



CITY OF NORTH MIAMI BEACH
City Commission Meeting
City Hall, Commission Chambers, 2nd Floor
17011 N.E. 19th Avenue
North Miami Beach, FL. 33162

Thursday, January 28, 2021

Mayor Anthony F. DeFillipo
Vice Mayor Michael Joseph
Commissioner McKenzie Fleurimond
Commissioner Daniela Jean
Commissioner Barbara Kramer
Commissioner Fortuna Smukler
Commissioner Paule Villard

City Manager Esmond K. Scott
City Attorney Weiss Serota Helfman Cole and Bierman,
Dan Espino
City Clerk Andrise Bernard, CMC

City Commission Meeting Minutes

1. ROLL CALL OF THE CITY OFFICIALS

The Regular Commission Meeting was called to order at 6:11 p.m. Present at the meeting in the Theatre were Mayor Anthony F. DeFillipo, Commissioner Fortuna Smukler, and Commissioner Paule Villard. Present at the meeting via zoom were Vice Mayor Michael Joseph, Commissioner McKenzie Fleurimond, Commissioner Daniela Jean, and Commissioner Barbara Kramer. City Manager Esmond Scott, City Attorney Dan Espino, and City Clerk Andrise Bernard were also present.

2. INVOCATION

Mayor DeFillipo led the Commission in reflection and a moment of silence for the lives of those lost due to COVID-19 as well as sympathy to the family and the residents of Washington Park upon Gail Dixon Johnson's passing.

3. PLEDGE OF ALLEGIANCE was led by the Mayor and Commission.

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO THE AGENDA

City Clerk Andrise Bernard announced the following changes to the agenda:

- a. Per the request of City Manager Scott, Item 17.2 NMB Water Transition Report is to be moved from the City Manager's Report to Presentations as Item 5.2.
- b. Per the request of City Manager Scott, Item 10.2 entitled "Resolution No. R2021-16 Agreement to Rent Vehicles from Enterprise Leasing Company (Van & Truck Rental) for NMB Water Transition" is to be added to the Water Utility Transition Consent Agenda.

- c. Due to a request from the applicant for a deferral, Quasi-Judicial Item 11.1 entitled “Resolution No. R2021-11 Approving Site Plan and Conditional Use for Trulieve MMD” is deferred to a future City Commission Meeting.
- d. Due to the lack of an in-person quorum at the meeting, the second and final readings of Legislation Items 12.1, entitled “Ordinance No. 2020-10 Mixed Use Phase II Comprehensive Plan Amendments”, and 12.2, entitled “Ordinance No. 2020-11 Mixed Use Phase II Zoning Text Amendments / Rezoning” are deferred to the February 16, 2021 Regular City Commission Meeting.

Motion to approve the amended agenda made by Commissioner Kramer, and seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

Commissioner Kramer requested a discussion and Resolution on having a full, in person quorum so that legislation items can proceed in the future. Mayor DeFillipo asked for a legal opinion and to be briefed at the next meeting on how the City’s business can occur without a full in person quorum and asked for the City Attorney’s Office and City Clerk’s Office to investigate the matter.

County Commissioner Sally Heyman provided a brief update to the Mayor and Commission. She thanked the City of North Miami Beach for assisting residents during the COVID-19 pandemic by turning the old Costco building into a testing site, and for helping with so many food distributions; Joint efforts with the County include paving efforts, where the County pays for the work and the City does the work faster than the County is able to do; The City is one of several municipal jurisdictions suing the Federal Aviation Association (FAA) over the changed air flight pattern; CARES Act funding received from the County can be used through September 2021; vaccines are being distributed by the governor at facilities such as Jackson Memorial Hospital; she will wait in line using the same process the public uses in order to receive her shot; she declined the 100 shots she was offered to have them instead distributed medically; she reminded the public to wear their masks; and she announced that Mom & Pop Small Business Grants for District 4 up to \$5,000 are available with a deadline of February 19, 2021 through her office.

5. PRESENTATIONS / DISCUSSIONS

5.1. Strategic Plan Update (Esmond K. Scott, City Manager)

A status update on the Policy Agenda and Major Goals included in the 2019-2020 Strategic Plan.

