



**Minutes**  
**Town of Lake Park, Florida**  
**Regular Commission Meeting**  
**Wednesday, March 2, 2016, 7:02 PM**  
**Town Commission Chamber, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, March 2, 2016 at 7:02 p.m. Present were Mayor James DuBois, Vice-Mayor Kimberly Glas-Castro, Commissioners Erin Flaherty, Michael O'Rourke and Kathleen Rapoza, Town Manager John O. D'Agostino, Attorney Thomas Baird, and Town Clerk Vivian Mendez.

Mayor DuBois performed the roll call and the pledge of allegiance.

**SPECIAL PRESENTATIONS/REPORTS**

**None**

**PUBLIC COMMENT:**

**1) Gina Buntz**, 301 Lake Shore Drive – read studies conducted in other countries regarding the dangers of cell phone towers.

Town Attorney Baird addressed the Commission regarding the Quasi-Judicial item scheduled for the March 16, 2016 meeting. He stated that it would be inappropriate for the Commission to respond to any of the public comments regarding the cell tower. He explained that the risk the Commission would run in doing so would be that the applicant could allege that the Commission had made up their minds in advance of hearing the item. Again, he cautioned the Commission in regards to responding to any of the comments regarding the RG Towers agenda item.

**2) Joanne Robin**, 301 Lake Shore Drive – explained that she supports the mixed-use district along the US 1 corridor, but felt the redevelopment would not succeed if the cell tower were to be located at the Lake Park Marina. She gave three reasons as to why the real estate space could stay vacant. 1) Perception of a health hazard; 2) increase of increase lightning strikes; 3) the devalued view by the tower and cement platform of the electrical boxes and danger signs. She respectfully requested that the Commission work with RG Towers to agree on an alternate location.

**3) Curtis Lyman**, 301 Lake Shore Drive - introduced himself as the President of the Lake Tower South Condominium Owners Association and spoke on their behalf. He explained that they had secured the services of a tower expert that resides in Colorado. He explained that the expert witness was one of the fore most electrical dissipation engineers in the country and he has substantial Curriculum Vitae (CV). He explained that the expert has reviewed the Marina tower proposal and they are requesting that the Commission allow the testimony, at the Commission meeting scheduled for March 16, 2016, as a Party Intervener and an expert witness. He explained that what the expert witness has to say should be of significant interest to the Commission in its deliberation. He explained that they have requested staff permission to allow the expert to give his

testimony be telephone, being duly sworn-in prior to giving the testimony by a duly qualified Colorado Notary Republic with accordance with Florida Statue as it relates to telephonic testimony. He stated that staff has denied the request, which candidly appears to be an attempt to fork the full exploration of the merits or demerits of the placement of a tower in the Lake Park Marina. He respectfully requested that the Commission allow Mr. Ernest Duckworth, P.E., leave to give testimony at the March 16, 2016 Commission meeting telephonically and in accordance with the State Statute and being duly sworn to provide unbiased expert testimony with respect to this important issue, which presents a potential clear danger to the members of the community on public lands.

Secondly, he urged staff to take the initiative, enter into discussions with the applicant, and discuss potential alternative sites. He explained that the Planning & Zoning Board has already denied the application. He stated that the citizens are almost universally against the proposal. He stated that early discussion might well head off disputes towards significant disputes. He asked that staff take charge of the destiny of the Town and get a little creative.

Lastly, they urged the Commission to realize that the applicant was not thinking of the effects to the Town, and if the Commission does believe that, the applicant does think of the well-being of the Town, then the Commission should think again. He stated that their motive was profit. He urged the Commission to find a solution early. He stated that they believe the Town had made a potentially dreadful mistake. The Town applicant was the intermediary. He stated that the Town of Jupiter owns a tower, away from residents, and they are earning three-times the amount of rent the Town would get paid. He stated that the lease option was poorly drawn, which was unfortunate, with significant gaps because of their analysis of their attorneys. He thanked the Commission for their time.

**4) Susan Ray** 301 Lake Shore Drive - invited the Commission to her home to look out over the Marina and the millions of dollars spent to renovate it. She stated that the cell tower project was all about revenue and felt that the Commission should look beyond revenue. She felt that the nuisance Ordnances or that the majority of the residents oppose the project. She stated that the Marina was not the right location for the tower. She does not believe that the tower was a stealth tower. She stated that she was in favor of the mixed-use development zoning for US1, which would bring revenue to the Town. She explained that she visited the RG Tower site and they have 98% of the area covered. She asked the Commission if it was worth it to destroy the beautiful Marina that the tower would do nothing to enhance its looks.

**5) Claudia Wendel** 301 Lake Shore Drive – stated that the residents did not receive proper notification 1 ½ years ago, and that the first notification was by certified letter, which was received on December 22, 2015. She explained that during the holidays, the condominium association began sending emails and signed an internet email petition and out of 84 residents, within 24 hours, 44 residents signed it. She explained that during the January Sunset Celebration they asked those in attendance who knew and who did not know about the project. She stated that about 98% of those attending did not know that the tower was going in. She stated that they obtained an additional 79 signatures opposing the project during the Sunset Celebration, which was submitted to the Planning & Zoning Board. She expressed concern regarding the revenue and was in favor of the

mixed-use zoning on US1. She expressed concern with the property values and the future interest of developers not being there. She stated that a survey would be submitted before March 16, 2016 regarding how people were negatively impacted by a cell phone tower within close proximity. She said that the potential for lowered property values was included in the study. Lastly, she sent an email to each Commissioner with a case study that she urged them to review.

