

**CITY OF RIVIERA BEACH
PALM BEACH COUNTY, FLORIDA
CANVASSING BOARD MEETING MINUTES
MUNICIPAL COMPLEX COUNCIL CHAMBERS
WEDNESDAY, APRIL 6, 2016 AT 5:00 P.M.**

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

[Gavel]

CITY CLERK ANTHONY: Mic check.

COUNCILPERSON MILLER-ANDERSON: Thank you.

CITY CLERK ANTHONY: Good evening. We are now going to convene our Riviera Beach Canvassing Board meeting. Today is April 6, 2016 and the time is now 5:05.

ROLL CALL

CITY CLERK ANTHONY: I will proceed with the roll call of the Canvassing Board Members. Councilperson KaShamba Miller-Anderson?

COUNCILPERSON MILLER-ANDERSON: Present.

CITY CLERK ANTHONY: Councilperson Dawn Pardo?

COUNCILPERSON PARDO: Present.

CITY CLERK ANTHONY: Councilperson Cedrick Thomas?

COUNCILPERSON THOMAS: Present.

CITY CLERK ANTHONY: Deputy City Clerk Jacqueline Burgess?

DEPUTY CITY CLERK BURGESS: Present.

CITY CLERK ANTHONY: Records Management Specialist Tawanna Smith?

RECORDS MANAGEMENT SPECIALIST SMITH: Present.

CITY CLERK ANTHONY: City Clerk Claudene Anthony is present.

PLEDGE OF ALLEGIANCE

CITY CLERK ANTHONY: Let us stand for the Pledge of Allegiance led by Councilperson Thomas.

COUNCILPERSON THOMAS: I pledge allegiance...

ALL: ...to the Flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible with liberty and justice for all.

COUNCILPERSON MILLER-ANDERSON: Madam Chair?

CITY CLERK ANTHONY: Yes?

COUNCILPERSON MILLER-ANDERSON: Okay. I have a question...

CITY CLERK ANTHONY: Uhuh.

COUNCILPERSON MILLER-ANDERSON: ...before we go into the Resolution in regards to the Canvassing Board.

CITY CLERK ANTHONY: Okay.

COUNCILPERSON MILLER-ANDERSON: Okay. And I, I just am trying to get clarification so that it's done in the proper way. I know that on Thursday, when we had the recount, we, the Canvassing Board consisted of Ms. Jackie, Ms. Bucher and Ms. Tawanna. How does, how do we get to the point of today of changing the Canvassing Board? Do they not remain the same or, cause I wanna make sure we're, we're in the right place here.

CITY CLERK ANTHONY: Councilperson Miller-Anderson, as you know...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: ...you all were advised by our SOE...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: ...that you all could not serve because you all had campaigned for various candidates.

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: I believe our City Attorney provided an opinion...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: ...from the Division of Elections...

COUNCILPERSON MILLER-ANDERSON: For Wellington, yes.

CITY CLERK ANTHONY: For the Village of Wellington which was a similar situation.

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: And, she gave you an opinion on that.

COUNCILPERSON MILLER-ANDERSON: Okay. For Wellington.

CITY CLERK ANTHONY: She, I believe she also gave you opinion on how the opinion, after reading the, the opinion from the Division of Elections.

COUNCILPERSON MILLER-ANDERSON: Mhmm. She stated, and I'm reading from the email, that, um, this is almost the same language that Wellington has in their Charter; the subject of the Division of Election's opinion is what was forwarded. And then, she did., I, I asked where was it within our Charter or our Code and so she responded to say that the., she took Section 5-11, which is the Canvassing Certification of Election, which consists of the City Clerk, the Deputy City Clerk and one Councilperson who is not up for reelection shall constitute the Canvassing Board. The Councilperson requested to serve on the Canvassing Board shall be designated by the City Clerk.

So, with that def'., with that Section being provided, [stammer], it, it kind of [sigh], it contradicted what we have here with the three of us sitting here.

