

**CITY OF RIVIERA BEACH
PALM BEACH COUNTY, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
MUNICIPAL COMPLEX COUNCIL CHAMBERS
WEDNESDAY, FEBRUARY 2, 2011 AT 6:30 P.M.**

ANY PERSON WHO WOULD LIKE TO SPEAK ON AN AGENDA ITEM (NON-CONSENT ITEMS ONLY), PLEASE FILL OUT A PINK PUBLIC COMMENT CARD LOCATED IN THE BACK OF THE COUNCIL CHAMBERS AND GIVE IT TO THE LEGISLATIVE ASSISTANT PRIOR TO THE BEGINNING OF THE MEETING. IN NO EVENT WILL ANYONE BE ALLOWED TO SPEAK ON AN AGENDA ITEM AFTER THE RESOLUTION IS READ OR ITEM CONSIDERED.

CITY CLERK CALLS TO ORDER

Roll Call

Chairperson Pardo was present and presided. Upon a roll call by City Clerk Ward, the following were present: Mayor Thomas A. Masters; Chairperson Dawn S. Pardo; Chair pro tem Judy L. Davis; Councilperson Billie E. Brooks; Councilperson Cedrick A. Thomas; and Councilperson Shelby L. Lowe. Also present were: City Manager Ruth Jones; City Clerk Carrie E. Ward, MMC; and City Attorney Pamala H. Ryan.

Invocation/Pledge of Allegiance

Everyone stood for a Moment of Silence and the Pledge of Allegiance led by Chairperson Pardo.

AGENDA Approval:

Additions, Deletions, Substitutions

City Manager Jones stated the following revisions were made to the agenda: added No. 4A -- Resolution authorizing the March 8, 2011 Municipal Election and the March 22nd Run-off Election if necessary; and added No. 9 – Resolution directing the City Clerk to place a referendum on the March 8th ballot. She requested that No. 9 be discussed prior to public hearings.

Chairperson Pardo stated that it would be discussed after Awards and Presentations as No. 5A.

Disclosure By Council

(If any Council Member has anything to disclose regarding any item on the Agenda, please do so at this time)

NONE

Adoption of Agenda

A motion was made by **Chair pro tem Davis** and seconded by **Councilperson Brooks** to approve the agenda as amended.

MOTION

Upon a roll call vote by City Clerk Ward, the vote was unanimous.

MOTION APPROVED

CONSENT AGENDA

ALL MATTERS LISTED UNDER THIS ITEM ARE CONSIDERED TO BE ROUTINE AND ACTION WILL BE TAKEN BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCILPERSON 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.

MINUTES

1. MINUTES FROM THE REGULAR CITY COUNCIL MEETING HELD JANUARY 19, 2011.

RESOLUTIONS

2. RESOLUTION NO. 10-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH PALM BEACH COUNTY TO ACCEPT VOUCHERS FROM THE COUNTY'S DROWNING PREVENTION COALITION PROGRAM FOR REDEMPTION FOR PAYMENT OF SWIMMING LESSONS PROVIDED BY PARKS AND RECREATION DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE.
3. RESOLUTION NO. 11-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ACCEPTING THE RECOMMENDATION OF STAFF AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A THREE YEAR CONTINUING SERVICES CONTRACT WITH THE FIRST RANKED ARCHITECTURAL FIRM,

CORZO, CASTELLA, CARBALLO, THOMPSON AND SALMAN, P.A. (C3TS), OF BOCA RATON, FLORIDA AND THE SECOND RANKED ARCHITECTURAL FIRM, SONG AND ASSOCIATES, OF WEST PALM BEACH, FLORIDA. THE CONTRACT TO COMMENCE FEBRUARY 02, 2011 AND ENDING FEBRUARY 01, 2014 WITH RENEWAL OPTIONS FOR TWO (2) ADDITIONAL TWELVE (12) MONTH PERIODS, TO PROVIDE PROFESSIONAL ARCHITECTURAL CONSULTING SERVICES; AND PROVIDING AN EFFECTIVE DATE. **ITEM PULLED FOR DISCUSSION**

City Clerk Ward read the aforementioned Resolution into the record.

A motion was made by Councilperson Lowe and Chair pro tem Davis to approve Resolution No. 11-11.

MOTION

Upon a roll call vote by City Clerk Ward, the motion was approved with Councilperson Pardo dissenting.

MOTION APPROVED

4. RESOLUTION NO. 12-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE MATTER OF OCEAN GATE GENERAL CONTRACTORS, INC. V. THE CITY OF RIVIERA BEACH, ET AL., CASE NO. 202010CA029415; AUTHORIZING PAYMENT FROM CAPITAL ACCOUNT NUMBER 303-12340572-06251 IN THE BUDGETED AMOUNT OF \$243,111.98 AS FINAL PAYMENT ON PHASE II OF THE DAN CALLOWAY PARK PROJECT; AND PROVIDING AN EFFECTIVE DATE.