**6) Diane Bernhard** 301 Lake Shore Drive – suggested that the Commission hold a special call Commission meeting to hear the RG Tower project information because she felt that the Commission did not have all the facts in order to make a truly informed decision. She explained that on February 1, 2016 the Planning & Zoning Board heard the applicant. She has requested the minutes of the Board meeting and told that the Board would approve their minutes at their next meeting. Once approved, the minutes are published. She explained that the next Planning & Zoning Board meeting has been canceled, which means the minutes would not be available for the Commission’s review before the March 16, 2016 meeting. She felt it was imperative that the Commission know why the Planning & Zoning Board denied approval of the application. She quoted from the draft Planning & Zoning Board meeting minutes as follows: “the applicant is required to submit a statement of need identifying why this location is needed to serve under-utilized customers in the area. Chairperson Judith Thomas discussed the location of several towers in the general area already and stated that there is an existing tower in Lake Park that they could have used. Judith literally pointed to the map that was displayed and advised RG Towers that they were displaying the Riviera Beach map and not the Lake Park map. The Riviera Beach map indicated that there was some interruption of services. So, Judith also recommended that since it was Riviera Beach that had a problem that they should put their tower in Riviera Beach and not Lake Park. She did once again suggest that we have an existing tower that could be used, since it has already been used for that purpose. Ms. Thomas also recommended a site for the tower, the one we already have and she suggested that on Silver Beach Road, on top of the building that use to be a Winn-Dixie would be an excellent site.” Ms. Bernhard suggested to the Commission that if RG Tower did not like the tower that they could remove the existing tower and put up a new one, since it was already used for that purpose. Staff was proposing that as a condition of approval that added decorative features be placed on top of the fence would enhance its ascetics. She explained that RG Towers refused the suggestion. The Planning & Zoning Board member Martin Schneider stated that the fence would be an ugly industrial fence and did not fit in our Marina.

**7) Robert Sepolatis** 301 Lake Shore Drive – expressed concern regarding the towers installation at the Marina. He stated that he has watched as children play around the grounds at the Marina. He asked that the Marina not be dragged down with this project.

#### **CONSENT AGENDA:**

- 1. Regular Commission meeting minutes of February 17, 2016.**
- 2. Resolution No. 08-03-16 Authorizing the Mayor to Execute an Interlocal Agreement (ILA) between the Town and the School Board of Palm Beach County for Coordinated School Planning**
- 3. Resolution No. 09-03-16 Authorizing the Mayor to Execute the First Amendment to the Interlocal Agreement R-2006-0512 between Palm Beach County and the City**

**of Palm Beach Gardens, the Town of Jupiter, the Town of Mangonia Park, the Town of Lake Park, and the City of Riviera Beach creating the Bioscience Land Protection Advisory Board, Extending the Term of the Board through March 14, 2026.**

**Motion: Commissioner O'Rourke moved to approve the consent agenda; Commissioner Rapoza seconded the motion.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

**PUBLIC HEARING(S) – ORDINANCE ON FIRST READING:**

**None**

**PUBLIC HEARING(S) – ORDINANCE ON SECOND READING:**

**None**

**NEW BUSINESS:**

**4. Resolution No. 10-03-16 Authorizing the Execution of Amendment to CPZ Architects, Inc. Contract for Architectural and Engineering Services Associated with the Kelsey Park and Lake Shore Park CDBG Funded Projects.**

Town Manger D'Agostino explained the item (see Exhibit "A"). Commissioner O'Rourke questioned the out-of-pocket Town expense. Town Manager D'Agostino explained that the re-roofing out-of-pocket expense would be determined when the Town would go out for bid on that part of the project. Vice-Mayor Glas-Castro questioned the costs associated with the project for inspections. Town Manager D'Agostino explained that the cost associated with the project are only the architect's fees, not the construction cost. He stated that Palm Beach County has approved all the fees associated with the project. Commissioner Rapoza questioned certain cost associated with the contract. Town Manager D'Agostino explained that the consultant provided cost estimates and submitted to the County for approval. He stated that the Town would need to renegotiate the costs if the Commission was not satisfied. Public Works Director Dave Hunt explained the history of the grant funding and that the County had suggested combining the funding. He stated that the trash receptacles and park benches were included as part of the 2014 Community Development Block Grant (CDBG) funding. He stated that by adding the projects the consultant fees increased. He explained that the re-roofing of the Tennis Center building was not part of the funding. The consultant's direction was to find out how much it would cost to place different alternates of roofing on the building. He pointed out that the allowances indicated in the contract would only be used if they were necessary for construction to continue, should a cost for a part of the project be slightly above what was allocated as the cost. The County has approved the allowance amounts. Commissioner Rapoza asked when construction would begin. Public Works Director

Hunt explained that a strict schedule for the entire project was included in the contract. Mayor DuBois stated that he had requested additional alternatives, which the consultant charged.

**Motion: Commissioner Flaherty moved to approve Resolution No. 10-03-16; Commissioner Rapoza seconded the motion.**

Commissioner O'Rourke questioned the combination of funding and it all went out for bid. Town Manager D'Agostino explained that the County agreed to combine the funding from 2014, 2015, and 2016 so that the Town would have additional funds to do projects. He explained that the Town would still receive the funding, but it would be necessary to hire a consultant to work on the projects with staff. The consultant would assist with environmental review, and the specs of the project. Commissioner Rapoza reminded the Commission that the contractor stated that they would come before the Commission at 30 percent design completion before progressing to the next phase.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0

**5. Resolution No. 11-03-16 Authorizing the Execution of an Agreement between the Town of Lake Park and Palm Beach County for the use of \$437,555.00 in Fiscal Year 2014, 2015, 2016 CDBG Funds for Kelsey Park and Lake Shore Park Improvements.**

Town Manager D'Agostino explained the item (see Exhibit "B").