CITY CLERK ANTHONY: Okay. So, if your, if your question is regarding why the three of you all are sitting here...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: I am aware of what that states.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: I looked at past history.

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: Okay? And, at no time during any Canvassing Board did I see where only one Councilperson sat.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: Okay? I take that to be a scrivener's error...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: That that will be corrected.

COUNCILPERSON MILLER-ANDERSON: And what scrivener's... I, I forgot...

CITY CLERK ANTHONY: That section...

COUNCILPERSON MILLER-ANDERSON: ...to look that up.

CITY CLERK ANTHONY: That, that section where it says one Councilperson...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: ...I reviewed the history of our Canvassing Board.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: I even went back to the first City Clerk I served up under.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: And at no time did just one City Councilperson serve. I continued to research to see what our previous language said.

COUNCILPERSON MILLER-ANDERSON: Mm.

CITY CLERK ANTHONY: At one point in time in the City of Riviera Beach's history, the entire legislative body served as the Canvassing Board.

COUNCILPERSON MILLER-ANDERSON: But what did our Code state for us to do though?

CITY CLERK ANTHONY: The Code states for a'.., for one Councilperson and, as I stated before, I believe that to be, I feel that that is a scrivener's error.

COUNCILPERSON MILLER-ANDERSON: Okay. Because, when you look at the history, you do not see where only one Councilperson served.

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: On the Canvassing Board.

COUNCILPERSON MILLER-ANDERSON: When was this last updated? What, what is this one from? 2008 or.., the Code is, most recent [inaudible]?

CITY CLERK ANTHONY: It's from 2010.

COUNCILPERSON MILLER-ANDERSON: 2010? Okay. And so, you went back to 2010 or did you go back...

CITY CLERK ANTHONY: I go...

COUNCILPERSON MILLER-ANDERSON: ...prior to that?

CITY CLERK ANTHONY: I went back further.

COUNCILPERSON MILLER-ANDERSON: Okay. So we, someone just never caught that in the Code to say that it shouldn't've read that way? [Pause]. I guess, yeah. Okay. I think either way, we're.., if we're gonna remain, the three of us remaining up here, we're going against two things. We're going against 1) what the Code is in black and white, 1 and then 2) based on Thursday when we went for the recount, I understand that Ms. Bucher, you know, I guess there was some back and forth as to whether or not it was correct and the three of us were disqualified because of us actively participating in various campaigns and that was why Ms. Bucher, um, followed the state statutes to say that we could not participate. And so, it wound up being the three that I named earlier. I.., why would we not wanna stay consistent with what we did on Thursday?

CITY CLERK ANTHONY: Ms, if you look at the history of our Canvassing Board, you will not see where Ms. Bucher, Ms. Bucher, however you pronounce it...

COUNCILPERSON MILLER-ANDERSON: Mhmm.

CITY CLERK ANTHONY: ...has attended any of our Canvassing Boards.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: So, I did remain consistent with what I saw in the history of the minutes for the Canvassing Board. The only difference that is today, is Ms. Tawanna Smith is sitting up here and that is because she was present on Thursday.

COUNCILPERSON MILLER-ANDERSON: Right. Right. And I understand that part.

CITY CLERK ANTHONY: And she was called to be present at that meeting, as you know, as the public knows, because I had to leave town immediately.

COUNCILPERSON MILLER-ANDERSON: Right. I understand that part. Yeah. What, and I don't know if Ms. Ryan needs to speak to this, for.., if I choose to not participate on the Canvassing Board. Is there any ramifications or any issue?

CITY CLERK ANTHONY: From what I...

CITY ATTORNEY RYAN: If you don't wanna vote on it, just abstain from voting and...

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY ATTORNEY RYAN: ...don't vote.

COUNCILPERSON MILLER-ANDERSON: And, do I need to put in a waiver as to why cause I know that doesn't apply to, you know, anytime I do a waiver from abstaining, that does'..., none of those..., the items as to the reason why I would abstain, it's usually a financial gain.