City Manager Scott introduced Assistant Manager McHugh who provided a Strategic Plan Update to the Mayor and Commission. Vice Mayor Joseph asked if the agenda items can be voted on due to the lack of having an in-person quorum at the meeting. Assistant City Attorney Woods responded that the other agenda items can be voted upon. City Manager Scott will also meet with Commissioner Jean to review the strategic plan.

5.2 NMB Water Transition Report

City Manager Esmond Scott provided an update to the Commission. Carrollo Group representative Juan Oquendo reviewed the actions taken since the last City Commission Meeting with a presentation. Francisco Rios, Human Resources Director, also provided a Human Resources hiring update. City Manager Scott shared

that the City has literally written a “white paper” on this huge transition, and he is very proud of this accomplishment.

Commissioner Villard asked how many employees left from Jacobs employment and returned to working for the City. Mr. Rios will provide the requested information to the Commission. Commissioner Fleurimond congratulated the City Manager and staff on the great job done and hard work to have a timely transition of the water plant back to the City. Mayor DeFillipo echoed those sentiments.

6. PUBLIC COMMENT

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC COMMENT**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Mubarak Kazan

The meeting was closed for **PUBLIC COMMENT**.

7. ANNOUNCEMENTS

Aja Dorsainvil, Marketing Specialist, announced recent and upcoming City events to the Mayor and Commission: January 29, 2021 COVID relief food drive distribution; NMB Library Literacy Fair Sunday, January 31, 2021 from 2 to 5 p.m.; Virtual Art Exhibit on February 1, 2021 at 5 p.m.; President’s Day Poetry Contest with a submission deadline of February 5, 2021; and the MLK in the Park quotes are available for viewing throughout Black History Month.

Commissioner Kramer asked the City Manager to correct what was communicated about Kessler Consulting during public comment as she stated that the comment was not correct. City Manager Scott responded that Kessler Consulting Inc. was not involved in any rate negotiations with the City, did an assessment of the solid waste department, but did not suggest outsourcing. City Manager Scott will share that report with the Commission.

8. CITY COMMISSION REPORTS

Commissioner Fleurimond sent his sympathy to the family of Gail Dixon Johnson upon her passing. He urged everyone to participate in the Black History Month events and thanked Commissioner Kramer and the Multi-Cultural Committee for their efforts in the zoom Holocaust Survivors’ event.

Commissioner Jean sent her sympathy to the family of Gail Dixon Johnson upon her passing. She thanked the Multi-Cultural Committee for the Holocaust Survivors’ insightful presentation. She announced that FPL (Florida Power & Light) has amazing incentive programs for residents and small businesses, and asked staff to research these programs that could benefit the community; announced the Mom & Pop Small Business Grants available through County Commissioner Heyman’s and County Commissioner Monestime’s Offices; and invited the public to attend the Black History Month events.

Commissioner Kramer sent her sympathy to the family of Gail Dixon Johnson upon her passing. She announced the Multi-Cultural Committee Black History Month musical celebration of African influence in America event on February 18, 2021 at 7 p.m. via zoom; shared that the Multi-Cultural Committee’s purpose is to engage the community in learning about diversity, and the contributions, differences, and similarities of

our many different races and ethnicities; and announced Florida Jewish History Month and that a moving Holocaust survivor's event occurred on January 27, 2021.

Commissioner Smukler sent her sympathy to the family of Gail Dixon Johnson upon her passing. She thanked the library for their event today on the history of Jews in Florida; announced the library Literacy Fair that will occur on Sunday, January 31, 2021 from 2 to 5 p.m. both in person and on zoom; and thanked the Police Department for always ensuring that the residents and businesses are kept safe.

Commissioner Villard sent her sympathy to the family and the residents of Washington Park upon Gail Dixon Johnson's passing and she encouraged the public to participate in the Black History Month events posted on the calendar.

Vice Mayor Joseph sent his sympathy to the family and the residents of Washington Park upon Gail Dixon Johnson's passing; was sorry that he missed the library event on the history of Jews in Florida; feels that Arthur Godfrey Road should have a name change; wished everyone peace and love; and reminded the public to wear masks and stay safe.

