

**CITY OF RIVIERA BEACH
PALM BEACH COUNTY, FLORIDA
SPECIAL CITY COUNCIL MINUTES
MONDAY, JUNE 25, 2014 AT 6:00 P.M.**

(The following may contain inaudible or misunderstood words due to the recording quality.)

ANY PERSON WHO WOULD LIKE TO SPEAK ON AN AGENDA ITEM; PLEASE FILL OUT A PINK PUBLIC COMMENT CARD LOCATED IN THE BACK OF THE COUNCIL CHAMBERS AND GIVE IT TO THE STAFF PRIOR TO THE BEGINNING OF THE MEETING. MEMBERS OF THE PUBLIC SHALL BE GIVEN A TOTAL OF THREE (3) MINUTES FOR ALL ITEMS LISTED ON THE CONSENT AGENDA. MEMBERS OF THE PUBLIC WILL BE GIVEN THREE (3) MINUTES TO SPEAK ON EACH REGULAR AGENDA ITEM. IN NO EVENT WILL ANYONE BE ALLOWED TO SPEAK ON AN AGENDA ITEM AFTER THE RESOLUTION IS READ OR ITEM CONSIDERED.

CITY CLERK CALL TO ORDER

CHAIRPERSON DAVIS: Mr. Thomas, Mr. Davis, please return to the dais.

COUNCILPERSON THOMAS: I was going as fast as I could. As fast as I could.

COUNCILPERSON GUYTON: I'm telling you, he --

COUNCILPERSON THOMAS: (Inaudible) .

COUNCILPERSON GUYTON: (inaudible).

CHAIRPERSON DAVIS: Good evening, everyone. Welcome to the Special City Council Meeting. Please turn your cell phones to the off or vibrate position. Okay. Madam Clerk, please call the roll.

Roll Call

CITY CLERK WARD: Mayor Thomas Masters.

MAYOR MASTERS: Present.

CITY CLERK WARD: Chairperson Judy Davis.

CHAIRPERSON DAVIS: Here.

CITY CLERK WARD: Chair Pro Tem Dawn Pardo.

CHAIR PRO TEM PARDO: Present.

CITY CLERK WARD: Councilperson Bruce Guyton.

COUNCILPERSON GUYTON: Here.

CITY CLERK WARD: Councilperson Cedrick Thomas.

COUNCILPERSON THOMAS: Here.

CITY CLERK WARD: Councilperson Terence Davis.

MAYOR MASTERS: He's in the building.

CITY CLERK WARD: City Manager Ruth Jones.

CITY MANAGER JONES: Present.

CITY CLERK WARD: City Clerk Carrie Ward is present. City Attorney -- Assistant City Attorney Stubbs.

ASSISTANT CITY ATTORNEY STUBBS: Present.

CHAIRPERSON DAVIS: Okay. Let's all stand for a moment of silence and the pledge led by Mayor Masters.

INVOCATION/PLEDGE OF ALLEGIANCE

(Everyone stood for a moment of silence with the Pledge of Allegiance being led by Mayor Masters).

CHAIRPERSON DAVIS: Okay. I've gotcha, Mayor.

MAYOR MASTERS: Thank you.

CITY CLERK WARD: Councilperson Terence Davis is present.

CHAIRPERSON DAVIS: Okay. We are down -- Mrs. Jones, are there any additions, deletions or substitutions?

AGENDA APPROVAL: ADDITIONS, DELETIONS, SUBSTITUTIONS

CITY MANAGER JONES: No, Madam Chair.

CHAIRPERSON DAVIS: Okay. Are any disclosures by Council? Is there a motion to adopt the agenda?

DISCLOSURE BY COUNCIL

ADOPTION OF AGENDA

CHAIR PRO TEM PARDO: So moved.

COUNCILPERSON GUYTON: So moved. Second.

CHAIRPERSON DAVIS: Okay. Madam Clerk?

COUNCILPERSON THOMAS: Did he move and second that?

CHAIR PRO TEM PARDO: No. I --

CHAIRPERSON DAVIS: No.

COUNCILPERSON THOMAS: Oh, okay. All right. Just -- just want to make sure.

CITY CLERK WARD: Councilperson Judy Davis.

CHAIRPERSON DAVIS: Yes.

COUNCILPERSON THOMAS: Okay.

CITY CLERK WARD: Councilperson Dawn Pardo.

CHAIR PRO TEM PARDO: Yes.

CITY CLERK WARD: Councilperson Cedrick Thomas.

COUNCILPERSON THOMAS: Yes.

CITY CLERK WARD: Councilperson Bruce Guyton.