**Motion: Commissioner O'Rourke moved to approved Resolution No. 11-03-16; Vice-Mayor Glas-Castro seconded the motion.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

**TOWN ATTORNEY, TOWN MANAGER, COMMISSIONER COMMENTS:**

**Town Attorney Baird** provided a report regarding a lawsuit that was filed against the Town approximately 1 ½ years ago. The lawsuit dealt with the termination of the then Deputy Town Clerk. He stated that under the Town’s Employee Handbook it states that the Town Manager could establish an employee grievance committee to review his proposed disciplinary action. The committee would report to him as to the committee’s findings as to whether that action was appropriate or not. The grievance committee met, reviewed the facts, interviewed witnesses regarding the termination and they upheld the termination. They recommended that he uphold his decision of termination of the employee. The committee’s intent to be a peer review committee and was not a committee appointed by the Commission and only advisory in nature. Therefore, Mr. Sugerman and I were of the opinion that the grievance committee were not subject to the Sunshine Law. However, the Town has had experience with the Citizens Awareness Foundation, who filed the lawsuit alleging the violation of the Sunshine Law. He reminded the Commission of a previous lawsuit file by this organization against the Town regarding public records at the Marina, which settled. The case has moved through the course and would possibly be going to court for hearing. He explained that he plaintiff’s attorney approached him with a settlement. Both Town Manager and he rejected a settlement amount of \$6,500 to \$7,000 offered with further negotiations. Both he and the Town Manager agreed for a reasonable amount of \$2,500. He explained that to file a Motion for Summary Judgement would cost the Town more than \$2,500. He recommended that the Commission accept the settlement amount of \$2,500. If the Town decided not to move, forward and settle the case would cost considerable more. If the Town losses the case in court the Town would have to pay for plaintiff’s Attorney fees, which could total more than \$10,000. He recommended settling so the Town could receive a Release, Dismissal with Prejudice, and both parties would bear their own attorney’s fees and costs.

Commissioner O’Rourke asked if it was the same firm, which prevailed over the Town. Attorney Baird stated that in the previous case the Town was able to settle sooner in the process. In the current case, Mr. Sugerman believe that this was an issue that needed to be decided because he wanted to preserve the employee grievance committee and was unwilling to settle at the stage where we might have stopped it from proceeding further. The case progressed, which lead up to today. Mayor DuBois stated that the settlement was under \$10,000, which was under the Town Manager’s spending authority. He asked if Attorney Baird needed was a motion. Attorney Baird stated that he would not want to settle the case by himself having seen for himself what could happen when a previous Town Manager settled a suit without Commissioner Consent. He did not want the Commission to be in the same situation as the previous Town Manager.

**Motion: Commissioner Flaherty moved to settle the case at \$2,500; Commissioner Rapoza seconded the motion.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O’Rourke	X		

Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois	X		

Motion passed 5-0.

**Town Manager D'Agostino** stated that the Commission raised many questions regarding the cell tower timetable, including when the Town deemed the application complete. He stated that he has provided the information to each of the Commissioners, but wanted to discuss it with the whole Commission. He explained that the Town determined the application complete on December 23, 2015, and 90 days from December 23, 2015, was March 22, 2016. He explained that the scheduled hearing for the cell tower item was March 16, 2016. If additional information was required at the March 16, 2016 meeting, the Commission could have another meeting between March 17, 2016 and March 22, 2016. In order to call a Special Call meeting, we must provide 72-hour public notice of the meeting. If a special call meeting were necessary it would need to be either Monday, March 21, 2016 or Tuesday, March 22, 2016. He explained that they could meet on a Saturday, if necessary, as allowed by Code, but he wanted to put the information out so that the Commission could consider what the timetable would consist of. He asked the Commission to be mindful as they approach the March 16, 2016 meeting of the timetable dates.

Mayor DuBois asked for the dates again. Town Manager D'Agostino stated that the application was complete on December 23, 2015, 90 days from that date was March 22, 2016. He explained that we have a meeting scheduled for March 16, 2016 to hear the cell tower item. If the Commission needs additional information or require the applicant to respond to issues or concerns, we would need to call a special call meeting on Monday or Tuesday to stay within the March 22, 2016 timeframe. Therefore, in order for staff to post the meeting, we would need 72-hours to notice the special call meeting.

Mayor DuBois asked if the special call meeting would be called at the March 16, 2016 meeting or did the Town Manager want the Commission to call the meeting now. Town Manager D'Agostino stated that the Commission could call the special meeting now if they felt that it would be necessary or they could wait until the March 16, 2016 meeting and call the special call meeting then.

Mayor DuBois asked the Town Attorney for a recommendation. Vice-Mayor Glas-Castro stated that she was not available from March 17, 2016 through March 20, 2016. Attorney Baird stated that he would not recommend a Saturday and that he had a Council meeting in Jupiter where the new Mayor and Councilmembers be sworn-in on March 22, 2016, which was their regular meeting. He stated that the Commission could meet on March 22, 2016, but another member of his firm would be here representing the Town. Attorney Baird did not understand why the Commission could not complete the hearing on March 16, 2016 if the agenda were kept light because the Commission had 4 ½ hours.

Vice-Mayor Glas-Castro had a concern with March 16, 2016 because the agenda packet was published a week before the meeting and there was something going on that would take her attention before that and did not know that she could devote the time. She stated that they were receiving information from residents, they have filed an Intervener, and

they have staff. She asked if the Planning & Zoning meeting minutes would be available, considering they would not be meeting to approve their minutes before the March 16, 2016 Commission meeting. Mayor DuBois stated that the Planning & Zoning Board meeting minutes would be available if made part of the agenda packet.

Attorney Baird stated that the Planning & Zoning Board has already made a recommendation to the Commission to deny the application. Commissioner O'Rourke stated that the Commission should know why the Planning & Zoning Board was recommending denial. Mayor DuBois stated that staff could include the draft minutes as part of the presentation. Town Manager D'Agostino stated that staff could make the P&Z Board meeting minutes available.

Commissioner O'Rourke suggested that a special call meeting be set for March 22, 2016 and felt it was appropriate, and that it was proper to give the applicant time to understand that the meeting would be that date. Mayor DuBois suggested that the special call meeting be set for Monday, March 21, 2016.

Town Manager D'Agostino clarified that since the Planning & Zoning Board would not be meeting in March, the draft meeting minutes would be available as part of staff's presentation and the agenda packet. He stated that the Commission would have the draft minutes, which contain why the Planning & Zoning Board recommended denial.

Mayor DuBois recapped that the draft Planning & Zoning Board meeting minutes would be included with the agenda packet and they would have a special call meeting on March 21, 2016 if they could not conclude the cell tower item on March 16, 2016.