Mayor DeFillipo reminded residents to call the City for free masks if needed, and that masks will also be provided during the food distribution event on January 28, 2021 starting at 10 a.m. He sent his sympathy to the family of Gail Dixon Johnson from the Voter's Council upon her passing; and shared that the County Mom and Pops Small Business Grants are from two different Districts which have two different deadline dates.

9. CONSENT AGENDA

9.1. Resolution No. R2021-14 Approving an Amendment to KCI Agreement (Sharon Ragoonan, Assistant City Manager)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING A CHANGE ORDER TO THE AGREEMENT BETWEEN THE CITY OF NORTH MIAMI BEACH AND KESSLER CONSULTING INC., TO PROVIDE CONTINUING TECHNICAL ASSISTANCE TO THE CITY, PERTAINING TO THE CITY'S SOLID WASTE COLLECTION PROGRAM; AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER #3 AND TO EXPEND BUDGETED FUNDS, IN FURTHERANCE THEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve the Consent Agenda made by Commissioner Kramer, and seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

10. WATER UTILITY TRANSITION CONSENT AGENDA

10.1. Resolution No. R2021-15 Approving an Amendment to Carollo Agreement – Implementation Assistance with the Transition Plan Activities (Jafeth Baez, P.E., MSCE, Director of NMB Water)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS FOR TRANSITION IMPLEMENTATION SERVICES; AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT AND TO EXPEND BUDGETED FUNDS IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

10.2 Resolution No. R2021-16 Agreement to Rent Vehicles from Enterprise Leasing Company (Van & Truck Rental) for NMB Water Transition (Jafeth Baez, P.E., MSCE, Director of NMB Water)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE AN AGREEMENT WITH ENTERPRISE LEASING COMPANY FOR THE RENTAL OF FIVE (5) TRUCKS AND SIX (6) VANS AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXPEND THE BUDGETED, ESTIMATED EXPENDITURE OF \$98,437.50 AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve the Water Utility Transition Consent Agenda as amended made by Commissioner Kramer, and seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

11. QUASI-JUDICIAL

11.1. Resolution No. R2021-11 Approving Site Plan and Conditional Use for Trulieve MMD (Justin Proffitt, AICP, Director of Community Development)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING THE SITE PLAN AMENDMENT AND CONDITIONAL USE REQUESTS, SUBMITTED BY TRULIEVE INC., FOR THE OPERATION OF A MEDICAL MARIJUANA DISPENSARY WITHIN AN EXISTING 6,047 SQUARE FOOT BUILDING FOR PROPERTY LOCATED AT 17450 BISCAYNE BOULEVARD, AS LEGALLY DESCRIBED IN EXHIBIT “A;” PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Due to a request from the applicant for a deferral, Quasi-Judicial Item 11.1 entitled “Resolution No. R2021-11 Approving Site Plan and Conditional Use for Trulieve MMD” was deferred to a future Commission Meeting.

12. LEGISLATION

12.1. Ordinance No. 2020-10 (Second and Final Reading) - Mixed Use Phase II Comprehensive Plan Amendments (Justin Proffitt, AICP, Community Development Director)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING THE CITY’S COMPREHENSIVE PLAN INCLUDING THE FUTURE LAND USE MAP, TEXT CHANGES TO THE FUTURE LAND USE; TO AMEND THE MIXED-USE NEIGHBORHOOD CENTER (MU/NC), TO PROVIDE FOR THE MIXED USE INTERNATIONAL BOULEVARD DISTRICT WEST (MU/IB-W), THE MIXED USE INTERNATIONAL BOULEVARD EAST DISTRICT (MU/IB-E) DISTRICTS; TO DELETE THE “MIXED USE: BUSINESS AND/OR RESIDENTIAL USE” FUTURE LAND USE CATEGORY; AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE DESIGNATION OF CERTAIN PROPERTY (AS PROVIDED FOR IN THE ATTACHED (EXHIBIT 1 AND EXHIBIT 2); AUTHORIZING TRANSMITTAL OF THESE ADOPTED AMENDMENTS TO THE AGENCIES REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Due to not having an in-person quorum at the meeting, the second and final readings of Legislation Items 12.1, entitled “Ordinance No. 2020-10 Mixed Use Phase II Comprehensive Plan Amendments”, and 12.2, entitled “Ordinance No. 2020-11 Mixed Use Phase II Zoning Text Amendments / Rezoning” was deferred to the February 16, 2021 Regular City Commission Meeting.