COUNCILPERSON GUYTON: Yes.

CITY CLERK WARD: Councilperson Terence Davis.

COUNCILPERSON DAVIS: Yes.

CITY CLERK WARD: Unanimous vote.

CHAIRPERSON DAVIS: Okay. We do not have any items on consent agenda so item number 1.

COMMENTS FROM THE PUBLIC ON CONSENT AGENDA (THREE MINUTES LIMITATION)

CONSENT AGENDA

COMMENTS FROM THE PUBLIC -7:00 PM NON-AGENDA OR CONSENT ITEM SPEAKERS (THREE MINUTE LIMITATION)

FANE LOZMAN: Fane Lozman. The other members of the task force did not come here tonight so I'm making their comments on their behalf. You know, for the audience watching, in 2010 the task force did win the election. And that had to do with we didn't want an industrial shipyard in a recreational marina. The 2013 passage of the

referendum on March 11th, that would allow an industrial shipyard into this marina. The 2008 RFP mandated that the amount of slips in that facility remain the same and there were over 500. Now there's going to be around 100.

So I mean, there's -- there's a lot of material changes that have happened from the 2008 RFP to the 2010 RFP to the 2012 plan that's been adopted. None of those material changes went through a new RFP process. Because if this was going to be publicly funded, maybe myself and a member of the audience would have wanted to be the master developer. So we're not getting the best deal for this project. And to say we don't want redevelopment to go forward, that's not true.

We want redevelopment to go forward, A, that's gone through a competitive process, number one. And number two, when you make a material change to an RFP, it goes back out for bid again. It's -- it's pretty straightforward. And we don't want an industrial shipyard in this facility five years down the road if the little restaurant doesn't make it on the southern third of the marina, and there's no guarantee that could not happen. And the docks that are down there that would allow that to happen 'cause there used to be 52 60-foot slips. Now there's two mega yacht slips so there's a lot more to the story than Mr. Guyton wants you to believe.

Now, I have made a commitment to this community 'cause I have gone and purchased 29 acres of submerged lands in Singer Island where I'm going to put at least one floating home, which is my own, if not a lot more floating homes. And one of the issues I had today was City staff called up DEP and met me at my property and they also met the attorney for an adjoining property called Lozman's Cove where they were making all kind of accusations that we had engaged in criminal conduct by cutting down mangroves and what have you. We had the woman, Kathy Baxter there, who wrote the 1996 Mangrove Act and DEP had no problem. They realized we had the permit. We hadn't engaged in any illegal conduct but yet Peter Ringle and Mary McKinney's associate were there trying to accuse us of misconduct. I'm smart enough to know and probably everybody in this room that a mangrove, you just don't cut them down without a permit.

And I don't appreciate City staff, including Miss Pardo, who the police officer said she had called them over the past, harassing us, because we're going to develop that property just like you guys are developing the marina. As a matter of fact, our properties combined are one and a half times the size of the marina. So I am a taxpayer in this community. I'm a resident. I guess you can also say I'm a developer myself because both of those properties would be developed and you were to come back in a few years and see a lot of beautiful floating homes in those properties.

CHAIRPERSON DAVIS: Thank you, Mr. Lozman. Any questions or comments from the board? Okay. Motion for adjournment.

REGULAR

1. **RESOLUTION NO. 57-14 OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A GROUND LEASE WITH THE RIVIERA BEACH EVENT CENTER, LLC FOR THE CONSTRUCTION AND OPERATION OF A MIXED-USE COMMUNITY EVENT CENTER; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE GROUND LEASE; AND PROVIDING AN EFFECTIVE DATE.**

COUNCILPERSON GUYTON: So moved.

CHAIR PRO TEM PARDO: Second.

CHAIRPERSON DAVIS: Okay. It's been moved and seconded. We have one public comment card. Mr. Lozman.

FANE LOZMAN: Fane Lozman. I spent the last eight years trying to keep the city marina owned and operated and managed by the City. I put a lot of time and a lot of my personal money into that effort. I have a couple of questions that I think the more responsible members of the council should consider and that is question number one. If the Citizen's Task Force appeal is successful, how will that impact the lease agreement? You know, I won my case at the Supreme Court. People said it would never happen. We have a reasonable chance of throwing out that March 11th referendum. If we are successful and we get a reversal, how does that impact item number one?