Commissioner O'Rourke agreed. Mayor DuBois verified with Attorney Baird that he would be available to attend the March 16, 2016 and March 21, 2016 Commission meetings. Attorney Baird confirmed. Mayor DuBois stated that if the special call meeting were not necessary they could cancel it.

Town Manager D'Agostino asked the Commission if they wanted to swear-in the newly elected officials at a special call meeting or wait until the April 6, 2016 meeting. He explained that they could swear-in the newly elected officials after the Palm Beach County Supervisor of Elections would provide the certified results of the election. He continued to explain that since the municipal election are combined with the Presidential Preference Primary we could not be guaranteed that the results would arrive within 4 to 8 business days after the election. He stated that if the certified election results are received before March 21, 2016, we could certify the election results and swear-in the new Commission seated. He explained that the swearing-in ceremony was scheduled for April 6, 2016.

Mayor DuBois stated that the Commission could not meet until the results of the election were certified. Town Manager D'Agostino explained that the Commission could continue to meet as the current Commission.

Attorney Baird suggested that the Commission not change the composition of the Commission in-between, with respect to the potential vote of that agenda item. He

explained that he did not believe the Commission wanted to create a potential due process issue either way. Whether it be for the applicant or for the Intervener, depending on how the vote goes because in most zoning cases, the way a government could lose a zoning case was not on competence substantial evidence, or the essential requirement of law, it was on due process.

Mayor DuBois recapped that what was being suggested was that the certified election results be on the April 6, 2016 meeting to swear-in the new Commission members and the Commission that was existing would operate until then. Town Manager D'Agostino agreed.

Attorney Baird stated that by Charter and law that would be how it would happen. Mayor DuBois stated that he had the same understanding as was stated by the Town Attorney. He stated that this would be a cause of disagreement between the Commissioners unless he could get the Commission to say that was how it was going to be. He has a least one Commissioner who was asking the new Commission to hear the RG Tower item. He stated that there was no time to do that.

Commissioner O'Rourke stated that we do not know that there was no time. The Mayor reminded everyone that there was a 90-day clock. Commissioner O'Rourke acknowledge that there was a 90-day clock, but that we did not know that the certified election results would not be in by March 21, 2016.

Mayor DuBois stated that this was where we ran into issues with the Commission because without a vote he does not have consensus.

Commissioner O'Rourke suggested that we set a special call meeting with the certified election items. If no certification were received, the items would not be heard.

Mayor DuBois suggested having a vote to have the meeting to install the new elected officials on April 6, 2016. He asked staff to verify that the certified results are scheduled for April 6, 2016. Staff agreed.

Mayor DuBois recapped that the Commission would have a regular meeting on April 6, 2016, where the certified election results would be on, the elected officials would be sworn-in, and the current Commission would continue until then. He stated that it would be the motion he would be looking for.

**Motion: Commissioner Flaherty moved to have the certified election results on the April 6<sup>th</sup> agenda and the current Commission would continue until that date.**

Motion failed for lack of a second.

Commissioner O'Rourke stated that he did not agree with this process. Mayor DuBois asked for an alternative. Commissioner O'Rourke suggested that a special call meeting be set for the installation of the Commission for the same time (March 21, 2016). If there was no certification then the Commission could address it at that time. The same members that are here today would be there that day (March 21, 2016).

Mayor DuBois recapped that what Commission O'Rourke was suggesting was to have the regular Commission meeting on March 16, 2016. Commissioner Rapoza asked if that was fair to the residents, and to those that may not be available to attend on March 21, 2016 meeting.

Mayor DuBois asked what the difference was. He recapped once again; the current Commission would attend the March 16, 2016 meeting and whatever business were on the agenda heard. If the Commission does not like the outcome of that meeting, the items moved to the March 21, 2016 meeting agenda. He felt that it was not fair to the applicant.

Vice-Mayor Glas-Castro asked if Commissioner O'Rourke was suggesting that the cell tower item not be heard on March 16, 2016 and the hearing continued to March 21, 2016. Commissioner O'Rourke agreed. He stated that the Commission had just agreed to a special call meeting for the hearing on March 21, 2016. He suggested that prior to the special call meeting for...

Mayor DuBois explained that what the Town Attorney has suggested was that Town's that are sued for applications that failed are sued on the basis of due process not the meeting itself. He stated that what Commission O'Rourke was suggesting was to change the due process.

Attorney Baird stated that he was not clear as to what the Commission was suggesting to do. He stated that what the Commission needs to do was to set the hearing and complete the hearing regarding RG Towers by March 21, 2016. He stated that the Commission could set the hearing for March 16, 2016 and if the Commission needs more time they could continue the hearing to March 21, 2016. Or, they could have a special call meeting on March 21, 2016 in which they could consider the RG Towers application that night, and they could also consider, if they have the certification of the election results in, they could certify the election results on March 21, 2016 and seat the new Commissioners. He stated that his council to the Commission has been that it would be in his legal perspective preferable, especially if they start the hearing on March 16, 2016, that the same Commissioners decide the case on March 21, 2016.

Commissioner O'Rourke did not understand why they would start the meeting on March 16, 2016 and did not know who made that suggestion.

Attorney Baird stated that he did not suggest that they did. Commission O'Rourke strongly suggested that the Commission set the special call meeting for one agenda item, except that now they have been asked to add additional agenda items for seating of the new Commissioners. He stated that if it does not happen then that was just the way it goes and then they live with the consequences of that, they would not have a choice. Certification of the election results either happen or not.

Attorney Baird explained that the majority of the Commission needed to decide if they want to have the hearing begin on March 16, 2016 or they just want to have a special call hearing on March 21, 2016. Commissioner Rapoza asked what happened if the certification was not received by March 21, 2016. Attorney Baird stated that they would

not have a new Commission on March 21, 2016 and the current Commission would hear the item. Commission O'Rourke explained that the existing Commission, that was the option. He stated that he did not see any other option.

Mayor DuBois stated that the option was to seat the Commission on April 6, 2016 and maintain the current Commission through March 16, 2016 and March 21, 2016.