12.2. Ordinance No. 2020-11 (Second and Final Reading) - Mixed Use Phase II Zoning Text Amendments / Rezoning (Justin Proffitt, AICP, Community Development Director)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE ZONING AND LAND DEVELOPMENT CODE OF THE NORTH MIAMI BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER XXIV “NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE” ARTICLE V “ZONING USE DISTRICTS”; CREATING SECTION 24-58.8 TO ESTABLISH AND INCLUDE REGULATIONS FOR THE “MIXED-USE INTERNATIONAL BOULEVARD DISTRICT – WEST” AND “MIXED-USE INTERNATIONAL BOULEVARD DISTRICT – EAST”; AMENDING SECTION 24-58.3 TO EXPAND AND ESTABLISH REGULATIONS FOR “MIXED USE NEIGHBORHOOD CENTER DISTRICT (MU/NC)”; PROVIDING FOR DISTRICT REGULATIONS AND SUB AREA REGULATING PLANS, STREET NETWORK CONNECTIVITY REGULATING PLANS, DESIGNATED PUBLIC OPEN SPACES AND GREENWAY SYSTEMS REGULATING PLANS, AND BUILDING HEIGHT REGULATING PLANS FOR EACH MIXED USE DISTRICT; AMENDING THE OFFICIAL ZONING MAP, REFERENCED IN SECTION 24-31 OF THE NORTH MIAMI BEACH CODE OF ORDINANCES, TO RE-ZONE CERTAIN PROPERTY AND APPLY THE EXPANDED MIXED-USE DESIGNATIONS TO THOSE CERTAIN PROPERTIES (AS PROVIDED FOR IN THE ATTACHED EXHIBIT “A”); WHICH REPRESENTS AN AREA GREATER THAN FIVE (5%) OF THE TOTAL AREA OF THE CITY OF NORTH MIAMI BEACH; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

Due to not having an in-person quorum at the meeting, the second and final readings of Legislation Items 12.1, entitled “Ordinance No. 2020-10 Mixed Use Phase II Comprehensive Plan Amendments”, and 12.2, entitled “Ordinance No. 2020-11 Mixed Use Phase II Zoning Text Amendments / Rezoning” was deferred to the February 16, 2021 Regular City Commission Meeting.

13. BUSINESS TAX RECEIPTS - None

14. APPOINTMENTS

14.1. Appointing Daniel Heisler to the Planning and Zoning Board (Andrise Bernard, CMC, City Clerk)

Commissioner Fortuna Smukler's appointment.

Motion to **approve** the appointment of Daniel Heisler to the Planning and Zoning Board made by Commissioner Smukler, and seconded by Commissioner Kramer.

Voice Vote

MOTION PASSED 7-0.

14.2. Reappointing Richard Weiner to the Public Utilities Commission (Andrise Bernard, CMC, City Clerk)

Commissioner Daniela Jean's appointment

Motion to **approve** the reappointment of Richard Weiner to the Public Utilities Commission made by Commissioner Jean, and seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

15. MISCELLANEOUS ITEMS - None

16. DISCUSSION ITEMS

16.1. Reference to Charter Officials (Commissioner Paule Villard)

Commissioner Villard stated her concerns on how the City is moving forward, and that she is receiving questions and calls from residents who are unhappy with the Charter Officers. She is unhappy with the way that the City dealt with the trolley, asked if the Charter Officers are really working for the City and to making this the greatest City ever. She doesn't think that the City is working effectively, that the City is always having problems, along with paying for many expensive consultants, and yet the City doesn't have funds to help the residents.

Commissioner Kramer stated that she would like to see a future Resolution so that discussion items placed onto the agenda are fully defined so that Commissioners can be prepared. She doesn't understand where the trolley issue has any impact, as the City should always seek the best vendor available; she feels that there are many moving parts to City operations, such as what occurs during negotiations and in meetings; she was a part of the Commission that voted to outsource both the water and sanitation departments when there were no consultants provided to advise the Commission, and if there had been consultants, that perhaps the City wouldn't have gotten into some later problems; she shared that the City Manager succeeded in timely bringing the water department inhouse, which placed other projects on the back burner; and as the Multi-Cultural Committee liaison, she doesn't know anything about the Black History Month events as they aren't posted on the calendar.

