stated his observations when he was out at the site; there was a lot of dust everywhere he turned, a trail of slurry ran from their driveway to the storm drain and the drain was filled with white slurry. He stated that the conditions had not been met fully.

Commissioner Robinson agreed with the other Commissioners and said that the

involvement with the City was flawed and that the dumpster issued should be rectified.

Mayor Triolo stated that there were issues in communication between the Applicant and the City and the regulations should be tightened on these types of facilities. She said that she appreciated that the Applicant did take steps to make improvements, but she agreed with her fellow Commissioners and the law.

Commissioner Hardy said that there had been some breakdown of communication between the Applicant and the general contractor and the City following its procedures. He reported that he had observed several issues not in compliance, including the gate being open, the three bays had curtains that were not wet and the ground was covered with dust. He stated that there was a complete disregard for City rules and regulations.

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

UNFINISHED BUSINESS:

There were no Unfinished Business items on the agenda.

NEW BUSINESS:

A. (added and reordered) Second Amendment to the Incentive Agreement with The Mid

Action: Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to approve the Second Amendment to the Economic Development Incentive Agreement with The Mid and authorize Mayor Triolo to sign the same.

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

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

B. (reordered) US-1 Multimodal Corridor Study

Action: This item was moved to the February 18, 2020, meeting.

CITY ATTORNEY'S REPORT:

City Attorney Goddeau did not provide a report.

CITY MANAGER'S REPORT:

Commissioner Maxwell asked the City Manager to give a report on shopping carts, graffiti and piles of garbage and said that citizens should have pride in the environment.

City Manager Bornstein reported that:

- The graffiti was being handled by the Sheriff's office and the man who had tagged many buildings had been arrested but was now out on the streets again.

- City employees were looking out for shopping carts and the issue of piles of garbage would be brought back soon.

ADJOURNMENT:

Action: Motion made by Commissioner Hardy and seconded by Vice Mayor Amoroso to adjourn the meeting at 9:10 PM.

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

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk

Minutes Approved: March 3, 2020

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