Commission O'Rourke offered to make a motion. Mayor DuBois stated that the Commission had to make a decision one way or another.

**Motion: Commissioner O'Rourke moved to take the Quasi-Judicial Hearing for RG Tower cell tower agenda item as special set date of March 21, 2016 at 6:00 p.m.; Vice-Mayor Glas-Castro seconded the motion.**

Mayor DuBois stated that they were setting themselves up to fail. Commissioner O'Rourke asked why. Mayor DuBois stated because if the cell tower applicant challenges a negative decision they would have a reason to move forward with their suit and there was a possibility that they could win. He based his statement on what the Town Attorney had explained to the Commission and the Commission would be opening the Town to litigation on a negative decision.

Vice-Mayor Glas-Castro asked why that was. Mayor DuBois stated that the Town Attorney had explained it twice to the Commission.

Attorney Baird explained that if they couple the hearing of RG Towers with a change in Commission they create the prospect for a potential issue for the petitioner, whether that was the Interveners or whether it was RG Towers. He stated that in an abundance of caution and being conservative, his responsibility to protect the Commission and advise the Commission of contingencies that could lead to liability, he was pointing it out. If the Commission's judgement was that it was a dumb legal opinion, they do not agree with it, there was no risk at all, then go ahead and do whatever it was the majority of the Commission believes was appropriate action.

Commissioner O'Rourke found it more of a due process challenge that they are going to go with a Commission that would not be the same Commission because one of their colleagues would be retiring and felt that was more of a problem for any Intervening Party was also part of this.

Attorney Baird stated that their colleague would remain in her seat until her successor was duly qualified, and the election results are certified. Commissioner O'Rourke stated that the meeting was after an election, which establishes that there would be a new Commission. He stated that this was a meeting where the item was placed after the election date. It was not the same Commission; the certification aspect of it was merely the formality of what was going on, the reality. The reality of what was going on was that the community was going to elect Commission members based on issues in the Town.

Vice-Mayor Glas-Castro stated that she understood that there would be no discussion at all on March 16, 2016 meeting and the item would solely on March 21, 2016. So the

Commission does not get into the issue of changing the Commission. It was her understanding of what Commissioner O'Rourke was proposing. Commissioner O'Rourke agreed that it was his proposal.

Attorney Baird stated that it was what he was proposing. Vice-Mayor Glas-Castro stated then the Commission does not get into the issues, it was a single Commission.

Commission O'Rourke stated that if there were no certification then it would be this Commission.

Attorney Baird clarified that if there was no certification by March 21, 2016, another suggestion was if the certification results arrive before March 21, 2016 they would then constitute the new Commission on March 21, 2016 at the same meeting and that was the risk that he referenced. Whether it be the March 16, 2016 meeting or March 21, 2016 meeting, if they change Commissioners it creates, in his opinion, a risk.

Vice-Mayor Glas-Castro stated that if the hearing were not opened on March 16, 2016, then...

Commissioner O'Rourke asked where the risk was and that it was not a different Commission.

Attorney Baird stated that he would not try to explain it further.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Flaherty	X		
Commissioner O'Rourke	X		
Commissioner Rapoza	X		
Vice-Mayor Glas-Castro	X		
Mayor DuBois		X	

Motion passed 4-1.

Mayor DuBois recapped that RG Tower item was scheduled for March 21, 2016 at 6:00 p.m.

Town Manager D'Agostino announced at 1290 AM radio would be doing a story on the Town of Jupiter and the Town of Lake Park elections, which would include information about the candidates from both municipalities. He explained that the Town of Lake Park has Limited Voting, which means each voter could vote for one candidate.

Mayor DuBois asked what time the segment would run. Town Clerk Mendez explained that the program runs from 5:00 a.m. until 9:00 a.m. and the 30-second segments would include Lake Park. She explained that it would be an informational segment to let listeners know that Lake Park would be having an election.

Mayor DuBois asked if the Northern Palm Beach Chamber of Commerce had set up a forum. Vice-Mayor Glas-Castro announced that there would be a meet-and-greet at the

Brew House on Saturday. Mayor DuBois stated that in the past Lake Park Community Watch had hosted a meet-and-greet. Vice-Mayor Glas-Castro stated that the Historical Society had held one many years ago.

Town Manager D'Agostino announced that the Lake Park sample ballots would appear in the Wednesday, March 9, 2016 and Sunday, March 13, 2016 Palm Beach Post.

**Commissioner Rapoza** gave kudos to whomever was responsible correcting the Palm Beach Post Neighborhood insert for properly naming the Town parks from Kelsey West to Kelsey East/Lake Shore Park. She was also pleased to see in the TGIF section an article written by Bill DiPallo regarding the Brew House Gallery highlighting their vision for the Mos'Art Theatre.

She asked if there were any updates on the tour of the Army Reserve Center on Congress Avenue. Town Manager D'Agostino stated there were no updates at this time. She stated that one of the "No Dogs Allowed" signs in Lake Shore Park was spray painted over. She asked how the Town Code was enforced. Town Manager D'Agostino stated that there was a fine structure in the Town Code for this type of violation and could direct Code Compliance to spend time at the parks and begin citing people. He explained that the Commission would be contacted by those being cited. Commissioner Rapoza has witnessed people walking their dogs and not picking up after them. She was disturbed by the lack of respect shown when she has spoken to people in the park.

Mayor DuBois asked if the pet supply stores in Town would be willing to provide the bags and dispensers for the parks. Commissioner O'Rourke asked why bags should be provided if it were against the Ordinance. Commissioner Rapoza suggested rewriting the Ordinance. Mayor DuBois stated that part of the Ordinance protects the Town from liability for having bags. Commissioner Rapoza stated that she was against people walking their dogs in the parks.

**Commissioner Flaherty** asked if the Easter Egg Hunt was still taking place. Town Manager D'Agostino stated that he announced it at the last meeting. The event would be taking place on March 26, 2016.