CITY ATTORNEY RYAN: Right. I think you should just say why you don't feel like you should...

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY ATTORNEY RYAN: ...should vote. But the Canvassing Board, you know, we know it can be at least one Councilperson so if you're not going to vote, you can just say you're not voting on it and no longer participate.

COUNCILPERSON MILLER-ANDERSON: Okay. Alright. Well, I'm going to, based on the things that I just stated and our Code not reflecting what we actually have posted in our Agenda for the one person, the Deputy Clerk, the City Clerk and also it's not remaining consistent with the Canvassing Board that we used on Thursday for the recount, I'm going to abstain from this part of the Agenda.

CITY CLERK ANTHONY: Okay.

COUNCILPERSON MILLER-ANDERSON: Alright.

CITY CLERK ANTHONY: We're gonna go ahead and move forward. Let me say to the public, there is one Resolution heading that was published on the Agenda. However, it has been changed to reflect what took place. So, at this time, I'm going to go ahead and read the heading of the Resolution that will be, that is before the Board for approval. Copies of it is available at the back table, if you so desire to look at it. And it reads:

CITY CLERK ANTHONY: I. RESOLUTION NO. _____ A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, DECLARING THE RESULTS OF THE MARCH 15, 2016 MUNICIPAL ELECTION AND THE MARCH 29, 2016 RUN-OFF ELECTION HELD WITHIN THE MUNICIPAL BOUNDARIES BETWEEN THE HOURS OF 7:00 AM AND 7:00 PM; FURTHER NAMING THE RESPECTIVE REPRESENTATIVES FOR MAYOR, CITY COUNCIL DISTRICT 1, CITY COUNCIL DISTRICT 3 AND CITY COUNCIL DISTRICT 5 (DISTRICT AT-LARGE); CERTIFYING THE POST-ELECTION VOTING SYSTEM AUDIT; AND PROVIDING AN EFFECTIVE DATE.

CITY CLERK ANTHONY: May I have a motion?

CHAIR PERSON PARDO: So moved.

CITY CLERK ANTHONY: Second please?

COUNCILPERSON THOMAS: Second.

CITY CLERK ANTHONY: It has been properly moved and seconded. I have three public comment cards. First up is Lynne Hubbard.

[Pause]

MS. L. HUBBARD: Good evening. Lynne Hubbard. 1405 West 23rd Street, Riviera Beach, Florida. I'm still remaining a candidate for the Riviera Beach City Council seat, District 1.

I came today because, as was mentioned earlier, it had been determined and decided that the Canvassing Board of Riviera Beach, based on its own bylaws, based on its own codes, consist of the Deputy Clerk, the Clerk and one person from the City Council, not all of the persons from the City Council. Also, the persons from the City Council was disqualified because of their participation in the election. And I think right now, we are violating all laws. If it was a scrivener's error, it did not, um, it was not brought up at the Canvassing Board meetings, the recount, anything that we had where the Supervisor of Election was present. I think, right now, that we are making another error as it affects to, the electoral process for the City of Riviera Beach. And I think, right now, we need to disband this. The people that are not on the Canvassing Board, need to remove themselves from the dais and let the Canvassing meeting take place.

CITY CLERK ANTHONY: Fane Lozman.

[Pause]

MR. F. LOZMAN: Fane Lozman. Singer Island. I don't have an address still. Madam Clerk, with all due respect to your analysis, I know you weren't there at the Supervisor of Election's office because of a personal reason but the, the logic that Ms., that the Sup'., Palm Beach County Supervisor of Election, Ms. Bucher, used was that a Canvassing Board Member is supposed to be impartial. Uh, normally when you look at the County Canvassing Board, you have a judge on it, you have a county commissioner. You don't have people that have a, a direct influence in the election or they've participated materially in any one's campaign. For example, I think Ms. Anderson said that she had done a radio ad. Um, Ms. Pardo, there's a printout of a robocall where she's, uh, on the robocall, the printout said that she supported Mr. Guyton and the reasons why and that was actually paid for by Ms. Guyton so., by Mr. Guyton.