Item number two, back in 2012 the California Supreme Court upheld the legislation which threw out every CRA in the State of California. What happens if legislation in Florida happens one day where they get rid of CRAs? You know, how does that impact -- has anybody looked at how that would impact what's going on here with that lease agreement? One of the reasons they threw it out is they needed those funds to go into the general fund to pay for police services and other things. Now, those profits would stay in the CRA. So basically, what is the escape clause if legally or legislatively something happens? You know? I haven't seen any language, you know, in item number one to address those two items.

CHAIRPERSON DAVIS: Thank you, sir. Okay, Mrs. Jones?

CHAIR PRO TEM PARDO: Madam Chair?

CHAIRPERSON DAVIS: First -- hold on.

CHAIR PRO TEM PARDO: Okay.

CHAIRPERSON DAVIS: Miss Pardo, go ahead.

CHAIR PRO TEM PARDO: Oh, okay. In your discussion when you -- when you go through the lease or when the attorney goes through the lease, please talk about the task force lawsuit.

CHAIRPERSON DAVIS: Or Mrs. --

CHAIR PRO TEM PARDO: Yeah. Either --

CHAIRPERSON DAVIS: Okay.

CHAIR PRO TEM PARDO: the City Manager or the City Attorney.

CHAIRPERSON DAVIS: Okay. All right. Miss Jones?

CITY MANAGER JONES: Thank you. The item that you have before you is a lease with the Community Redevelopment Agency for over 200,000 square feet of space in the marina uplands. This lease is for a term of 50 years with the CRA. In the event that the CRA is -- sunsets or it's otherwise terminated, there are provisions in the lease that the landlord, which is the City, then is responsible and we can continue to manage the marina uplands. So there would not be any discontinuity in services or the delivery or development if that were to occur. That is taken care of in the lease. What I would like to do right now is to invite up Rick Jarolem, the attorney that we have used on this item in order to answer any other detailed questions that you might have as well as to be able to address particular questions. I would have to yield to the City Attorney's Office for the answer to the second part of the question that was asked.

ASSISTANT CITY ATTORNEY STUBBS: Madam Chair?

CHAIRPERSON DAVIS: Yes. Miss Stubbs.

ASSISTANT CITY ATTORNEY STUBBS: As to the second part of the question as it relates to the task force, Mr. Jarolem is also counsel regarding that and so he is very apt to answer any questions or give discounts on update.

CHAIRPERSON DAVIS: Okay. Mr. Jarolem.

RICK JAROLEM: I don't know exactly which question you want me to answer.

COUNCILPERSON THOMAS: Both.

CHAIRPERSON DAVIS: Both. Oh, just either one, start.

COUNCILPERSON THOMAS: Just do both.

RICK JAROLEM: With -- with regards to whether -- if the task force prevails, essentially what it would do is I believe the lease would essentially have to terminate by operation of law and that is actually addressed in the lease tax under section 16F. It's on the bottom of page 17 so it would really essentially go back to just -- just as if -- almost in the same situation as if the CRA sunsetted, the City would get that back.

With regards to the possibility of the task force prevailing, we've analyzed our position and we've -- and we are prepared to defend against the appeal. We feel very, very,

very strongly that there is no real merit to the appeal based upon the case law and the previous findings and the standards set forth in the previous litigation of task force one and task force two. We think that the findings made by Judge Sasser were on point. We believe that she -- that she identified the proper standards and that the City complied with all of that.

And the biggest issue -- and -- that we're feeling that really has to be looked at is in all elections when -- when the courts look at it, there's an overriding or -- there's an overriding principle that the will of the people should be followed. And whereas the difference in task force two and task force three undeniably, the led -- the language that the City used in task force three, which is what I call the most recent one, was far more specific, far more descriptive and far more expansive. And what we had was, and a difference between task force two and three, a passage rate that essentially went from two to one to almost three to one. I mean, we're -- we're -- we're just shy of 75 passage. I think it was 73 percent. And with that -- with that overarching principle that the will of the people, if it can be determined, it should be followed. I -- we're -- we're feeling very confident that the -- that the appeal will not be successful but in at the vent that it is, it is taken care of in the lease.

CHAIRPERSON DAVIS: Thank you, sir.

RICK JAROLEM: Thank you.

CHAIRPERSON DAVIS: And the other question?

COUNCILPERSON GUYTON: Yes, Madam Chair?

CHAIRPERSON DAVIS: Did -- did you answer the second question?

RICK JAROLEM: I thought I did.

COUNCILPERSON GUYTON: Yeah.

CHAIRPERSON DAVIS: Okay. Mr. Guyton.