Commissioner Flaherty asked how for an update on the recruitment of a Marina Director. Town Manager D'Agostino stated that the Marina Director has left, but a business plan would be on March 16, 2016 agenda. He stated that the business plan would include different fees including electrical at the Marina. He stated that the plan would be moving the Marina from a park setting to an Enterprise Fund. He explained that the Marina owes the Town approximately \$500,000 and unless the business plan was implemented, the Marina would never be in a position to provide revenue to the General Fund. Therefore, the taxpayers would be paying for the Marina to some degree.

Commissioner Flaherty stated that he was disappointed when the director's salary level increased to attract qualified candidates. Since the Marina Director left, he suggested that the salary level return to where it had been and use the difference in funding to make some improvements to the Marina building. His understanding was that the building was dealing with major deficiencies. He asked the Commission for their support to lower the

salary range and put the money into fixing the ceiling, flooring, or foundation of the Marina building.

Town Manager D'Agostino thoughts were that this was the first time that the Town had a comprehensive business plan for the Marina and it was because raising the Marina salary range the Town was able to hire someone that was qualified to put a business plan together. He stated that the Commission could take three-steps back and go back to having a caretaker at the Marina. He stated that the Marina has never been a profit center for the Town and the reason for that was that we never had a competent, capable, long-lasting Marina Director. His understanding, after speaking with the employees at the Marina, was that the last Marina Director was concerned that the Commission was micromanaging the departments and not allowing staff to do things that they needed to do. He stated that he wanted to attract the people that would turn the Marina and the Town around. The example of lowering the salary from where it was at now back to where it had been would not provide the necessary funding to make the improvements to the Marina building. He explained that it would cost thousands of dollars to fix. He explained that the only way that Marina would sustain itself and have funds at the bottom line would be to hire someone that would run the Marina like as a business, apply for grants needed, and implement the business plan. Now that the Town has the business plan, if the Town wants to hire a "caretaker", the person hired would follow the business plan. In his opinion that would be an administrative decision that would require a vote of the Commission. He stated that he has already made his recommendation and what he felt it should be, but if the Commission decides differently.

Mayor DuBois asked for the pay range of the former Marina Director. Town Manager D'Agostino believed it was \$76,000. However, the last Marina Director's salary was \$96,000.

Mayor DuBois suggested that the business plan item be heard at the March 16, 2016 meeting and they could discuss salary at that time. Vice-Mayor Glas-Castro was thinking along the same lines.

**Commissioner O'Rourke** stated that during the public comment portion of the meeting a member of the public requested that during the Quasi-Judicial Hearing that testimony of an expert witness be allowable by telephonic testimony and asked that the Commission consider allowing it.

Mayor DuBois stated that he would not be taking one position or another on the item. Commissioner O'Rourke stated that he would not be taking a position, but wanted to be sure that...

Mayor DuBois stated that he has not taken one position or another on an item before. Commissioner O'Rourke asked if the Mayor was trying to suggest that he was taking sides.

Mayor DuBois stated that it puts the Commission in a questionable position. He stated that the public had every right to pursue every avenue that they could on their own, without assistance or hindrance by the Commission.

Commissioner O'Rourke stated that Mos'Art Theatre has been renamed Kelsey Theatre and has been reopened.

**Vice-Mayor Glas-Castro** announced that last week she attended the Riviera Beach ribbon cutting for their new Marina building. She stated that the building was nice. She explained that Riviera Beach has had some ups and down with their redevelopment and this was finally something of substance to show that they are moving forward. She congratulated them on their accomplishment. She stated that all of her other comments had already been addressed during the course of the meeting.

**Mayor DuBois** explained that he attended a meeting along with Public Works Director Dave Hunt and Town Manager D'Agostino with Palm Beach County Board of County Commissioner Hal Valeche, Rob Robbins, and Trish Weaver to discuss the Lake Park Scrub Area. He stated that County Commissioner Valeche said that he would not support the Town and would support his staff, at which point the Mayor lost his temper (he apologized) and walked out of the meeting in a huff. He suggested to the Town Manager that they not attend the meeting scheduled with Palm Beach County Board of County Commissioner Pricilla Taylor because at the meeting with County Commissioner Valeche he mentioned that he did not want to go against County Commissioner Taylor, which lead the Mayor to think that we should not go down that road. He felt that the County Commissioners did not take the Town of Lake Park into consideration or the Town Commission or its employees. He was still upset about the situation, especially since the Town had a contract and a management report that stated that a Nature Center would be located on the north side of the Lake Park Scrub area, off of 12<sup>th</sup> Street regardless of whether the Park Avenue Extension was built or not. He stated that now the Department of Environmental Resources Management (DERM) has changed the deal on the Town. He stated that the only other option they had was if County Commission Taylor does feel as indicated, then it would be taken to the County Commissioners for a vote. He gets upset that the Town has two documents indicating the agreement, the County has spent \$3 million on priming the Conservation area, and in 12-years they have not funded the building of the Nature Center, which was agreed to as described in the management agreement. He wondered if the Town had any legal standing to get any advantage out of those two agreements. First was the sales agreement, then the contract and then was the management agreement to force them to...

Attorney Baird would be happy to review the agreements and report to the Commission. Mayor DuBois thanked Attorney Baird.

Town Manager D'Agostino announced that another topic that discussed at the meeting was the County had moved onto other projects.

Mayor DuBois commented that 12-years had not been long enough and now Mr. Rob Robbins has spent the funds on the Hungry Land Slough project because there were grants available that needed matching funds for the Hungry Land Slough. He stated that the County had added insult to injury. He has spoken to two previous Town Managers about this topic. He stated that he asked if during their tenure had they been approached by DERM about anything to do with the Lake Park Scrub area and the response was no.

He stated that the County has completely neglected what was in the contract. He suggested that someone else attend the meeting with County Commissioner Taylor.

Mayor DuBois stated that he reads the Palm Beach Post almost every day and saw in the Real Estate section a half page advertisement which listed amenities at Lake Park including a club house, hot tub, pool, and tennis. He stated that the advertisement was for LakePark at Tradition, which was a development by Minto. He asked if the Town had any rights to the name Lake Park. Should the Town register the name of Lake Park. He stated that it comes under the heading of things that bother him to no end.

