CITY OF RIVIERA BEACH
PALM BEACH COUNTY, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
MUNICIPAL COMPLEX COUNCIL CHAMBERS
WEDNESDAY, JUNE 2, 2010 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; and Councilperson Shelby L. Lowe. Also present were: City Manager Ruth Jones; City Clerk Carrie E. Ward, MMC; and City Attorney Pamala H. Ryan.

Councilperson Thomas was tardy.

Invocation/Pledge of Allegiance

Everyone stood for a Moment of Silence and the Pledge of Allegiance led by Councilperson Lowe.

AGENDA Approval:

Additions, Deletions, Substitutions

NONE

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 **Councilperson Brooks** and seconded by **Councilperson Lowe** to approve the agenda.

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 MAY 5, 2010.**

2. **MINUTES FROM THE REGULAR CITY COUNCIL MEETING HELD MAY 19, 2010.**

RESOLUTIONS:

3. **RESOLUTION NO. 56-10 A RESOLUTION OF THE CITY OF RIVIERA BEACH, FLORIDA, PALM BEACH COUNTY, FLORIDA AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AN AGREEMENT COMMENCING OCTOBER 1, 2009 TO SEPTEMBER 30, 2012 BETWEEN THE CITY OF RIVIERA BEACH AND THE PROFESSIONAL MANAGERS AND SUPERVISORS ASSOCIATION (PMSA) BARGAINING ORGANIZATION REPRESENTING THE SUPERVISORY EMPLOYEES OF THE CITY OF RIVIERA BEACH; PROVIDING FOR AN EFFECTIVE DATE.**

4. **RESOLUTION NO. 57-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH THE SCHOOL BOARD OF PALM BEACH COUNTY FOR THE MUTUAL USE OF RECREATIONAL FACILITIES; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AND PROVIDE AN EFFECTIVE DATE.**

END OF CONSENT AGENDA

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

MOTION

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

MOTION APPROVED

PETITIONS AND COMMUNICATIONS FOR FILING:

City Clerk Ward stated that she received correspondence from Ms Mary C. Neal, 1126 W 26th Street, stating that she felt the issue regarding the marina should be a referendum so that all residents would have the opportunity to vote on the issue. She then stated that she received correspondence from Ms Mary Orange, 1136 W 26th Street, stating that she felt the issue regarding the marina should go to referendum so that every resident would have the opportunity to vote on the issue.

AWARDS AND PRESENTATIONS:

NONE

PUBLIC HEARINGS:

ORDINANCES ON SECOND READING:

NONE

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.*

Patrick Flaherty, 147 E 28th Street, stated that he felt that the city should not leasethe marina to Rybovich but run the operations of the marina itself.

Rev. William H. Burrs, 2542 Canterbury Drive S, stated that the city council should listen to its residents and give them what they want. He asked the city council how many of them knew how much revenue was being received from the utilization of the washers and dryers located at the marina and the loss of revenue from the dry and wet slips at the marina.

Zar Yassine, 2124 Broadway, stated that parking along side retail businesses since the 1950's. He stated that he did not feel that he was being treated fair as a result of the complaints made by the owner's of Dee's T-shirts.

Nora Mahoney, 2120 Broadway, stated that she felt that Planning and Zoning Board meetings should be televised. She also stated that as a taxpayer, she had the right to call any entity she desired to launch a complaint against an individual or business.

Gerald Ward, 31 W 20th Street, stated that the governor had until June 5th to veto Senate Bill 1118 which could affect the recently adopted ordinance regarding docks. He stated that the governor had vetoed $500K for 13th Street. He stated that explanations for the contents of agenda items were necessary and that the city council should request it from staff.

Mike Mahoney, 2120 Broadway, stated that the violations made by Mr. Yassine, at his business, were being handled through the legal system as Mr. Yassine requested.

Norma Duncombe, stated that part of the loss of revenue for the marina came from the loss of revenue from the restaurant lease at the marina. She stated that maybe the city should consider installing parking meters at the marina to obtain additional revenue.

Lynne Hubbard, 1405 W 23rd Street, stated that the financial instability of the marina was being convoluted and that the marina was not losing money as being presented.

