

**MINUTES
CITY OF LAKE WORTH BEACH
CITY COMMISSION WORK SESSION - BALLOT ISSUES & VACATION RENTALS
THURSDAY, NOVEMBER 19, 2020 – 6:00 PM**

The meeting was called to order by Vice Mayor Andy Amoroso on the above date at 6:05 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 and Herman Robinson. Also present were City Manager Michael Bornstein, City Attorney Christy L. Goddeau and City Clerk Deborah M. Andrea.

PLEDGE OF ALLEGIANCE: Commissioner Herman Robinson.

UPDATES / FUTURE ACTION / DIRECTION

A. Discussion regarding Short Term and Vacation Rentals

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

Theresa Miller wrote to thank the commission for addressing the issue, which was having a negative effect in her community.

Mayor Triolo iterated that the item would be a discussion to give the commissioners to speak publicly about the issue and how to move forward.

City Manager Bornstein said that the topic had been spoken about for quite some time. He stated that William Waters, Community Sustainability Director, and Christy Goddeau, City Attorney, would be doing the majority of the conversation. He asked Mr. Waters to give a brief overview.

Mr. Waters reported that the issue had been percolating for approximately ten years. He stated that there was consternation because the use was not specifically prohibited, but according to the City's code and LDRs, if a use was not expressly allowed, it was by default not allowed. He relayed that the number of short term accommodations had been growing and there were a couple of hundred operating in the City without proper business licenses or classification. He said that there had been an attempt to create a self-regulating association seven years ago which failed when terms could not be agreed upon. He stated that the City would need to come to consensus regarding a direction for the issue and that he and Ms. Goddeau had written a paper with regulations if the commission decided to allow short term rentals. He announced that only code compliance would be able to enforce the regulations but that it could take a very long time to bring a property into compliance or to foreclose on the property if the owner refused and it would be very difficult to get rid of the nuisance.

City Attorney Goddeau explained that since the preemption by the State had gone into effect in 2011, the City had interpreted that the code prohibited any transient rentals of less than 60 days. She stated that the preemption still existed and vacation rentals could be

regulated, except for the frequency and duration, but the City could put in other regulations such as the options provided in the memo. She opined that if vacation rentals were allowed, it would have to be citywide.

Comments/requests summary:

1. Vice Mayor Amoroso said that if the City allowed short term rentals then those already operating one would be grandfathered in. He inquired if a moratorium could be enacted until the Commission learned how many short terms rentals were in operation and some rules and regulations could be crafted.

City Attorney Goddeau responded that a moratorium could not be done and the time frame the City was under was whether or not someone would sue the City. She explained that a moratorium would not be appropriate and in order to be legally operating, in PBC as a vacation rental, a state license, county registration and payment of the tourist development tax were required.

Vice Mayor Amoroso asked if the City could prevent the operation of those not meeting the criteria and if sales tax was being paid.

City Attorney Goddeau stated that if the City allowed vacation rentals, regulations would be put in place with them having to at least meet the three criteria and additional regulations could be imposed for life safety measures. She said that she would have to research any tax implications.

Mr. Waters iterated that short term rentals do not appear in the City's business tax schedule which has not be allowed to be revised since the 1990s. He said that they could be classified as single family rentals which would generate more income then a hotel/motel classification. He stated that the City could not create a sales tax just on vacation rentals.

2. Mayor Triolo asked what short term rentals paid the City.

City Attorney Goddeau answered that they would have to pay a registration and type of administrative fee for a business license.

Discussion ensued regarding a residential versus commercial classification of vacation rentals and the requirements of bringing properties up to current code with use and occupancy inspections.

Vice Mayor Amoroso suggested looking at the chronic nuisance cases.

Mayor Triolo said that there were good owners, but if they were not present, the renters could abuse the rules. She stated that rules needed to be put in place because there were properties throughout the City where parties were being held and regulations not being enforced. She opined that the City should get a benefit from the businesses and the owners should step up and take care of their properties.

City Manager Bornstein reminded the commission that the issue had been forced on the City because of the preemption created by the State, another example of going

around Home Rule. He stated that it had been an evolution and the memo contained best practices implemented by other cities.

City Attorney Goddeau stated that having insurance or a waiver of liability for the City, platform advertisements could be required with a business tax application. She said that the City could consider reduced regulations if the owner resided on the property. She said that the difficulty was trying to balance the making the regulations a deterrent to everyone who wanted to have a vacation rental and having regulations to have good vacation rentals that would not cause problems.

Vice Mayor Amoroso reported that local legislation and home rule for AirBnbs were on the list of local initiatives with the PBC League of Cities.

3. Commissioner Maxwell iterated that his understanding was that there would be a joint work session with AirBnB operators to learn more about real world situations and how they policed themselves. He expressed disappointment that the step had been skipped because the commission had a list of proposed regulations which all came down to code enforcement. He asked where the discussion would lead and opined that it would be necessary to get the AirBnB operators before the commission to work together.
4. Mayor Triolo asked City Manager Bornstein if the City had reached out to the operators.