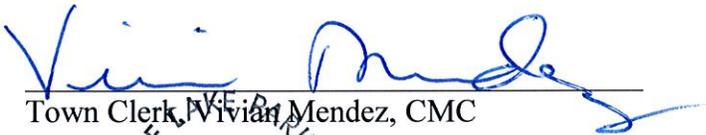
Mayor DuBois asked if the Town ever looked into the Metropolitan Planning Organization (MPO) funding for repairing Park Avenue or any other streets. Town Manager D'Agostino stated that he sent the information to staff and would follow up.

**ADJOURNMENT**

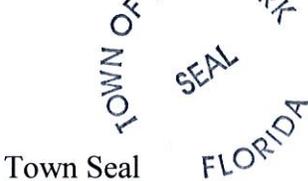
There being no further business to come before the Commission and after a motion to adjourn by Commissioner Rapoza and seconded by Commissioner Flaherty, and by unanimous vote, the meeting adjourned at 8:48 p.m.



Mayor James DuBois



Town Clerk, Vivian Mendez, CMC



Approved on this 16 of March, 2016



Town of Lake Park Town Commission

Agenda Request Form

*Exhibit "A"*

Meeting Date: March 2, 2016

Agenda Item No. *Tab 4*

**Agenda Title: Resolution No. 10-03 -2016 Authorizing the Execution of Amendments to CPZ Architects, Inc. Contract for Architectural and Engineering Services Associated with the Kelsey Park and Lake Shore Park CDBG Funded Projects**

- SPECIAL PRESENTATION/REPORTS
- BOARD APPOINTMENT
- PUBLIC HEARING ORDINANCE ON \_\_\_\_\_ READING
- NEW BUSINESS**
- OTHER: \_\_\_\_\_

Approved by Town Manager *J. R. Agustin* Date: *2-22-16*

*David Hunt*  
David Hunt / Public Works Director

<b>Originating Department:</b>  <b>Public Works</b>	<b>Costs: Not to Exceed \$68,500</b> <b>Funding Source: Community Development Block Grants</b> <b>Acct. # 301-63818</b> <input checked="" type="checkbox"/> Finance <u><i>BKR</i></u>	<b>Attachments:</b> -Resolution No. <u><i>10-03-16</i></u> -Contract with Amendment No. 1 and Amendment No. 2
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	<b>Yes I have notified everyone</b> <u><i>JDH</i></u> or Not applicable in this case _____ <b>Please initial one.</b>

**Summary Explanation/Background:** The Scope of Work related to the CDBG funded projects was changed at the September 16, 2015, and December 16, 2015, Commission Meetings. Based upon the initial project budget estimates, it was decided to build a new restroom at Kelsey Park and renovate the restroom building at Lake Shore Park. The Grant Administrator, Palm Beach County, also suggested that the Fiscal Year 2016 CDBG funded project (park benches and litter receptacles) be specified in the current construction documents. The additional design tasks associated with the changes to the scope of work requires making contractual amendments to the Town's original agreement with CPZ Architects, Inc. (CPZ).

All of the Town's vendor contracts and contract amendments that are associated with CDBG reimbursements must undergo review and comments from Palm Beach County's Department of Economic Sustainability (DES). DES not only reviewed CPZ Architects' quotes for added design services but required a breakdown of sub-consultants' potential charges associated with professional services during construction.

Amendment No. 1 to CPZ's Professional Services Contract deals primarily with edits and additions to Exhibits "B" and "C". These exhibits provide specific terms and costs for professional services that may be required during the construction phase. These Construction Administration services were assigned an Estimated Allowance of \$10,000 in the original contract.

Amendment No. 2 to CPZ's contract are the added costs for the additional design tasks.

Original Contract Amount	\$59,000.00
Additional Costs for Amendment No. 1	0.00
Additional Costs for Amendment No. 2	<u>9,500.00</u>

Total of Amended Professional Services Contract \$68,500.00 (Not to Exceed)

The financial impact to the overall contract amount will be \$9,500.00 if approved. The new CPZ contract amount will not exceed \$68,500.00. The majority of these invoiced services will be reimbursed by the CDBG funds. Professional services associated with the re-roof of the Tennis Center Building at Lake Shore Park, in the amount not to exceed \$2,875.00, will not be reimbursable as this building does not meet the usage requirements established by the Grant.

**Recommended Motion:** I move to Approve Resolution No. 10-03-16 authorizing the Mayor to execute the contract amendments with CPZ Architects, Inc. for professional services associated with the CDBG Park Projects.



Town of Lake Park Town Commission

Agenda Request Form *Exhibit "B"*

Meeting Date: March 2, 2016

Agenda Item No. *Tab 5*

Agenda Title: Resolution No. 11-03-2016 Authorizing the Execution of an Agreement between the Town of Lake Park and Palm Beach County for the use of \$437,555.00 in Fiscal Year 2014, 2015, and 2016 CDBG Funds for Kelsey Park and Lake Shore Park Improvements

- SPECIAL PRESENTATION/REPORTS
- BOARD APPOINTMENT
- PUBLIC HEARING ORDINANCE ON \_\_\_\_\_ READING
- NEW BUSINESS
- OTHER: \_\_\_\_\_

Approved by Town Manager *J. R. Griffin* Date: *2-22-16*  
*J. D. Hunt*  
 David Hunt / Public Works Director

<b>Originating Department:</b>  Public Works	<b>Costs:</b> Reimbursable up to \$437,555.00 <b>Funding Source:</b> Community Development Block Grants Acct. # 301-337.319 301-337.325 <input checked="" type="checkbox"/> Finance <u><i>BKR</i></u>	<b>Attachments:</b> -Resolution No. <u><i>11-03-16</i></u> -Town Request to make Amendments to the Agreement with Palm Beach County -Agreement between Palm Beach County and the Town for use of FY 2014, 2015, and 2016 CDBG Funds and to reflect changes in the Project's Scope -Letter Certifying Which Individuals are Authorized to Sign on Behalf of the Town -Non-Discrimination Policy Form -Amendments to CPZ Architect, Inc.'s Contract
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <u><i>J. D. Hunt</i></u> Please initial one.