COUNCILPERSON GUYTON: First let me commend Mr. Jarolem on his work in many capacities for the City but particularly on -- on the lawsuit where Mr. Lozman and the task force is seeking to keep this town, in my humble opinion, locked in poverty. We're trying to move forward now. We have a major project on the table and they're suing in an effort to overturn the will of the people. As long as I sit here, it is my position that whatever we need to do to fight anybody who's trying keep us from moving forward, we need to do that. My question is should, at some slim chance, this is overturned, will the City be able to go back depending on what the issues are and revisit this in court?

RICK JAROLEM: There's -- there's always a method of redress for judicial review. The question is at what point. There's something called writ assertiari where -- where, if the City has to appeal beyond that, the courts can say, We either want to take that issue up and hear it, or the courts can say, No, we're going to leave it exactly where it is. And

if that happens, worse-case scenario, if -- if the courts say, No, whatever happens at that appellate -- at the Fourth DCA is it, then if it goes against the City, the City could -- could review the decision and form a course of action which include, again, bringing a different initiative before the electorate to continue the -- to continue the process if the -- if the council at the time deems it appropriate. You're never -- and by the same token, no one is ever without the -- the recourse of bringing something before the voters either by initiative, petition, with signatures or by the council by resolution, to have something that they think needs to be -- go to the voters, be decided by the voters. It may be a continual loop of lawsuit, election, lawsuit, election. But eventually you would think it would end.

COUNCILPERSON GUYTON: Okay. And let me just make this closing comments, that in order for us to progress in our city, we're going to have to fight the opposition. That's the bottom line. There are always going to be people -- I -- there's an acronym called CAVE, C-A-V-E. Citizens against virtually everything. And those type of people, we cannot allow them to hold us back and lock us in poverty. This is a project that would allow and has already allowed many of our local contractors, many minorities, many people that need jobs in our community are now finally getting a piece of the pie. And we have just a few people go to court to sue us, not on the merits of the project, but saying that the language wasn't clear. I -- I'm like, Really?

And -- and we have allowed that to happen for so long that now they feel entitled to stop us. You know? One or two people said that, We don't want it, so they're going to stop us. But my position is that everybody who has a vested interest in this project, at some point you need to stand up and open your mouth. I mean, you sit there quietly knowing that you're going to take a part in this and allow just one person to come up here and try to just dismantle everything. At some point you need to speak up.

CHAIRPERSON DAVIS: Okay.

COUNCILPERSON GUYTON: Thank you.

CHAIRPERSON DAVIS: Okay, Mr. Guyton. Thank you very much.

MAYOR MASTERS: Madam Chair?

CHAIRPERSON DAVIS: Mr. Mayor.

MAYOR MASTERS: Mr. Attorney.

RICK JAROLEM: Yes.

MAYOR MASTERS: I want to ask you a couple of legal questions. Are there two appeals that we're looking at? Or one?

RICK JAROLEM: Right now there is the appeal of the 2014 election. And the appeal of the 201211 election was dismissed and there is currently a motion to reconsider that dismissal.

MAYOR MASTERS: Okay. So the -- the -- the pending appeal now, I think we had asked for a summary judgment or something or -- and the judge did not give that to us. Is that --

RICK JAROLEM: No, she actually did.

MAYOR MASTERS: Okay.

RICK JAROLEM: And if -- if I can clarify.

MAYOR MASTERS: Yeah, clarify.

RICK JAROLEM: What the -- what the task force sought was a -- a finding of invalidation under -- under a particular statute. It was -- it was section 102. And that requires an immediate hearing. So what -- what actually went forward, she deemed it a final judgment and used summary judgment standards and summary judgment, but that was the immediate hearing. And we did -- the City -- when I say we, the City -- did prevail on that and thus the task force is appealing that decision.

MAYOR MASTERS: I think what I'm talking about, though, did we make a motion to a judge for --

CHAIRPERSON DAVIS: That was on the previous one.

MAYOR MASTERS: Pardon me?

CHAIRPERSON DAVIS: I thought that was on the previous one, the summary judgment.

MAYOR MASTERS: No, no, no, that one. The -- for expedient --

RICK JAROLEM: Yes.

MAYOR MASTERS: thing and -- and the judge did not grant the --

RICK JAROLEM: The appellate court didn't.

MAYOR MASTERS: The appellate court did not. Do you have any reason why that we didn't get that expedient and now we have to go through this process and wait?

RICK JAROLEM: The basic rule on that is that we were looking at the appellate rules. And there's very limited avenues to seek an expeditious or an emergency appeal. We filed the motion. It's at the discretion of the appellate court as to whether or not they grant that. So it -- it rests with them. All you can do is ask and we did not get an announced reason as to why they -- why they didn't allow it. Their -- it's within their purview to either tell us why or not, and we got the not.