4A. RESOLUTION NO. 14-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE CITY CLERK TO NOTICE AND PREPARE FOR THE GENERAL MUNICIPAL ELECTION TO BE HELD TUESDAY, MARCH 8, 2011; AND RUN-OFF ELECTIONS IF NECESSARY, TUESDAY, MARCH 22, 2011; ALL ELECTIONS SHALL BE HELD WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY BETWEEN THE HOURS OF 7:00 AM UNTIL 7:00 PM TO FILL THE EXPIRED SEATS TO WIT: MAYORAL SEAT; CITY COUNCIL DISTRICT ONE (1); CITY COUNCIL DISTRICT THREE (3); AND CITY COUNCIL DISTRICT FIVE (5); PROVIDING FOR THE USE OF VOTING EQUIPMENT; PROVIDING BALLOTS, ABSENTEE BALLOTS, AND PROVISIONAL BALLOTS IN SUCH ELECTIONS; APPOINTING THE CITY OF RIVIERA BEACH CANVASSING BOARD; CONTINUING THE AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS OFFICE FOR VOTE PROCESSING EQUIPMENT USE AND ELECTIONS SERVICES COMMENCING JANUARY 1, 2011 THROUGH DECEMBER 31, 2011; AND PROVIDING AN EFFECTIVE DATE. **ITEM ADDED TO AGENDA**

END OF CONSENT AGENDA

A motion was made by **Chair pro tem Davis** and seconded by **Councilperson Brooks** to approve the Consent Agenda as amended.

MOTION

Upon a roll call vote by City Clerk Ward, the vote was unanimous.

MOTION APPROVED

PETITIONS AND COMMUNICATIONS FOR FILING

NONE

AWARDS AND PRESENTATIONS

5. **PRESENTATION – LEGISLATIVE UPDATE BY THE HONORABLE CHRISTOPHER L. SMITH, STATE SENATOR, DISTRICT 29.**

Councilperson Thomas stated that Senator Smith requested that the presentation be placed on a future agenda due to a scheduling conflict.

PUBLIC HEARINGS

ORDINANCES ON SECOND READING

6. **ORDINANCE NO. 3086 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ARTICLE II ENTITLED "GENERAL EMPLOYEES", CHAPTER 14, ENTITLED "PENSIONS AND RETIREMENT PROGRAMS," BY REVISING SECTION 14-36 ENTITLED "OPTIONAL FORMS OF RETIREMENT BENEFITS" OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH RELATING TO THE RETIREMENT SYSTEM FOR GENERAL EMPLOYEES BY REVISING SUBSECTION (2)(A) AND SUBSECTION (D) (iv) OF THE DEFERRED RETIREMENT OPTION PROGRAM (DROP) TO INCREASE THE THIRTY (30) YEAR EMPLOYMENT CAP TO THIRTY-FIVE (35) YEARS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

City Clerk Ward read the aforementioned ordinance into the record and announced that it was published in the January 23, 2011 edition of the Palm Beach Post.

A motion was made by **Councilperson Brooks** and seconded by **Chair pro tem Davis** to adopt Ordinance No. 3086.

MOTION

Upon a roll call vote by City Clerk Ward, the vote was unanimous.

MOTION APPROVED

7. **ORDINANCE NO. 3087 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO THE CITY CHARTER REPEALING THE NOVEMBER 2010 CHARTER AMENDMENT WHICH AMENDED ARTICLE VII, SECTION 3.5 OF THE CHARTER ENTITLED "CITY MARINA PROPERTY"; SUBMITTING TO REFERENDUM A NON-BINDING STRAW BALLOT QUESTION REGARDING THE ELECTORS' SUPPORT TO LEASE A PORTION OF THE CITY MARINA TO BE USED AS A MEGA-YACHT FACILITY; PROVIDING THE REQUISITE BALLOT LANGUAGE TO BE PRESENTED AT THE GENERAL ELECTION TO BE HELD ON MARCH 8, 2011; PROVIDING FOR NOTICE OF THE ELECTION; PROVIDING FOR INCLUSION IN THE CITY CHARTER; PROVIDING FOR A REPEALER, SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

City Clerk Ward read the aforementioned ordinance into the record and announced that it was published in the January 23, 2011 edition of the Palm Beach Post.

A motion was made by **Chair pro tem Davis** and seconded by **Councilperson Brooks** to remove question 1 from consideration and to consider only question 2.

MOTION

Upon a roll call vote by City Clerk Ward, the motion was approved with Councilperson Lowe dissenting.

MOTION APPROVED

A motion was made by **Chair pro tem Davis** and seconded by **Councilperson Brooks** to approve question 2.