Tina White stated that a letter was submitted by the Department of Environmental Protection and that it had been read by elected officials and the city attorney. She stated that in the letter, it stated that if the agreement with Rybovich was approved the city would be in violation of the state statutes dealing with dedicated waters. She requested that the letter be read into the record.

Fane Lozman, 2100 Broadway, stated that he was responsible for the letter received from the Florida Department of Environmental Protection. He stated that the approval of the master development agreement was an act of malfeasance by the city council. He stated that the residents should move forward with a recall of the elected officials.

Phillip Dukes, 1211 Avenue T, stated that he had confidence in the elected officials and that the city had the ability to run the marina instead of giving it to a private entity. He stated that he heard the marina was refinanced three times but the funds were not put back into it; and he wanted to know if it was true.

Johnnie Shaw, 230 W 16th Way, stated that the city was not being properly maintained. He stated that he had evidence against the Code Enforcement Division and he also had evidence against the city engineer as to how the sidewalks were done on Singer Island and how the were done in front of his mother's home.

[1]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:

5. **RESOLUTION NO. 58-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING BID NO. 263-10 FOR THE CONSTRUCTION OF A COMBINED FISHING PIER/WORKING DOCK TO FERREIRA CONSTRUCTION CO., INC. OF STUART, FLORIDA, THE LOW RESPONSIVE AND RESPONSIBLE BIDDER IN THE AMOUNT OF $1,018,530.63; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE PROPOSED CONSTRUCTION SERVICES CONTRACT AND AUTHORIZING THE FINANCE DIRECTOR TO ESTABLISH A BUDGET AND MAKE PAYMENTS FOR SAME; AND PROVIDING AN EFFECTIVE DATE.**

City Clerk Ward read the aforementioned resolution into the record.

A motion was made by **Councilperson Lowe** and **seconded by Chair pro tem Davis** to approve Resolution No. 58-10.

MOTION

Gerald Ward, 31 W 20th Street, made comments reference the necessity of project management.

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

MOTION APPROVED

6. **RESOLUTION NO. 59-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT WITH ARCHITECTS DESIGN GROUP, INC. FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR DEVELOPMENT OF DESIGN SPECIFICATIONS, CONSTRUCTION DOCUMENTS, AND RELATED SERVICES FOR A NEW RIVIERA BEACH POLICE COMPLEX AND VARIOUS IMPROVEMENTS TO EXISTING BUILDINGS LOCATED ON THE MUNICIPAL CAMPUS; SAID CONTRACT COMMENCING JUNE 3, 2010 THROUGH JUNE 3, 2012 WITH THE OPTION TO RENEW FOR FOUR (4) ADDITIONAL ONE-YEAR TERMS; AND PROVIDING AN EFFECTIVE DATE.**

City Clerk Ward read the aforementioned resolution into the record.

A motion was made by **Councilperson Brooks** and seconded by **Chair pro tem Davis** to approve Resolution No. 59-10.

MOTION

Gerald Ward, 31 W 20th Street, stated that the process followed in selecting the vendor was correct and that attention should be given to the same process in agenda items listed further down on the agenda.

Chairperson Pardo stated that she did not agree with Section 6 (d) i and ii which dealt with mileage and long distance calls.

Mayor Masters stated for the record that he agreed with Chairperson Pardo.

Ian Reeves, Architect Design Group, stated that they would waive the provisions.

Councilperson Lowe stated that he was against spending money on the project at this time he felt the monies could be better utilized on other urgent projects in the city.

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

MOTION APPROVED

7. **RESOLUTION NO. 60-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING ARCHITECTS DESIGN GROUP, INC. TO PERFORM PROFESSIONAL SERVICES IN THE SCOPE OF WORK AS OUTLINED IN WORK ORDER #1; AUTHORIZING THE FINANCE DIRECTOR TO MAKE A PAYMENT IN THE AMOUNT OF $79,000.00 FROM ACCOUNT NO. 310-0817-521-0-6251; AND PROVIDING AN EFFECTIVE DATE.**

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. 60-10.