MAYOR MASTERS: Thank you.

RICK JAROLEM: But there is -- there is one thing if I can -- if I can bring up --

CHAIRPERSON DAVIS: Yes, go ahead, sir.

RICK JAROLEM: on the original read by Miss Ward, I think she -- if I may have heard it wrong. She may have said the event center lease. If that's the case, then -- then we probably need to switch that to the -- to the Uplands lease, which is what we're discussing.

CITY CLERK WARD: You're -- you're absolutely correct. So I can read the correct resolution prior to them --

RICK JAROLEM: Okay. Thank you. I -- I -- I -- I thought I was confused for a moment. Thank you.

CITY CLERK WARD: No. You did very well.

RICK JAROLEM: Thank you.

CHAIRPERSON DAVIS: Okay.

COUNCILPERSON THOMAS: I like that.

CHAIRPERSON DAVIS: Are there any other questions or comments? Okay, madam Clerk, are you going to read the correct version?

CITY CLERK WARD: Resolution 57-14, a resolution of the City Council of the City of Riviera Beach, Palm Beach County, Florida, approving a ground lease for marina upland properties between the City of Riviera Beach and the Riviera Beach Community Redevelopment Agency. Authorizing the City Clerk to -- the City Clerk and Mayor to execute the agreement and providing an effective date.

COUNCILPERSON GUYTON: So moved.

CHAIRPERSON DAVIS: The motion -- we already had a motion on the floor, didn't we?

COUNCILPERSON GUYTON: Oh, we --

COUNCILPERSON THOMAS: It's a new -- it's a new -- yeah, but it's a new --

COUNCILPERSON GUYTON: It's a new resolution.

CITY CLERK WARD: Resolution.

CHAIRPERSON DAVIS: Okay.

COUNCILPERSON THOMAS: It's a new resolution.

CHAIRPERSON DAVIS: All right. All right. So any other questions or comments?

COUNCILPERSON THOMAS: Well, I'm going to go ahead and second it since we didn't --

CHAIRPERSON DAVIS: Yeah. We need a second.

COUNCILPERSON THOMAS: have a second. Yeah.

CHAIRPERSON DAVIS: Thank you very much.

COUNCILPERSON THOMAS: I thought Bruce was going to, you know, motion and second (inaudible).

COUNCILPERSON GUYTON: (Inaudible).

COUNCILPERSON THOMAS: Okay. Second.

COUNCILPERSON GUYTON: I know I'm pretty versatile but, you know --

CHAIRPERSON DAVIS: Okay. All right. So it's been moved and seconded. Without any further questions or comments, Madam Clerk?

CITY CLERK WARD: Councilperson Judy Davis.

CHAIRPERSON DAVIS: Yes.

CITY CLERK WARD: Councilperson Dawn Pardo.

CHAIR PRO TEM PARDO: Yes.

CITY CLERK WARD: Councilperson Cedrick Thomas.

COUNCILPERSON THOMAS: Yes.

CITY CLERK WARD: Councilperson Bruce Guyton.

COUNCILPERSON GUYTON: Yes.

CITY CLERK WARD: Councilperson Terence Davis.

COUNCILPERSON DAVIS: Yes.

CITY CLERK WARD: Unanimous vote.

CHAIRPERSON DAVIS: Okay. Any statements by Mayor and Council? None? Okay. I have one public comment card. Mr. Lozman.

STATEMENTS BY THE MAYOR AND CITY COUNCIL

ADJOURNMENT

CHAIR PRO TEM PARDO: So moved.

CHAIRPERSON DAVIS: Okay. All right.

CITY CLERK WARD: 7:05.

CHAIRPERSON DAVIS: We are going to reconvene --

(CONCLUSION OF MEETING)

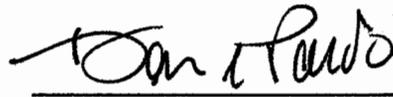
APPROVED:


THOMAS A. MASTERS
MAYOR

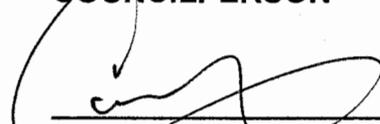

JUDY L. DAVIS
CHAIRPERSON

ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


DAWN S. PARDO
CHAIR PRO TEM


BRUCE A. GUYTON
COUNCILPERSON


CEDRICK A. THOMAS
COUNCILPERSON

ABSENT
TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: C. THOMAS

B. GUYTON TARDY

J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS ABSENT

DATE APPROVED: 08/06/2014