MOTION

Jan Morris, Sugar Sands Blvd, stated that the straw ballot was an additional attempt to negate what was voted upon November 2nd and this was a great concern for her. She read a flier that was distributed on Singer Island requesting residents of the island to support the referendum question on the March 8th ballot. She continued with stating, that elected officials have to remember who they represent, the voters, and that she was disappointed by their actions.

Gerald Ward, W 20th Street, stated that the straw ballot was not good government and that the officials needed to be careful.

Lynne Hubbard, W 23rd Street, stated that the question for the straw ballot was answered. She stated that the statements regarding there were no plans for boosting the city's economy was not true; the citizen's master plan included

economic development and there other industries that could be established in the area other than a mega boat yard.

William Burrs, Canterbury Drive S, stated that everyone had a right to their opinion. He stated that he and his wife were fine and financially stable and that his concern was for the residents of the city that were not as fortunate. He stated that he has always opposed outsourcing city services.

Fane Lozman, E 13th Street, stated that the process the city council was currently following on this issue was illegal. He read a section from the Government in the Sunshine Manual regarding what could be discussed at a Closed Executive Session.

Bonnie Larson, E 27th Street, stated that if the amendment that was approved November 2nd was not included in the charter then what was the purpose for having a question placed on the ballot to repeal the amendment. She stated that the straw ballot would be non binding which indicated that as elected officials you could go with what the majority wants or not want, which was bad governmental practice. She stated the straw ballot question was confusing and biased.

Phillip Dukes, Avenue T, stated that residents were not being respected by their elected officials and this action was a form of disenfranchisement. He stated that as elected officials, they needed to speak truthfully about their desire for the marina and question themselves as to what belief they had bought into.

Pamela Williams, W 33rd Street, stated that the question currently being considered was not confusing. She then stated that an article in the newspaper which indicated that Councilperson Lowe implied that the city council had broken the law concerned her.

A lengthy discussion ensued amongst the city council.

Mayor Masters stated for the record, that if the vote was 3-2, he was ready to veto the ordinance.

Chairperson Pardo inquired about the mayor's vetoing powers.

Attorney Ryan stated that the charter provided the mayor with the right to veto any ordinance of the city council but the city council could override it by a super majority vote at a subsequent meeting.

Councilperson Brooks requested that the city attorney explained the veto process again.

Attorney Ryan stated that the mayor was stating that if the city council approved of the straw ballot question to be placed on the ballot, he would veto the

ordinance which meant that the city council would have to at a subsequent meeting override the veto. She stated that she would have to research whether the action could take place at a special city council meeting or at a regular city council meeting.

City Clerk Ward stated as it related to the proposed ordinance, there were sections inconsistent with the city council's intent. She stated to the city council that she thought they were trying to direct her to place a question on the ballot that was outlined in the ordinance and if that was the case she needed a clearer directive because the ordinance was not sufficient as presented to obtain the intent as stated by the council. She stated that she believed that the city council wanted to make changes and delete sections from the ordinance in order to send the question to the ballot and being the case, she requested council's exact wording to place the question on the ballot – she then asked the summary for the non-binding straw ballot question. City Clerk Ward requested in order to follow and to have a clearer understanding of the council's directive that a motion be made at tonight's meeting directing legal to prepare sufficient language; and to bring it back during the meeting for council's review and consideration; although she was cognizant of the hour, however it was something that needed to be taken care of prior to adjourning the meeting in that the deadline for referendum items was at noon, Friday.

City Attorney Ryan stated that she had an understanding of what the council wanted and that she would prepare an ordinance, she would never let it go as it was currently written. She stated that based upon the council's direction, she would prepare an ordinance which deleted all references to the first question since it was decided not to vote on it and if it was decided to go with the second question only, the ordinance would be re-written to submit to referendum as referendum question no. 1 the straw ballot question.

City Clerk Ward stated that because it was a council's question for the ballot she prefer to be advised and receive the directive straight from city council and that because the language in the ordinance needed to be revised, she asked that legal prepare said language and present it for council's review prior to. She then stated that the summary needed to be included in the section and read Section 2 of the ordinance, and stated that in accordance to what was discussed that section was incorrect. She further stated that she needed clarity because she would not be able to submit the question in its current format and that it needed to be presented to the city council for review because she would not submit a question to the ballot without the city council directing her to for them to come back later and make the statement oh that's not what I said.

Councilperson Thomas inquired as to whether or not clarity needed to be provided prior to the vote.

City Attorney Ryan answered no and advised the city council to proceed with their vote.

City Clerk Ward stated that clarification was needed prior to the vote.

There was a consensus of the city council to provide clarification; advising of the language to be voted upon.

City Manager Jones recommended that the heading be revised by deleting the following language Submitting To Referendum An Amendment To The City Charter Repealing The November 2010 Charter Amendment Which Amended Article VII, Section 3.5 Of The Charter Entitled "City Marina Property" and Providing For Inclusion In The City Charter; Providing For A Repealer.