Mayor DeFillipo stated that the trolley decision was made when the City had one Commission seated followed by a new Commission later being seated, having the item heard several times, and that staff should not be blamed for any Commission decisions with votes going back and forth; he feels that if staff and the City Manager have a concern about a Commission decision, that staff and the City Manager should voice it, and Mayor DeFillipo shared that City Manager Scott found funds for two new trolleys to the Uleta area; Mayor DeFillipo has not received calls from unhappy residents, but he does see copy and pasted emails from mostly non-residents who have not even used the trolley service. He doesn't have too many issues with the Charter officers, but thinks that each department should be analyzed; that the City is doing everything to help City businesses and residents, but that there is a limit that is not staff's fault; that the City gave funds to the Chamber; that the City is not an entitlement City so there are no extra funds to give to businesses; that it would be fiscally irresponsible to put the City in the red; that the City used bulletin boards to inform businesses when CARES Act funds were available; that the City made enormous efforts with Census outreach for the residents to get counted that would help to increase the City budget; that CRA funds need to be used appropriately; that great

development and opportunity is happening in the City with forward thinking, and not by looking at past problems. He feels that the City Manager has stabilized the City and has done a phenomenal job, and Mayor DeFillipo asked the Commission to come together to conduct City business.

Commissioner Jean stated that she wants to give everyone the benefit of the doubt and is learning as she goes, as well as bringing in the government experience she has. She has expressed resident concerns she has heard to City management, and has had to beg to get clarity and see progress on some issues; she affirms staff efforts to provide excellent services, wants to see continued services for businesses, seniors, and youth with more initiatives progressively and assertively, and feels that residents want more. She asks the City to be more innovative to implement programs that benefit the community. She is concerned when she hears about six FPL programs that the City is not tapping into, or County loans and grants about which the City didn't know. She respects the staff professionalism but thinks there is more that can be done.

Commissioner Smukler stated that she is astonished that the Commission receives emails from people who don't live in North Miami Beach, have probably never been on the City trolley, and yet Commissioners "jump" over the issue; whereas, hundreds of emails and phone calls are received, and hundreds of residents are in a zoom meeting about the Intercoastal Mall, who did not receive the same care. She is the liaison to the Library Advisory Board, and she is not aware of any events the library is doing for Black History Month but would like to be informed about them. She stated that she had asked the City Attorney for a monthly legal expense report, and some were received, but not all of them.

Commissioner Fleurimond stated that there are a lot of opportunities that are being missed, that the City can be more forward thinking, is concerned that the City hasn't had the critical position of a CRA (Community Redevelopment Agency) Director for over one year and that the CRA should be expanded, and he wants more of a boutique, personal experience when it comes to the legal department, that requested monthly reports haven't been received, and that a big corporation service is being received. He shared that the City of Tamarac recently decided that they would hire an interim boutique law firm that he'd also like to consider, headed by Hans Ottinot, former Sunny Isles City Attorney, who has experience in development that the City needs.

Vice Mayor Joseph stated that he has the same concerns as the other Commissioners. He is concerned about the costs for the Charter Officers, and he has yet to see the requested monthly legal expense reports. On the managerial side, he knows that the City spends a lot on consultants, and that those funds could be used for residents and small businesses; that the City hasn't had a CRA Director in over one year and that businesses are suffering; he doesn't see the City taking the initiative to take care of our own, and doesn't think that sending residents to the County or Federal government is a satisfactory or sufficient response.

Mayor DeFillipo stated that he thinks that Mr. Ottinot represents a stakeholder in the community, and that bringing him on could be a conflict of interest. He requested having a workshop to identify the specifics of what the Commission wants, that Weiss Serota's law firm is one of the best, and that he would like a fair assessment of every department and not just the Charter Officers.

Commissioner Villard stated that she was talking about an overall concern with the trolley as one example which made the Commission look as though they didn't know what they were doing; that the Commission had asked for a termination clause in the WastePro contract which didn't occur; that the Commission is not being

fiscally responsible by having so many consultants while not being able to help the taxpayers with their needs during COVID-19; that she would have liked the opportunity to provide gift cards to residents with the CARES Act funds; that each Commissioner meets with different residents; in 2018, she felt that the Mayor wanted to dismiss the City Manager and City Attorney, which was his prerogative; that she has not been happy with some of the responses that have been received from the Charter Officers; she feels the City doesn't have the right people for the job and that the City could be doing more; she doesn't think the City is being well represented and that funds are not being spent the right way.