So what you're doing is you're having people sitting up there that are not impartial because they materially participated in a campaign. Now, there is a state law that Ms. Bucher referenced from Chapter 9 that it point blank states that you cannot have participated in...
[Beep]

MR. F. LOZMAN: That wasn't three minutes.

UNK: Keep going.

MR. F. LOZMAN: That you could not have materially participated in someone's campaign and be on the Canvassing Board. That's just common sense because you want that impartiality. So what I'm saying is that your analysis is wrong relative to the state law which, if you look at our Code of Ordinances, I think it's 5.12 or, you know, where..., if it's not clear, you..., it says in the Code of Ordinance you go back to the state law which is controlling. So I think your analysis is wrong there, number one. And, number two, whether it's a scrivener's error or not, until it's changed, it's in municode. So, you can't go back and second guess. Did you actually pull the Resolution from 2010 and see what it said? I mean, that should still be in your files from five or six years ago. So I think that's a mistake just to say, 'Well, you know, the Code of Ordinances, it shouldn't be that way.' I think you gotta go by the letter of the law in the Code of Ordinances until it's changed or amended and you s'..., and even then, you still can't circumvent the spirit of what a Canvassing Board is about and how the state law defines that is impartiality.

So I have to agree with Ms. Anderson. There's no reason to have any elected official up there. That decision was made Thursday that they shouldn't be up there and just have yourself, the Deputy Clerk and, and, and, and your other assistant and that should be the Board instead of putting yourself in a position that, that..., where people are gonna question your, your impartiality. You should never put yourself in a position where your partiality can be questioned. You say, 'You know something, I gotta go by the letter of the law, the Code of Ordinances.' But even putting that aside, I can't even remember the Canvassing Board who's admitted, or has shown, that they materially participated in somebody's campaign who the Canvassing Board is looking at.

So, I, I think, unfortunately, I think you're wrong on, on two grounds and it, it's the..., it's just, for lack of a better word, uh, wrong to be going down that road you're going down.

Thank you.

CITY CLERK ANTHONY: Edward Rogers, Sr.

CITY ATTORNEY RYAN: Do you have your cellphone for [inaudible]? Okay.

MR. E. ROGERS, SR.: Madam Clerk, I think you were in error in saying that's, was a scrivener's error. An error means that nothing was done and you are taking the

position that the scrivener is the writer of the article, the person who draws up the law. And, when he makes an error, an error is he put one name and it should've been another name. But you're saying nothing was done. So, there was no error if nothing was done and you don't have the authority to create the law and say you looked through the law and you didn't see anything there. So, as a result, you decided that something should've been there and since it wasn't there, you're gonna put it there. I think that's beyond your authority and I just feel as though, uh, it's, it was an improper interpretation of yours to create a scrivener's error in the, you're not really creating an error, you're not putting anything there, you're just saying nothing was there and since nothing was there, I'll assume they meant to put something there. That's all I'm saying.

Thank you.

CITY CLERK ANTHONY: Andrew Degraffenreidt.

MR. A. DEGRAFFENREIDT: Good afternoon. Andrew Degraffenreidt on behalf of candidate Lynn Hubbard. Uh, I just wanted to question whether or not you had an opportunity to review the minutes of the meetings where the provisions were adopted by the Council, as to who would constitute the Canvassing Board and, if you did, would you refer to the parts in those meetings that would support an intent to adopt legislation other than what was prescribed and written?

CITY CLERK ANTHONY: You expecting me to answer that question right now?

MR. A. DEGRAFFENREIDT: First question. Did you look at the minutes adopting the Code provisions?

CITY CLERK ANTHONY: Okay. If you can pose that to my office. I will be sure.., make sure I...