Councilperson Thomas stated that his issue was that the public would not be able to see what was currently being done; he was trying to read it and did not understand it. He stated that he would like for the city council to vote because if it was not approved then the revisions would not be necessary.

Chairperson Pardo attempted to read for the record what the city manager was recommending.

Discussion ensued

Chairperson Pardo requested that the maker of the motion amend it to provide for the new ordinance language as understood.

An amended motion was made by **Chair pro tem Davis** and seconded by **Councilperson Brooks** to adopt Ordinance No. 3087 with the stated revised language.

MOTION

City Attorney Ryan read the proposed question into the record for a member of the public.

Councilperson Thomas requested that responses not be provided for members of the public who were acknowledged and present at the podium.

Upon a roll call vote by City, the motion failed with Councilpersons Lowe, Thomas, and Pardo dissenting.

MOTION FAILED

ORDINANCES ON FIRST READING

NONE

COMMENTS FROM THE PUBLIC – 8:00 PM*¹ – Non Agenda or Consent Item Speakers (Three Minute Limitation) *Please be reminded that the City Council has adopted a set of "Rules of Decorum Governing Public Conduct during Official Meetings", which has been posted at the entrance of the Council Chambers. In an effort to preserve order, if any of the rules are not adhered to, the Council Chair may have any disruptive speaker removed from the podium, from the meeting and/or the building, if necessary. Please govern yourselves accordingly.*

Emma Bates, W 26th Street, stated that Mr. Thomas did call her house, however she requested, in public at various City Council Meetings, for him or any member of the city council, to place a question regarding the marina on the ballot for residents to have a voice in the proposed project. She stated that she did not return his call due to the fact that she felt he was procrastinating and that just as she made her request in public, the response should have been in public or at least with all the members of the Task Force.

Lynn Hubbard, W 23rd Street, stated that a resolution had not been approved to implement the amendment to the city charter which was approved November 2, 2010; but there would be a question placed on the ballot to repeal the amendment. She stated that the rules and regulations in place for the City of Riviera Beach were based upon state statutes.

Eddie Mitchell, W 31st Street, stated that as elected officials, each individual during their campaign went throughout the community requesting that individuals vote for them or work for them holding their signs on street corners but yet when it came to working on projects throughout the city they only saw foreigners completing the labor work.

William Burrs, Canterbury Drive S, stated that everyone had the right to establish a petition committee and circulate a petition but it was disrespectful to call anyone especially a senior citizen a liar. He stated that he felt the city council should not be a dictatorship in spite of how some may feel about residents circulating petitions against decisions made by elected officials. He stated that individuals have indicated that they were aware of signing and aware of the way they voted and would make sure they vote against it on March 8th.

Fane Lozman, E 13th Street, stated that more stringent guidelines could be put in place by municipalities on certain issues; statutes provided the minimum an entity could establish. He stated as elected officials, the oath taken to uphold state statutes and the city charter and ordinances had been violated.

Bonnie Larson, W 27th Street, requested the status on the hiring of a city engineer as well as a Finance Director. She also inquired as to the status of deleting an assistant city manager position and hiring an assistant to the city manager. She also questioned the purpose of purchasing property then donating a portion of it to the Florida Department of Transportation.

Phillip Dukes, Avenue , stated that the language of the referendum for the November 2, 2010 election was clear and that the individuals who desired to overturn what was approved should not continue stating that it was not. He continued with stating that the City of Riviera Beach was unique being that it was considered as predominantly black municipality and it was the only one located along the eastern seaboard. He stated that people run businesses not the other way around and that what was currently occurring within the city was a form of disenfranchisement.

Carol Strick, Whitehall Drive, stated what was currently happening in the city was the same thing that was happening in Egypt. She stated throughout the process an environmental impact study had not been done. She stated that if the project comes to fruition, it would not only affect the city but the entire state.

Tina White stated any one who qualified for the DRI program was required to sign a homestead exemption waiver which meant anyone who owned their home would become a tenant of the city for five years. She stated that she forwarded documents being executed by the staff members for the DRI program who were not qualified to execute mortgage notes or bind the city to any type of legal documents to the individual in charge of the program on the state level. She stated that if anyone had signed such documents for the program should call Legal Aide because the documents were illegal.

Jerome Taylor, W 23rd Street, stated that he had valid concerns as it related to the budget. He stated that the budget was presented with the consolidation of departments and the elimination of at least one assistant city manager position but from what he could see, everyone was still in place. He stated that he would like a copy of the resolution approving the assistant city manager positions for October '10 through September '11 to include salary and benefits as well as the account numbers that said salaries and benefits were being paid from.

Pamela Williams, W 33rd Street, announced that the Committee for a Better Riviera Beach would be endorsing the following candidates: Billie Brooks (District 1), Cedrick Thomas (District 3), Bruce Guyton (District 5), and George Carter (Mayor).