Mayor DeFillipo stated that he had spoken about the City Attorney's Office in 2018 and not the City Manager. He again requested having a workshop to identify the expectations of what the Commission wants, especially since there is a new Commissioner.

Commissioner Fleurimond stated that the Weiss Serota contract as City Attorney was month-to-month, that Mr. Ottinot's firm has experience in Sunny Isles with many of the same people with whom the City deals, if he would accept an offer.

MOTION to extend an offer to Attorney Hans Ottinot as the interim City Attorney along the same terms as the current City Attorney, while the City searches for a new firm, made by Commissioner Fleurimond, and seconded by Commissioner Villard.

Mayor DeFillipo asked the City Attorney if Mr. Ottinot has a conflict of interest if he represents a stakeholder, stated that he thinks that Mr. Ottinot represents a stakeholder in the community, and that bringing him on could be a conflict of interest. Mayor DeFillipo requested having a workshop to identify the specifics of what the Commission wants, that Weiss Serota's legal firm is one of the best, and that he would like a fair assessment of every City department.

Commissioner Kramer stated that she would like to hold a workshop; doesn't feel that the discussion is healthy nor good government; that it would be irresponsible for the Commission to choose an attorney without providing any of his credentials and that such a decision requires research.

Commissioner Jean asked about the Mayor's statement about a possible conflict of interest and the rate of pay for the current firm. City Attorney Dan Espino responded that Weiss Serota charges \$55,000 per month for a core team of services with multiple attorneys, excluding litigation and labor negotiations. Commissioner Jean stated that she had a recent situation where she was unsatisfied with both the City Clerk's Office and the City Attorney's Office in their handling of an incident, and she has come across so many instances where she was left shaking her head, and she had a simple issue that was delayed in its delivery. She wants to be fiscally responsible and wants to know how those funds are benefiting the City.

Commissioner Kramer stated that the Weiss Serota charges are well within the budget of the City Attorney's Department, and that amount was spent when the City had an in-house attorney, so nothing changed; it helps the City not to go outside the firm for legal consultants due to the firm's large staff and specialized legal areas; a boutique law firm doesn't come cheap, and they will need a ton of consultants, and she asked Commissioner Jean what question response was delayed, and that sometimes there are much more pressing matters in the

City. Commissioner Kramer stated that consultants are needed to provide professional advice, and that it has nothing to do with also helping the residents.

City Attorney Espino shared that despite joining a City during March of 2020 during COVID-19 that the firm did not miss a beat, despite dealing with a myriad of issues, notwithstanding the water plant transition. He welcomes a discussion setting clearer expectation of their office, that their team is available anytime for questions, and feels that stability is important to the City to meet the Commission objectives.

Commissioner Villard stated that everyone sees things differently, that the law firm's contract is month-to-month, that the Commission may be able to get more value by trying something new, and that perhaps Mr. Ottinot does not have a conflict of interest.

Commissioner Smukler stated that she doesn't know the proposed attorney, doesn't know how the Commission can hire someone who the Commission doesn't know, nor what type of legal work he does, nor seen his resume, nor know his charges.

Commissioner Jean asked about the City Attorney's legal fees and past reports. City Attorney Espino responded that the City's legal fees used to be higher, that the Weiss Serota team provides more value for a lower price, that small litigation matters are handled, and that it costs less now that it had in the past, doing more work for the City, than has ever been done at any one time in the past. He can bring back the reports to the Commission but thought that they were repetitive and not representative of the work being done, and that a City should have as many resources available to it as possible.

Commissioner Kramer stated that she is concerned that the name of a proposed City Attorney is coming forward at the same time as discussing releasing the existing law firm, and she is concerned if conversations occurred outside of the meeting. She feels that Weiss Serota needs to remain in place should the Commission want to hire a new City Attorney and discuss options at a workshop, rather than putting a new City Attorney into the position immediately.