MOTION

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

MOTION APPROVED

8. **RESOLUTION NO. 61-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A MASTER DEVELOPMENT AGREEMENT BY AND AMONG THE CITY OF RIVIERA BEACH, FLORIDA, THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY AND VIKING DEVELOPERS, LLC; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO FACILITATE THE TERMS OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

City Clerk Ward read the aforementioned resolution into the record.

A motion was made by **Councilperson Brooks** and seconded by **Councilperson Lowe** to approve Resolution No. 61-10.

MOTION

The following made comments against the proposed resolution:

Norma Duncombe,
Lynne Hubbard, 1405 W 23rd Street,
Fane Lozman, 2100 Broadway,
Gerald Ward, 31 W 20th Street,
William Burrs, 2542 Canterbury Dr, South
Bonnie Larson, W 27th Street
Nora Mahoney, 2120 Broadway
Tina White

James Drayton, 1672 39th Street, West Palm Beach, made comments reference the appraisal provided on the property and the listed exceptions.

A lengthy discussion ensued amongst the Mayor, City Council, and staff.

Ethel Isaacs Williams, Esq., representing Viking, made comments reference the proposed document and how it outlined the framework only and that her client had invested $50 million in the land surrounding the marina.

Mike Clark, Viking Developers, stated that he needed clarification as to what was the desire of the elected officials.

Palm Beach County Commissioner Taylor, encouraged the City Council to listen to the concerns of the citizens. She continued with stating that the grant provided was for public access utilization not working waterfront.

A lengthy discussion continued amongst the City Council, staff, and the legal counsel for the developer.

At this time Councilperson Lowe questioned the pleasure of the board –to ask the master developer to come up with a strategy or how to come up with a strategy to implement those major concerns he was hearing. He stated number one if we're going to stop subsidizing the use, we want the enterprise account to start finding its way back into the black and number two is community access. "Those are the two things we want upfront and the use of our facility and upgrade to our facility, how do we proceed in that can we give the developer – can we as a board give the developer that direction in the form of a motion or in the form of asking that it be included in the language for the contract so that we know we're on the same page and we're all working towards the same efforts and that's one ...like I said before is to operate in the black and to increase public access to the marina. Cause at the end of the day those are the two most important things if the people aren't using the facility – you can take me out boating and I can enjoy the experience but if you teach me how to boat I can go anywhere I wanna go and I can do anything I want to as it relates to the marine industry. That's the essence – that's the core of the whole thing here is getting people involved and that can happen today."

Chair pro tem Davis, "is that a motion?"

Councilperson Lowe, "yeh I could if I'm in my right to make that motion."

Chair pro tem Davis, "I'll second it."

Ethel Isaacs Williams, Esq., read Section 2.05 of the Master Development Agreement into the record.

City Clerk Ward stated, "at the current time there are two motions on the floor and I don't think we need two – possibly Councilman Lowe maybe you want to rescind yours or perhaps the attorneys could assist you in continuing to accomplish your goal to amend the first motion."

Chair pro tem Davis, "for the sake of time either we're going to table it or we're going to vote because this is definitely not something we are going to negotiate tonight either we're going to table it and give staff direction to go ahead and go back to do this or there is a vote that's going to take place. I think everybody has made their position clear."

A lengthy discussion continued amongst the City Council.

Councilperson Lowe rescinded his motion.

A five minute recess was called. The meeting was reconvened 10 minutes later.

City Attorney Ryan, "we took a 5 minute recess well a 10 minute recess to try to develop some language to deal with the issues that Councilpersons Lowe and

Davis brought up and I develop a little bit of language with Vikings attorney and we think we have approval with them on this language and so I would like to present it to council and you can amend the motion if this is acceptable to the council. In Section 2.02 of Article II which is page 3 of the agreement at the very end of the sentence that says and I'll read the sentence so that no one is confused – "the phasing of the development of the 19 project elements is designed to follow such sequencing as when the market conditions and demand are deemed by the parties to be appropriate to proceed with an individual project element, and the specific terms and conditions for each project element shall be delineated in a separate agreement(s)." The new language says not withstanding the above; Viking specifically agrees to use its best efforts to assist the city with the development of the parking garage, Newcomb Hall, Bicentennial Park, and a public boating facility by initiating a strategy with the city for each said development element."