Sylvia Blue, W 1st Street, stated that some of the candidates seeking to unseat the incumbents of the city council were spreading falsehoods for self gratification and such actions were inappropriate. She continued with reading the question that would appear on the March 8th ballot into the record. She stated that signatures were garnered by telling the truth and not by calling members of the public liars as previously stated.

Bruce Guyton, stated that the previous statement made regarding him calling senior residents and ministers liars was not true and that the individual who reported the information was a liar who also proclaimed to be a minister. He stated that the task force spoke of how the marina was the city's most valuable possession and there was a necessity for job opportunities however, they had not presented a plan that would fulfill the outcry for jobs.

Angela Wynn, W 35th Street, encouraged residents to cast their vote for the candidate of their choice.

Dee Cunningham, Old Dixie Highway, stated that in spite of the actions taken on the resolution regarding the referendum question, there was still an opportunity to make things right by defeating the question and encouraged residents to exercise their right to vote.

George Carter, Palm Drive, stated that as he campaigned throughout the city, there were a number of concerned and involved citizens than what's portrayed during various city meetings. He stated that after this election season, there was a necessity for the city to establish a policy for election signs. He stated that the Youth Empowerment Program was positive program and encouraged support of the program from the elected officials and the residents.

Amon Yisrael, stated if the question on the November 2nd ballot would not have included language such as the city shall own, manage, and operate solely municipal property or limiting the marina to a municipal park, there would not be an issue. He stated that the question on the March 8th ballot would rectify what was in place as a result of the passage of the referendum November 2, 2010.

Gerald Ward, W 20th Street, announced that a workshop was scheduled by the Palm Beach County Recreation and Parks Department for February 10, 2011 at 6:00 p.m. at Phil Foster Park regarding establishing a marine sanctuary here in the city. He announced that the Palm Beach County Commissioners would be conducting the first reading of an ordinance authorizing the Recreation and Parks director to establish various guidelines which could possibly be a detriment to residents of the city. He continued with stating that if the city had process and procedures in place and followed them, a lot of the fiasco that takes place would cease.

*Public Comments shall begin at 8:00 PM unless there is no further business of the City Council, which in that event, it shall begin sooner. In addition; however, if an item is being considered at 8:00 PM, then public comments shall begin immediately after the item has been concluded.

REGULAR

8. **RESOLUTION NO. 13-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING AN EXCLUSIVE FRANCHISE AGREEMENT FOR THE COLLECTION OF RESIDENTIAL AND COMMERCIAL SOLID WASTE FOR THE PERIOD MARCH 1, 2011 TO SEPTEMBER 30, 2016 WITHIN THE CITY LIMITS OF RIVIERA BEACH, FLORIDA TO WASTE MANAGEMENT OF FLORIDA, INC.; PROVIDING FOR ONE FIVE (5) YEAR RENEWAL OPTION BASED UPON THE MUTUAL CONSENT OF THE PARTIES; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FRANCHISE AGREEMENT TERMINATING**

THE EXISTING CONTRACT EXTENSION UPON EXECUTION BY THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

City Clerk Ward read the aforementioned resolution into the record.

A motion was made by **Councilperson Thomas** and seconded by **Councilperson Lowe** to approve Resolution No. 13-11.

MOTION

Angela Wynn, W 35th Street, stated that she had evidence as to why the contract should not be awarded to Waste Management. She stated that there were many lawsuits filed against the company and research into the background of the company needed to be conducted.

Tony Badala, Southern Waste Systems, stated that the cost submitted in the RFP for the solid waste contract by SWS was much lesser than what was being considered for approval. He stated that he submitted a letter to each elected official and was willing to place \$85,000 in a local bank for the community benefit program and the additional \$37,000 monthly the city would save.

Patti Hamilton, Southern Waste Systems, stated that the main topic of discussion across the business community was jobs. She stated that companies were laying off and doing whatever was necessary to afloat and that approving the proposed contract would increase expenditures for businesses which would result in cutting elsewhere.

Russell Mackie, WastePro, stated that the city did not follow its own policy and procedure in this process. He stated that the company did not believe in suing municipalities but they had a good legal posture against the city. He continued with stating that as elected officials, the city council did not do what were they elected to do.

Tina White, W 1st Street, requested that approval of the contract be delayed until after the election. She stated that the city council violated their policy and procedures and the criteria advertised in the RFP for the contract.

Fane Lozman, E 13th Street, stated that residents and business owners were not satisfied with the service provided by Waste Management but the city council was considering awarding them a contract. He further stated that the city council was not in compliance with the procurement code.

Gerald Ward, W 20th Street, inquired as to whether or not the city and its residents would receive the numerous benefits as indicated in the summary. He stated that a comparison needed to be conducted in order to determine the true value of the contract.