Commissioner Villard responded how she knew about the Black History Month events, and she doesn't like to hear accusations about others when the person is not present to defend themselves.

Commissioner Fleurimond stated that his suggestion is to open a search for a City Attorney, but in the interim, to hire Mr. Ottinot, to make an offer similar to the current contract, to not pay any more than the City is currently paying, and Commissioner Fleurimond knows Mr. Ottinot's work to be professional and revered in the industry.

Commissioner Smukler stated that she is concerned that an offer is going to an attorney who doesn't even know that they are being considered for the position. City Attorney Espino shared that Weiss Serota has a duty to represent the City until new counsel is hired.

Commissioner Kramer asked Commissioner Fleurimond why he thinks that Mr. Ottinot wants the position, if Commissioner Fleurimond had asked Mr. Ottinot if he was interested in the job and asked for Mr. Ottinot's staff names.

Mayor DeFillipo stated that in 2018 that there had been changes made when a new Commission came on board, doesn't think it is appropriate to name one person who doesn't have the necessary background into the City's issues, that a workshop should occur to follow the proper process, and that this discussion is not the best practice of government.

Vice Mayor Joseph called the question.

Roll Call Vote

Fleurimond - Yes, Jean – Yes, Kramer – No, Smukler – No, Villard – Yes, Joseph – Yes, DeFillipo – No.

MOTION PASSED 4-3. Commissioners Kramer and Smukler and Mayor DeFillipo voted no.

City Attorney Dan Espino shared that Weiss Serota will continue to provide services for the City and will transition the general retainer items to the new firm and retain representation for the litigation items.

Motion to fire the City Manager made by Commissioner Villard, and seconded by Vice Mayor Joseph.

Mayor DeFillipo asked City Attorney Espino about allowing public comments on this discussion item. City Attorney Espino responded that public comment is not required under this item unless it is desired by the Commission.

Motion to not allow public comment made by Commissioner Villard, seconded by Vice Mayor Joseph.

Voice Vote

MOTION FAILED 2-5.

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC COMMENT**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Stephanie Kienzle
2. Saundra Douglas (spoke twice)
3. Trisha Harris (spoke twice)
4. Antonio Ortega
5. Mubarak Kazan (spoke twice)
6. Ketley Joachim (spoke twice)
7. Jeffrey Mischon (spoke twice)
8. Claudia Gallegos
9. Jeremy Hamilton
10. Chief Bill Hernandez
11. Natasha Allenger

The meeting was closed for **PUBLIC COMMENT**.

Commissioner Fleurimond stated that he recalled about one year ago that many Commissioners on the dais already knew that they wanted to hire Weiss Serota to be the City Attorney, and already knew that the former City Attorney would be hired by Weiss Serota, all done with no comments made about any possible Sunshine Law violations. He also recalled that about two years ago, that both the City Attorney and the City Manager were fired at the same meeting. Concerning the City Manager's position, even with the City Manager's immense experience and accomplishment of taking the water plant back, Commissioner Fleurimond stated that there is always be room for improvement, and that he is still waiting to see things that he had previously requested. He also feels that the management team should be held accountable for the accuracy of information distributed, such as the projected costs of taking back the water plant, and he also cited other examples of his concerns and areas needing improvement.

Mayor DeFillipo stepped down as Chair in order to make a motion.

Motion to table the item made by Mayor DeFillipo, seconded by Commissioner Kramer.

Mayor DeFillipo resumed Chairing the meeting.

Commissioner Fleurimond stated that the issue has been come up previously, and he suggested that the City Manager hold one-on-one meetings with each Commissioner about any concerns.

Roll Call Vote

Jean – Yes, Kramer – Yes, Smukler – Yes, Villard – No, Fleurimond – Yes, Joseph - Yes, DeFillipo – Yes.

MOTION PASSED 6-1.

16.2. CARES Act Funding

Discussions on the Federal Coronavirus Aid, Relief, and Economic Security (Cares) Act appropriations made by the City to businesses and discussions on potentially appropriating additional funds towards the business program.