City Manager Bornstein responded that he and City Attorney Torcivia had met with operators and residents years ago and Mr. Waters and City Attorney Goddeau had spoken with people who desired to be able to operate short term rentals. He suggested that there could be another work session or the City could do survey work with the residents and business owners; the current City code as it existed, would either need to be pursued or retracted and the City would move forward with the recommended lists. He said that if the commission needed more information and input, there could be a zoom meeting.

Commissioner Maxwell said that there would be a meeting with the commission and AirBnB to glean information to make a logical decision; it had to be done right which could involve additional work sessions.

City Clerk Andrea read the comment submitted by the following:

Tammy Panza wrote that public meetings should be held in public where people would have actual responses.

5. Commissioner Robinson requested another work session in January with information about how other cities were operating and including anyone who wished to participate because a decision needed to be made.

Mayor Triolo stated that the direction was to have another work session in January to include all interested parties.

The meeting recessed at 7:29 PM and reconvened at 7:43 PM.

B. Ballot Questions Discussion

City Manager Bornstein stated that issues had arisen over the past year that raised the issue of whether or not to consider putting items on the ballot for the voters to decide to amend the City's Charter. He said that several issues had been passed successfully in recent years and that the commission had mentioned some issues to consider. He iterated that there could be discussion to see if any idea would move forward and be brought back in a formal ordinance format for the Supervisor of Elections to place on the ballot in March. He announced that the issues would not have to be on the March ballot but could go on a list for another round at another election. He read the list which included:

- Term Limits for elected officials
- Resign to Run restrictions or filing to run again
- Clarifying the practice of Declarations of Emergency by Mayor and City Manager
- Adding a timeframe or guidance for filling a commission vacancy
- Residency requirement for Utility Director (not in the Charter, so could be changed by ordinance)

Comments/requests summary:

1. Vice Mayor Amoroso stated that he had heard about all of the items on the list from residents. He asked if the intent was to have staff bring the issues back to the commission. He recommended term limits of two three-year terms in any position.
2. Commissioner Maxwell suggested giving the voters a choice of no term limits, two three-year terms or three three-year terms.

City Attorney Goddeau stated that according to Florida Statutes, there would have to be an individual ordinance for each option which could create an inconsistency. She said that the residents would vote and if the measure failed, an alternative could be put on another ballot.

Commissioner Maxwell expressed indifference as to what the term would be.

3. Commissioner Robinson inquired if there was interest in a charter review committee that he had requested and if cherry picking items by individual commissioners was the most efficient way to address the issues.

Vice Mayor Amoroso said that there was an active group put together by Commissioner Robinson reviewing the charter; he had been contacted for his input but could not give it due to the Sunshine Laws.

Commissioner Robinson explained that a group of citizens, knowing his interest in the issue, had begun conversations but he was not participating.

Mayor Triolo said that she was in favor of a charter review. She said that the commission should decide if there were issues to put on the ballot or have a Charter review.

Commissioner Robinson requested that a charter review committee be set up, including some commissioners and representatives from the public, to spend two to three months reviewing the charter. He asked on which ballot the issues could be placed.

City Manager Bornstein replied that it was less costly to piggyback on a Presidential or Gubernatorial election rather than having a special election.

Vice Mayor Amoroso asked City Attorney Goddeau about setting up a charter review committee.

City Attorney Goddeau responded that typically, an officially sanctioned committee comprised of citizens would be established to do the charter review. She explained that due to the Sunshine Laws, members of the governing body would not be on the committee; the appointed members would propose recommended charter changes to the governing body which would vote on the issues to send forward in ordinance form to the ballot. She said that the committee could be established by resolution with the makeup determined by the commission and would be subject to the Sunshine Laws, notice of meetings and minutes taken. She said that the committee members could speak with the elected officials, but not amongst themselves outside of a meeting.

Mayor Triolo asked if members of the commission could speak with the committee members off the dais.

City Attorney Goddeau stated that the commissioners could speak one-on-one with committee members and tell them what they thought needed to be changed in the charter and the committee member could bring that back to the officially noticed committee meeting to discuss with the rest of the committee.

Commissioner Maxwell iterated that committee members could not tell the commissioners what other members had said. He suggested having a presentation about Sunshine Law and how it worked for all boards and committees.

City Attorney Goddeau said that the city attorneys had given a presentation to another city about Sunshine Law and public records to apprise the committee/board members of what was and was not allowed. She reported that charter review committees often had an attorney appointed to attend the meetings to answer relevant legal questions.

Vice Mayor Amoroso stated that a professional would need to be on the committee, definitely an attorney plus any other professional deemed appropriate.

Mayor Triolo asked if the commissioners wished to put any of the issues on the March ballot.

Commissioner Maxwell replied that it would be disingenuous to put anything on the ballot until after the committee had given its findings.

City Manager Bornstein stated that a resolution would be brought back to establish a charter review committee with parameters and time frames to make recommendations for the March 2022 ballot.

ADJOURNMENT:

The meeting adjourned at 8:10 PM.


Pam Triolo, Mayor

ATTEST:


Deborah M. Andrea, CMC, City Clerk

Minutes approved: January 5, 2021