Councilperson Thomas requested the following be included in the contract: increase the community benefit amount from \$12,000 per district to \$15,000 per district; once year each councilmember could place a roll-off in their district where residents could dump any type of material; leaving areas clean after removal of trash; Riviera Beach residents, if qualified, were provided the first opportunity to work for Waste Management. He inquired what would be done to address the constant complaint received from Ms Larson regarding early morning pickup.

Butch Carter, Waste Management Representative, stated as to the complaints from Ms Larson, the start time was moved from 6:00 a.m. to 6:30 a.m. but unfortunately her home was located next to a commercial business however, they did have the dumpster moved to the other side of the business. As it related to debris removal after trash pickup, the number of complaints decreased to approximately four per month which was a great improvement from past years. He stated as it related to job opportunities for city residents, there was currently a position open at the Boynton Beach site which serviced the city and the recruiter was looking for city residents who were qualified and experienced to drive trucks that serviced the city. He stated that they would be bringing on a different subcontractor for the vegetation collection which would be a Riviera Beach based business. The subcontractor would have to hire two or three new people and the subcontractor has stated that their highest criteria for the new hires would be city based businesses.

Mayor Masters stated that the company should consider a pilot program for the hiring of ex-felons as well as an on-the-job-training program.

Mr. Carter stated that he would agree to the placement of roll-off containers in each district once per year as well as increasing the community benefit amount from \$72,000 to \$90,000. He stated he was uncomfortable with the 6:30 a.m. start time and requested that the start time remain at 6:00 a.m.

An amended motion was made by **Councilperson Thomas** and seconded by **Councilperson Brooks** to revise the contract to include \$90,000 per year community benefit contribution; placement of a roll-off container within each district once per year for hazardous materials; and start time to remain at 6:00 a.m.

MOTION

Upon a roll call vote by City Clerk Ward, the vote was unanimous.

MOTION APPROVED

9. **RESOLUTION NO. 15-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, DIRECTING THE CITY CLERK TO PLACE A REFERENDUM QUESTION ON THE OFFICIAL BALLOT FOR THE MARCH 8, 2011 MUNICIPAL ELECTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE**

DATE AND OTHER PURPOSES.
DISCUSSED OUT OF SEQUENCE

ITEM ADDED TO AGENDA AND

City Clerk Ward read the aforementioned resolution into the record.

A motion was made by **Chair pro tem Davis** and seconded by **Councilperson Brooks** to approve Resolution No. 15-11.

MOTION

Lynne Hubbard, W 23rd Street, stated that individuals that signed the petition were advised that there was something wrong with the language and the elected officials did not understand the language. She stated that nothing in the proposed question addresses issue of clarification and in her opinion that was misleading. She stated that the words own, operate, and manage was in paperwork submitted to Palm Beach County Commissioners but when the same wording was utilized by the citizens elected officials stated that they did not understand.

William Burrs, Canterbury Drive S, stated that the city charter stated that only committee members could sign the petitions and if he was wrong then the city attorney should correct him. He stated that if his statement was true and the city council approved of sending the question to the ballot, then as elected officials, they were in violation of the city charter which they took an oath to uphold.

Earl Davis, W 4th Street, stated that he signed the petition and understood what it was saying and urged the city council to approve the resolution.

Gerald Ward, W 20th Street, stated that the resolution did not include a statement regarding the city clerk's certification. He stated that the request from the committee requesting review by the city was included in the backup information. He stated that it was vitally important for the elected officials to adhere charter and ordinances of the city.

Bruce Guyton, stated that the committee was made aware that a few of the petitions were had names on them that were not submitted to the city clerk but they were in compliance with the state statute. He stated that the committee should be penalized but the signatures should not be thrown out; and there was nothing in the charter that dealt with the issue at hand.

Sylvia Blue, W 1st Street, urged the city council to approve the resolution sending the proposed referendum question to the March 8th ballot. She stated that the referendum language that was proposed to place the question on the November 2nd ballot was in violation of the state statute. She stated that there was no fraud perpetrated on anyone and the language was clear. She continued with stating that the charter speaks of a minimum of five individuals must be

sworn by the city clerk as affiance to the petition but it did not indicate that all affiances needed to take an oath.

Tina White, W 1st Street, stated this matter should be taken before the court just as it was done for the task force. She stated that in doing this it would show that the city council was unbiased. She continued with stating that it was not appropriate for the city clerk not to be able to explain to the public why some of the petitions were not validated insufficient.

Pamela Williams, W 33rd Street, stated that she felt that the city council did not have to go before anybody to rule on this matter. She stated that individuals were not lied to and that she became involved because she was not represented by the previous committee. She stated that if the city clerk wanted to speak she should be allowed to do so and the committee had nothing to hide.

Vivian Havener, E 25th Street, stated that she signed the petition and she understood it and urged the city council to approve it.