MR. A. DEGRAFFENREIDT: No, but...

CITY CLERK ANTHONY: ...answer that.

MR. A. DEGRAFFENREIDT: ...you woulda been the one to review it so you know whether or not you did that.

CITY CLERK ANTHONY: Okay. I need to get this moving, Mr. Degraffenreidt, with all respect in, in preparation for our next meeting. So I prefer that if you'll send us your questions in writing, we'll get them answered for you.

MR. A. DEGRAFFENREIDT: Okay. As part of the election process for this particular election, there was a Resolution adopted by the full Council that set the Canvassing Board in the exact language used in the Code. My question is, has that Resolution been addressed by the City Council and repealed?

CITY CLERK ANTHONY: You said a Resolution, like... As I previously said, send your, send me your question. We'll get it answered for you and get a response back to you.

MR. A. DEGRAFFENREIDT: Yes, ma'am. Thank you.

[Pause]

CITY CLERK ANTHONY: Ms. Ryan.

CITY ATTORNEY RYAN: I just wanna make a couple of quick comments so that the record is clear. First, at the Canvassing Board meeting on the, um, I think that was Ap'..., March 31st on the runoff election. The Canvassing Board which composed of Councilperson Miller-Anderson, Councilperson Cedrick Thomas, yourself and Councilperson Dawn Pardo was questioned by the Supervisor of Elections, Susan Bucher, upon which time I was called and the opinion that we rely upon, we did not have the opinion at that time but I did advise Ms. Bucher that I recall that the law is that that section of the Florida statutes did not apply and I've subsequently...

CITY CLERK ANTHONY: Hold it, Ms. Ryan. Can we please have quiet in the audience, please? We're trying to conduct a meeting.

CITY ATTORNEY RYAN: I subsequently sent the opinion to the City Council. I just wanna reference it. It is D., the Division of Elections opinion 14-02 where the Village of Wellington posed the same question to the, to the Division of Elections concerning one of their Canvassing Board Members who was a Councilperson campaigning on behalf of one of the candidates at issue and the Division of Elections gave an opinion that, so long as your Code or Charter addressed the disqualification of members, and in that case, the disqualification of members was that whoever was, um, running for office could not be on the Canvassing Board. The same situation here. Whoever is not running, cannot be on the Canvassing Board. In that case, they said and I quote, "Because the Charter of the Village of Wellington contains a provision applicable to the question of who should and should not serve on the Canvassing Board, Section 102.141 Florida Statutes, does not govern the Village of Wellington in the administration of its election pursuant to §100.3605, Florida Statutes."

So, we know that it was an error to remove our City Council Members from the Canvassing Board and, uh, but we did and two persons from your office, from the City Clerk's office served in their stead in an..., to help Ms. Bucher move on. She wanted to move on from the issue and have the vote and she, her office, did conduct the election. As it relates to the City's Charter and Code, the Charter and Code., the Charter was amended in 2008 and the Code was amended in 2010. Before 2010, the, the Code said that the Clerk, the Deputy Clerk and at least one Counc'..., I'm sorry, and at least one Councilperson should serve on the Canvassing Board. That language was changed to the Clerk, the Deputy Clerk and one Councilperson shall serve. The City Clerk who worked on that with outside counsel is the City Clerk who ran the next few

elections and, to, to my knowledge, we have never changed the composition of the Canvassing Board. It has always been, even since 2010 when it was put into, uh, action, we have always maintained that all of the Councilpersons are on the Canvassing Board and that issue did not arise until now. I believe that is why you're saying it's the scrivener's error and that, either somebody accidentally took it out, took out the word, the words 'at least' or, uh, it was..., I don't know. We don't know what happened.