Councilperson Lowe, "I'll amend the motion to include that language."

Chair pro tem Davis, "I'll second."

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

MOTION APPROVED

9. **RESOLUTION NO. 62-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE ASSIGNMENT AGREEMENT BETWEEN VIKING DEVELOPERS, LLC AND SUB-DEVELOPER, RYBOVICH PORTSIDE, LLC; AS IT RELATES TO THE DEVELOPMENT OF CERTAIN PROPERTY LOCATED WITHIN THE CITY'S MARINA DISTRICT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

City Clerk Ward read the aforementioned resolution into the record.

A motion was made by **Councilperson Brooks** and seconded by **Councilperson Lowe** to approve Resolution No. 62-10.

MOTION

The following made comments in support of the proposed resolution:

Charlene Johnson, 2545 NE 60th Court

James L. Williams, 1191 Morse Boulevard

Gerald Ward, 31 W 20th Street, made comments reference the lack of supporting documentation for the contents of the agreement.

Fane Lozman, 2100 Broadway, made comments reference no one addressing the submerged lands.

The following made comments against the proposed resolution:

Norma Duncombe
Bonnie Larson, W 27th Street

Tina White, stated a meeting was held and elected officials attended wherein residents stated that they wanted this issue to be placed on a referendum. She requested that Councilperson Thomas read the letter into the record received from the Department of Environmental Protection, advising that if the City Council approved the lease agreement with Rybovich it would be in violation of the dedication of the submerged lands.

Councilperson Thomas read the letter received from the Department of Environmental Protection on June 2nd via email into the record. He then requested the attorney to provide the legal affect this would have on the city.

City Attorney Ryan stated that she had discussions with various officials of the Florida Department of Environmental Protection.

A lengthy discussion ensued amongst the mayor and city council and city attorney.

Chair pro tem Davis moved that numbers 9, 10, and 11 be postponed to be considered at a Special Meeting, to be held June 10th, and the letter is received from the Department of Environmental Protection. Seconded by **Councilperson Brooks.**

MOTION TO POSTPONE

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

MOTION APPROVED

10. RESOLUTION NO. _63-10_ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND AMONG THE CITY OF RIVIERA BEACH, THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY AND RYBOVICH PORTSIDE, LLC, FOR THE DEVELOPMENT OF PROJECTS WITHIN THE MARINA DISTRICT AS CONTEMPLATED BY THE CONCEPTUAL MASTER DEVELOPMENT PLAN; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO FACILITATE THE TERMS OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

11. **RESOLUTION NO. 64-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A 25 YEAR SUBMERGED AND UPLAND LANDS LEASE WITH RYBOVICH PORTSIDE, LLC; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO FACILITATE THE TERMS OF THE LEASE; AND PROVIDING AN EFFECTIVE DATE.**

BOARD APPOINTMENT(S):

NONE

DISCUSSION BY THE CITY MANAGER:

NONE

LEGAL DISCUSSION/REQUEST:

City Attorney Ryan requested a Closed Executive Session for June 7, 2010 at 6:30 p.m.

There was a consensus of the City Council to schedule the Closed Executive Session for another date.

DISCUSSION AND RECOMMENDATIONS BY CITY COUNCIL:

Chair pro tem Davis requested an update on the operation of the mesh system. She then requested that the city council revisit the security award approved at the last City Council Meeting.

Chairperson Pardo stated that the Town of Lake Park held a workshop regarding road closures that would affect city residents and that there was no staff present from the City of Riviera Beach. She stated that another workshop was scheduled for June 15th at 7:00 p.m. and she wanted staff present. She also requested that trash containers be placed throughout the area of the Ocean Mall until the decorative containers were installed; she then requested that an appraisal be done on the property at the marina where the restaurant was located.

ADJOURNMENT

There being no further business the meeting was duly adjourned at 12:30 a.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: S. Lowe

D. PARDO	aye
J. DAVIS	aye
B. BROOKS	aye
C. THOMAS	aye
S. LOWE	aye

DATE APPROVED: 06/16/2010