**Summary Explanation/Background:**

At the February 4, 2015 Commission Meeting, the Town approved entering into an agreement with Palm Beach County (County) for the use and oversight of Fiscal Year (FY) 2014 and 2015 Community Development Block Grant (CDBG) funds. Since that agreement was ratified by the County on March 10, 2015, the Town has opted to combine the CDBG funding from the 2015 Agreement with its FY 2016 CDBG

allocation and to make changes to the Project Definition's Scope of Work. The Performance Requirements, including the completion deadline, have been adjusted to allow for the project changes.

Amendments to the CPZ Architect, Inc. contract, prompted by additions and changes to the project's scope of work, have been reviewed and approved by the County's Department of Economic Sustainability. These amendments to the Architect's contract received Commission approval by a previous motion at this meeting (March 2, 2016).

The new agreement with the County allows for the following planned improvements to Kelsey Park and Lake Shore Park:

-Demolition of all or part of existing structures, construction renovations, construction of a new restroom facility, related site improvements including utility upgrades and connections and park equipment (benches and litter receptacles).

These improvements shall be bid as one construction contract. If the submitted construction bids for the core project are less than the estimated amounts, additional project elements have been specified and have received pre-approval via this agreement. The core project consists of the following Scope of Work:

Lake Shore Park

- Construction

- Removal of interior walls and fixtures from existing restroom building
- Re-roof, reconfigure and remodel interior to meet ADA Requirements

Kelsey Park

- Construction

- Demolition of two (2) existing structures
- Construction of one ADA compliant restroom facility of approximately 840 S.F. with related amenities, site work, utility connections and landscaping
- Purchase and installation of park benches and litter receptacles

If the core project bid comes in under the project estimates, the remaining CDBG funds may be spent on any or all of the following project elements. These items will be listed as "Alternates" in the bid packet:

Lake Shore Park

- Construction

- Re-roof adjacent community use building
- Installation of electrical improvements (Tennis Courts)
- Purchase and installation of park benches and litter receptacles

- Site Lighting

- Removal of existing deteriorated poles and fixtures
- Supply and installation of a new lighting system

The original Agreement with the County remains in effect until this new Agreement is approved by the Town Commission and the Board of County Commissioners. In order to receive the CDBG funds for FY 2016 and utilize them along with the FY 2014 and 2015 funds, for both design and construction, the Town must execute this CDBG Agreement with the County. The attached Resolution authorizes the Mayor and the Town Clerk to sign the Agreement and an Affirmation of Non-Discrimination Policy on behalf of the Town. Even though the Board of County Commissioners must also approve this new Agreement, work will continue to proceed under the original Agreement in order to avoid missing completion deadlines.

**Recommended Motion: I move to Approve Resolution No. 11-03-16 authorizing the Mayor and the Town Clerk to execute the agreement between Palm Beach County and the Town of Lake Park for the use of \$437,555.00 in CDBG funds for the suggested improvements in Lake Shore Park and Kelsey Park.**



# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, March 2, 2016,  
Immediately Following the  
CRA Board Meeting,  
Lake Park Town Hall  
535 Park Avenue

<b>James DuBois</b>	—	<b>Mayor</b>
<b>Kimberly Glas-Castro</b>	—	<b>Vice-Mayor</b>
<b>Erin T. Flaherty</b>	—	<b>Commissioner</b>
<b>Michael O'Rourke</b>	—	<b>Commissioner</b>
<b>Kathleen Rapoza</b>	—	<b>Commissioner</b>
.....		
<b>John O. D'Agostino</b>	—	<b>Town Manager</b>
<b>Thomas J. Baird, Esq.</b>	—	<b>Town Attorney</b>
<b>Vivian Mendez, CMC</b>	—	<b>Town Clerk</b>

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Town Commission, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. *Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.*

A. **CALL TO ORDER/ROLL CALL**

B. **PLEDGE OF ALLEGIANCE**

C. **SPECIAL PRESENTATIONS/REPORTS**  
None

D. **PUBLIC COMMENT:**

This time is provided for addressing items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember comments are limited to a TOTAL of three minutes.

E. **CONSENT AGENDA:** All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item

will be removed from the general order of business and considered in its normal sequence on the Agenda. Any person wishing to speak on an Agenda item is asked to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

1. Regular Commission Meeting Minutes of February 17, 2016 Tab 1

2. Resolution No. 08-03-16 Authorizing the Mayor to Execute an Interlocal Agreement (ILA) between the Town and the School Board of Palm Beach County for Coordinated School Planning Tab 2

3. Resolution No. 09-03-16 Authorizing the Mayor to Execute the First Amendment to the Interlocal Agreement R-2006-0512 between Palm Beach County and the City of Palm Beach Gardens, the Town of Jupiter, the Town of Mangonia Park, the Town of Lake Park, and the City of Riviera Beach creating the Bioscience Land Protection Advisory Board, Extending the Term of the Board through March 14, 2026. Tab 3

F. PUBLIC HEARING(S) - ORDINANCE ON FIRST READING:  
None

G. PUBLIC HEARING(S) – ORDINANCE ON SECOND READING:  
None

H. NEW BUSINESS:  
4. Resolution No. 10-03-16 Authorizing the Execution of Amendment to CPZ Architects, Inc. Contract for Architectural and Engineering Services Associated with the Kelsey Park and Lake Shore Park CDBG Funded Projects. Tab 4

5. Resolution No. 11-03-16 Authorizing the Execution of an Agreement between the Town of Lake Park and Palm Beach County for the use of \$437,555.00 in Fiscal Year 2014, 2015, 2016 CDBG Funds for Kelsey Park and Lake Shore Park Improvements Tab 5

I. TOWN ATTORNEY, TOWN MANAGER, COMMISSIONER COMMENTS:

J. ADJOURNMENT:

Next Scheduled Regular Commission Meeting will be held on Wednesday, March 16, 2016