But, the point for the City Clerk is that we've never had just one Councilperson. If you want..., I don't know what everyone is trying to say. Are they trying to say it should be the Board that we know was illegal based upon this DOE opinion which, I'm sure, Ms. Bucher knew about and forgot about it because it was in Wellington, the same county that the City of Riviera Beach is in. So, she perhaps forgot about this opinion. So, we don't want to duplicate that error. What we wanna do is to move on. I think the best thing to do is to keep the composition from Thursday because those were the people who made a decision that, um, it was a, a, a tie vote and we should still keep with what we've done in the past. If it, if it is an issue, I think they've already raised the issue. If they wanna take it to court, they can. But, the City recognizes that it has not acted in accordance with that particular provision but neither did we do that on Thursday. We're trying to rectify that and move on with this Board so that we can go ahead and have our runoff election so that the citizens of this City can properly decide who's gonna sit in that seat.

CITY CLERK ANTHONY: Thank you, Ms. Ryan. Are there any comments from the Board?

COUNCILPERSON MILLER-ANDERSON: Yes. I just have one question in rela'..., in relation to what he asked about had you checked any of the minutes or verified what you had stated earlier? Had you had a...

CITY CLERK ANTHONY: As I previously stated, I reviewed the composition of the Canvassing Board of previous years to see who served on the Board. At no time, was there one Councilperson, Ms. Miller-Anderson.

COUNCILPERSON MILLER-ANDERSON: Okay. You...

CITY CLERK ANTHONY: Okay?

COUNCILPERSON MILLER-ANDERSON: What did you look at? You looked at the minutes or you looked at something else too?

CITY CLERK ANTHONY: I looked at the minutes of the Canvassing Board.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: To see who was listed as Canvassing Board Members.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY CLERK ANTHONY: At no time, was there only one elected official.

COUNCILPERSON MILLER-ANDERSON: Alright. Thank you very much.

BOARD COMMENTS

CITY CLERK ANTHONY: Are there any other comments from the Board? [Pause]. At this time, I will call the question. Councilperson Pardo?

COUNCILPERSON PARDO: Yes.

CITY CLERK ANTHONY: Councilperson Thomas?

COUNCILPERSON THOMAS: Yes.

CITY CLERK ANTHONY: Councilperson Miller-Anderson? You're abstaining?

COUNCILPERSON MILLER-ANDERSON: Yes. I am abstaining.

CITY CLERK ANTHONY: Deputy City Clerk Jacqueline Burgess?

DEPUTY CITY CLERK BURGESS: Yes.

CITY CLERK ANTHONY: Record Management Specialist Tawanna Smith?

RECORDS MANAGEMENT SPECIALIST SMITH: Yes.

CITY CLERK ANTHONY: That motion is approved. Are there any additional concerns that need to be addressed by the Board? [Pause].

ADJOURNMENT

CITY CLERK ANTHONY: Hearing none, this meeting is adjourned.

[Gavel]

COUNCILPERSON PARDO: So, then in two minutes you'll start the...

There being no further business, the meeting was duly adjourned at 5:28 p.m.

[End of audio]

Public Comment Speakers and Others

LYNNE HUBBARD.....MS. L. HUBBARD
FANE LOZMAN.....MR. F. LOZMAN
EDWARD ROGERS, SR.....MR. E. ROGERS, SR.
ANDREW DEGRAFFENREIDTMR. A. DEGRAFFENREIDT

APPROVED:

**THOMAS A. MASTERS
MAYOR**

**DAWN S. PARDO
CHAIRPERSON**

ATTEST:

**CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK**

**TERENCE D. DAVIS
CHAIR PRO TEM**

**BRUCE A. GUYTON
COUNCILPERSON**

**KaSHAMBA L. MILLER-ANDERSON
COUNCILPERSON**

**TONYA DAVIS JOHNSON
COUNCILPERSON**

MOTIONED BY: _____

SECONDED BY: _____

B. GUYTON _____

K. MILLER-ANDERSON _____

T. DAVIS JOHNSON _____

D. PARDO _____

T. DAVIS _____

DATE APPROVED: APRIL 5, 2017