City Manager Scott introduced Assistant City Manager McHugh who provided the guidelines that the City used on the CARES Act appropriations and the City steps taken to date. Mayor DeFillipo asked the City Manager that if more CARES Act funds are received, if the City can partner with the County to provide vaccines for City residents 65 years old and above, and to explore outreach options to communities such as in Washington Park and Uleta Park. City Manager Scott shared that he and staff have been working on trying to provide vaccines for residents since they first became available. Assistant City Manager McHugh shared that staff have reached out to the County Department of Health and to the State, to be a possible vaccination site for this portion of the County, and that communications are continuing.

17. CITY MANAGER'S REPORT

17.1. Development Project Update (No Presentation)

City Manager Scott introduced Assistant City Manager McHugh who provided the development project update to the Commission as requested.

18. CITY ATTORNEY'S REPORT – None

19. MAYOR'S DISCUSSION

Mayor DeFillipo stated that he hopes and prays that the Commission can come together, setting aside differences, to do what's right for the greater good of the residents. He was ashamed and appalled at what occurred at tonight's meeting. He's never seen such an abrupt action taken with coincidental collaboration, and an attempt to stop public comment on an item, and he will investigate the matter further. He feels that the City has a City Manager who cares, with a tenure of more than 30 years, and knows the City like the back of his hand. He hopes that Weiss Serota complains about what was done tonight. He's shocked by the action taken by some Commission members and stated that change can occur in the future.

20. CITY COMMISSION REPORTS

Commissioner Fleurimond stated that Weiss Serota is still the City Attorney until Hans Ottinot accepts the City offer or not, and Commissioner Fleurimond looks forward to meeting with the City Manager and appreciates what the City Manager has contributed to the City.

Commissioner Jean thanked those residents who tuned in to the meeting, encouraged continued public participation, stated that the Commission is here to serve the community, that she has an open door for anyone who has questions or concerns, and that she wants for everyone to stay safe.

Commissioner Kramer stated that City Manager Scott is the most honest, hard-working, dedicated manager that she has ever experienced. She shared that when the Commission hired Weiss Serota, the Commission knew that the former City Attorney was leaving, and then Weiss Serota hired her, and that Weiss Serota was already registered and lobbying the City prior to being hired. She is sorry for what the Commission put the residents through at the meeting tonight.

Commissioner Smukler stated that she recalled when she first came on to the Commission, that the removal of the City Manager and City Attorney were placed onto the agenda with written notice, and she thinks that written notice needs to be given for removal of Charter Officers. She is disappointed that the Commission didn't get to interview Mr. Ottinot, she doesn't know anything about him, such as if he's a member of the Municipal Attorney's Association, that Commissioner's recommended him without knowing his fee, and feels that the City Attorney position should go out to bid. She shared that as the Library liaison, that not one other Commissioner attended an amazing fashion show event that occurred last year celebrating Black History month, and she asked to be notified about future library events.

Commissioner Villard stated that the reason she did not want residents to speak on the agenda item was because the City Attorney had advised the Commission that they didn't need to have another public comment section, and that she wasn't trying to hold back public comments. She stated that she represents the residents and wants to ensure that the residents have Commissioners representing them who have good backgrounds, with no criminal background, and who can relate to the residents.

Vice Mayor Joseph stated that he listened respectfully to the meeting conversation, that the City Attorney had advised the Commission that public comment was provided at the start of the meeting, and that Vice Mayor Joseph didn't feel that Robert's Rules of Order was followed during the meeting. He doesn't think it is productive to announce that people should come together when actions show otherwise, feels that those who cite the civility clause in the City are sometimes the same ones who are disrespecting and demeaning others, feels that independent thought is important, and that he doesn't talk down to anyone.

Mayor DeFillipo stated that he feels that the items presented by Commissioner Villard were out of order and not legally placed on the agenda, and that residents and taxpayers have the right to be heard. He clarified that although general public comment was taken at the start of the meeting, that public comment also needed to be heard later under the specific discussion item, that Commissioners need to be held accountable for their actions, and he asked the Commissioners to sit down and discuss any problems that they have with the City Manager.

21. THE NEXT REGULAR CITY COMMISSION MEETING is Tuesday, February 16, 2021 at 6:00 p.m.

22. ADJOURNMENT

There being no further business to come before the City Commission, the meeting was adjourned at 10:36 p.m.

MOTION to adjourn made by Commissioner Smukler, seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

ATTEST:

(SEAL)

Andrise Bernard, CMC, City Clerk