Fane Lozman, E 13th Street, stated that the city council was under a microscope regarding this issue and what took place at a Closed Executive Session a few weeks ago. He stated that only the city clerk had the proper training courses and certification to get the designation she possesses and she had the fiduciary duty to carry out her responsibilities. He stated that the city council should present the case before the court or follow the city clerk's advice.

Bill Contole, stated that the city council had the responsibility to vote on this matter one way or the other and that either way they may end up in court as required by law. He stated that the city clerk had no authority in determining the sufficiency or insufficiency of the affidavits.

Chair pro tem Davis stated that she did not know if the charter was enhancing the state statute but it seemed to create a problem.

Chairperson Pardo stated in the sixth whereas clause, it read that the city council determined that CBRB's petition was consistent the state statutes. She inquired as to whether or not the statement should have read the city council or the city attorney.

City Attorney Ryan stated that the city council had to make the final determination but the certificate from the Supervisor of Elections stated that the requisite number of signatures was submitted. She stated that Judge Fine ruled that as long as the petition followed Chapter 166 and Chapter 101 it shall be placed on the ballot. She stated that it was her opinion, based upon Judge Fine's order, which the city was appealing but was presently in place, the city council should move forward and place the issue on the ballot irrespective of what anyone had to say about it.

Councilperson Lowe stated that any side of the debate could be disputed. He stated that the decision regarding the petition presented by the Citizens Task Force was different from what was before the city council because it was regarding the language. He stated that to his understanding the Supervisor of Elections checked to see if the individuals who signed were registered and asked if he understood correctly. City Clerk Ward answered that was correct. Councilperson Lowe stated that charter read for the city council to consider at its next meeting and the information was received at the meeting on the dais so how was that the next meeting. He stated that if procedures were not followed it invited all of the uncertainty that currently exists.

Councilperson Brooks asked if the city clerk would explain what she was deeming insufficient.

City Clerk Ward stated her fiduciary responsibility as the city clerk, authorized by Florida statutes, that the form of the petition is approved by the city clerk prior to dissemination in the community for the purpose of collecting signatures. She stated what was before the city council was the certification received from the Palm Beach County Supervisor of Elections and her only responsibility was to certify and acknowledge that the signatures presented to her were valid registered voters. Further she stated that her certification acknowledged findings based on the language in the city charter and sections of Florida Statute Chapter 166.031. City Clerk Ward read her certification into the record. She then stated , during the 2008 referendum election, the number of circulators was changed as a result of the legalities regarding the beach issue but the procedure did not change; she continued with reading the affidavit into the record.

Councilperson Thomas stated that from his understanding, the city clerk did her job and based her findings according to the city's process. He inquired as to whether or not state law trumped the city's process.

City Attorney Ryan stated that when the issue previously arose, she advised the city council that they had some lead way with state law; however, she reiterated that Judge Fine ruled in his order the last time that 166.031 and Chapter 101 the Election Law were the only things that applied. She stated that his order gave the impression that no matter what the signatures could be on anything but if the requisite numbers of signatures were obtained, the question shall be placed on the ballot. City Attorney Ryan stated that was one of the reasons the city should continue with the appeal because she didn't necessarily agree with Judge Fine's ruling; however, even if it was stated that the other things could be applied, the charter was clear – she read the section of the charter pertaining to the process into the record.

Councilperson Thomas stated that each committee was within their rights but the city's process needed to be refined and in accordance with state law. He inquired as to whether or not the city had to go by Judge Fine's ruling at this time.

City Attorney Ryan stated that the city could always try and go before another judge, but she was reluctant to advise the city council to do something contrary to a judge's order especially when it was on something that was of similar nature.

A lengthy discussion ensued.

Councilperson Thomas inquired as to what would happen to No. 7 if the proposed resolution was approved.

City Attorney Ryan stated that it was at the discretion of the city council as to what happens with the item. She stated for clarification that there were two items for consideration in No. 7. She stated that if the city council decided to place the proposed ballot language within the resolution on the ballot, it was different from the question within the ordinance on second reading but it would be duplicative to place both question on the ballot. She stated that staff would strongly advise that the city council only place one of the questions on the ballot which were not germane to the straw ballot question.

Mayor Masters stated that state statutes could trump city laws; however, the city could have more stringent laws than the state. He stated that the previous issue regarding the proposed referendum language was approved; but this time it was the city clerk, who's a state constitutional officer, who stated on the record that there was a problem and it was the council's responsibility to determine whether or not they would accept her findings or possibly take it to court. He stated for the record that the straw vote was a separate issue but he was not certain as either placing it on the ballot or not doing so was the right thing to do.

Councilperson Lowe stated for the record that until he had the opportunity to review the findings, he would not support the resolution and would gladly address it at the next meeting.

Upon a roll call vote by City Clerk Ward, the motion was approved with Councilperson Lowe dissenting.

