

**CITY OF RIVIERA BEACH, FLORIDA
CITY COUNCIL REGULAR MEETING
MUNICIPAL COMPLEX COUNCIL CHAMBER
WEDNESDAY 19 JANUARY 2000 7:39 P.M.**

- EXCERPT -

**REQUEST FOR INFORMATION
DON STEPHENS, ESQUIRE
(OLDS AND STEPHENS, P.A.)**

Don Stephens (Olds and Stephens, P.A.) commented that Attorney Ben Lebedeker, of their office, received a subpoena from the attorney of Councilperson Moffitt (McGann vs. Moffitt), requesting information that was declared confidential. He indicated that an objection was filed. He cited that the confidential statement given by Ms. Moffitt was part of the case(s) surrounding Gilles, Brochu, Pfefferkorn, Donatto, Hoeffler, and Mulrooney; that, some of those cases were resolved while others were yet open. He stated their contention was that the requested statement was irrelevant to the McGann/Moffitt case; that, it would be detrimental to the city if the requested statement was released to Ms. Moffitt's attorney; that, the result could possibly be that the attorneys for Plaintiffs Brochu, Pfefferkorn, etc. might be privileged to that means.

He stated that there had been written implications by other attorneys (involved in the Gilles matter) suggesting that they had inside information; therefore, for the protection of the city and Councilperson Moffitt, the statement should not be released- especially in the referenced matter. He suggested that for council to allow the referenced release to the attorney for Ms. Moffitt's might open the door for other statements to be released. Discussion ensued.

Councilperson Moffitt stated surprise that the matter was presented in the present forum; that, her attorney should have been present to communicate his concerns of necessity for the referenced information. She proceeded to elaborate and emphasized her right to review the referenced document, which was not completely afforded her in the deposition matter of Hoeffler and Mulrooney. She stated unfairness and indicated, based upon the present event, she intends to make the matter an issue for the court; that, she had not been provided with a copy of her statement or the opportunity to read the statement in its entirety. Discussion ensued.

For the benefit of interpretation, Chairperson Rodgers indicated that the city's counsel has certain information, which is council's right to claim 'privileged' and should not divulged; however, if the court says it must be released-it would be. He indicated that if council waived that privilege, authorization would be given to disclose that information, which the city's counsel objects to. Discussion ensued.

Chair Pro-Tem Wade stated her obligation to the city and indicated support for the city's counsel. Discussion ensued.

Mayor Brown informed Councilperson Moffitt that the present-open forum was the only place to obtain authorization for release of the requested information. He suggested although he did not represent her, that probably, she should not make any further comment regarding her concern without her counsel's presence. Discussion ensued.

Motion was made by Chair Pro-Tem Wade and seconded by Councilperson Wilson that the attorney is directed not to release any information unless directed by the court. MOTION

Councilperson Callahan commented that she, too, was called for deposition regarding the matter of Hoeffler and Mulrooney; that, upon doing such, the scene changed. She indicated that she hired an attorney who advised that the order of process was improper. She stated she could not vote on the item at hand. Discussion ensued.

Attorney Stephens stated that, initially, Councilperson Moffitt was provided adequate time to review her statement, but as stated she had to leave. He indicated that after the depositions were taken, things occurred to put him on notice that there was a problem with the secrecy of those executive sessions. He cited that he had no individualized problem with any person; that, he did not allow anyone to read his or her respective statement-for the protection of the client; that, he would not permit such disclosure until authorized by council.

City Manager Wilkins stated that he was approached by Councilperson Moffitt to receive a copy of her statement. However at which time he address the legal counsel of her request and was advised that said statement could not be released without the consent of the city council. He then stated that the legal counsel could address the concern to the regular city council meeting. The attorneys for the city requested that they be heard, at the present forum.

He indicated that the attorneys could not talk with council individually or obtain a decision individually; that, he had not violated any of his responsibilities, in terms of the occurred events.

Attorney Russell stated that he could not verify the activity of Councilperson Moffitt's reading of the referenced deposition statement. Discussion ensued.

Upon a roll-call vote, the vote was as follows:

Councilperson Callahan stated 'conflict of interest'

Councilperson Moffitt stated 'conflict of interest'

Councilperson Wilson Yes

Chair Pro-Tem Wade Yes

Chairperson Rodgers Yes

City Clerk Ward announced the vote as three (3)-affirmative, with Councilperson Callahan and Councilperson Moffitt filing a 'conflict of interest within fifteen (15)-days. MOTION APPROVED

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REGULAR CITY COUNCIL MEETING MINUTES

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