MOTION APPROVED

DISCUSSION & DELIBERATION

City Manager Jones stated that she would be polling the city council for a Closed Executive Session as it related to labor issues.

BOARD APPOINTMENT(S)

NONE

DISCUSSION BY THE CITY MANAGER

NONE

LEGAL DISCUSSION/REQUEST

NONE

DISCUSSION AND RECOMMENDATIONS BY CITY COUNCIL

Chairperson Pardo made the following announcements: Palm Beach County Recreation and Parks Department would be hosting a workshop on February 10, 2011 at 6:00 p.m. at Phil Foster Park to discuss a proposed marine sanctuary to be located near the south end of the Blue Heron Bridge; for the residents of Singer Island, the sand hauling project would be complete on Thursday but dune restoration and planting would be completed by February 18th; Palm Beach County Commissioners would be hosting a workshop on March 22nd to discuss the break water project; and on February 20th the City of West Palm Beach would be hosting a Super Charge Celebration at the new waterfront wherein some of the city's firefighters would be participating in a chili cook-off, the event was a fundraiser and the fighters stated that their portion would be donated to the city's library. She stated that she participated in the ribbon cutting ceremony for Congressman Allen West's new office in West Palm Beach.

Chair pro tem Davis stated that she received a request from Gwendolyn Myers, who was visually impaired, requesting that the community event calendar currently being aired on Channel 18 be advertised visually and verbally. She announced that on February 12th the Youth Recreation Association would be hosting a Black History Banquet to be held at Hurst Chapel at 6:00 p.m. She stated that she had a table and anyone interested in attending please contact her. Councilperson Davis inquired as to how the amendment approved at the November 2nd Election was to be handled as far as it being included in the city's charter.

City Clerk Ward stated that she previously attempted to present a resolution when discussion first began which would have sent the question to the ballot then to the charter but the city council did not entertain it.

Councilperson Brooks stated that she would defer her discussion on the outcome of the trip that she and the mayor took to the Bahamas.

Councilperson Thomas requested that comments of department heads on agenda items be attached so that he could be better informed when making his decisions. He

stated that Dr. Avis Chapman and her committee had been trying to schedule a meeting to discuss having an event at one of the city's facilities and would have to be presented to the city council for approval and requested that the city manager contact her and Mr. Anthony Mack.

Councilperson Lowe announced that the library would be hosting a Black History Film Festival and encouraged everyone to participate; February 7th was National Black HIV/AIDS Awareness Day and an event would be held on February 5th at 10:00 a.m. at Cunningham Park; the Miss Riviera Beach/Miss USA Teen Pageant would be held on April 3rd at Inlet Grove High School Auditorium and tickets were \$10.

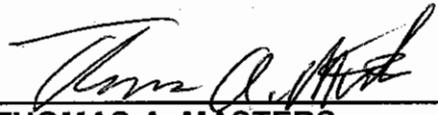
Mayor Masters announced that the Radisson Hotel located in Lucaya, Bahamas agreed to give residents of the city that had proper identification, a special rate of \$79 per night; on February 24th world experts from the United Nations and United States would host a workshop in the City Council Chambers to discuss HIV/AIDS awareness. Mayor Masters read a letter into the record from the US Conference of Mayors regarding civility accord which he would be signing in conjunction with other mayors around the country.

ADJOURNMENT

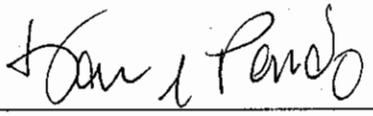
There being no further business, the meeting was duly adjourned at 11:50 p.m.

PLEASE NOTE: A COMPLETE RECORDING AND AGENDA PACKAGE IS AVAILABLE IN THE OFFICE OF THE CITY CLERK.

APPROVED:



THOMAS A. MASTERS
MAYOR



DAWN S. PARDO
CHAIRPERSON

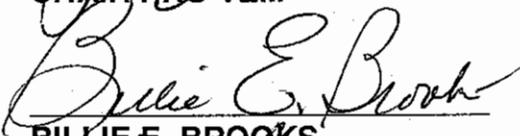
ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK



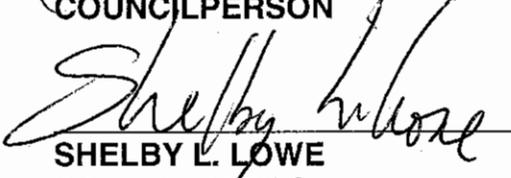
JUDY L. DAVIS
CHAIR PRO TEM



BILLIE E. BROOKS
COUNCILPERSON



CEDRICK A. THOMAS
COUNCILPERSON



SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: C. THOMAS
SECONDED BY: J. DAVIS

D. PARDO AYE
J. DAVIS AYE
B. BROOKS OUT
C. THOMAS AYE
S. LOWE AYE

DATE APPROVED: 03/02/2011