

1 Riviera Beach Special City Council Meeting
2 Marina Event Center - 190 E. 13th Street
3 Riviera Beach, Florida 33404
4 December 10, 2020
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7 APPEARANCES:

- 8 Chair Julia A. Botel
- 9 Chair Pro-Tem Douglas A. Lawson
- 10 Councilperson Shirley D. Lanier
- 11 Councilperson Douglas A. Lawson
- 12 Councilperson Tradrick McCoy
- 13 Councilperson Shirley D. Lanier (via Communication Media
14 Technology)
- 15 Councilperson KaShamba Miller-Anderson
- 16 City Manager Jonathan Evans
- 17 City Clerk Claudene L. Anthony, CMC

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1 CHAIR BOTEL: I call to order the Special City Council
2 Meeting of December 10th. The time is 6:02 p.m. Madam Clerk,
3 please call the roll.

4 THE CLERK: Mayor Ronnie Felder. (Absent)
5 Chairperson Julia Botel.

6 CHAIR BOTEL: Here.

7 THE CLERK: Chair Pro-Tem Douglas Lawson.

8 COUNCILPERSON LAWSON: Here.

9 THE CLERK: Councilperson Tradrick McCoy.

10 COUNCILPERSON McCOY: Here.

11 THE CLERK: Councilperson Shirley Lanier. Councilperson
12 Shirley Lanier.

13 CHAIR BOTEL: Councilperson Shirley Lanier. I know she's
14 there.

15 THE CLERK: Councilperson KaShamba Miller-Anderson.

16 COUNCILPERSON MILLER-ANDERSON: Present.

17 THE CLERK: City Manager Jonathan Evans.

18 CITY MANAGER EVANS: Present.

19 THE CLERK: City Clerk Claudene Anthony is present.

20 City Attorney Dawn Wynn.

21 CITY ATTORNEY WYNN: Here.

22 THE CLERK: You may proceed.

23 CHAIR BOTEL: Thank you. We'll have a moment of silence
24 followed by the Pledge of Allegiance led by Councilwoman
25 Miller-Anderson.

1 (Moment of silence. Pledge of Allegiance recited.)

2 CHAIR BOTEL: Do we have any additions, deletions or
3 substitutions on the agenda?

4 CITY MANAGER EVANS: None from staff, Madam Chair.

5 CHAIR BOTEL: Okay. I would like to suggest that we add
6 ordinances number 4156 and 4157 to this agenda and thereby
7 obviate the need to have another meeting tomorrow night. Could
8 we take a vote on doing that?

9 COUNCILPERSON MILLER-ANDERSON: Madam Chair.

10 CHAIR BOTEL: What?

11 COUNCILPERSON MILLER-ANDERSON: I was always under the
12 impression during special meetings we could not add anything on,
13 particularly since we advertised it for tomorrow. Don't get me
14 wrong, I'm not trying to be here tomorrow either but -- I don't
15 know if -- am I correct on that? Typically whatever you
16 advertise for the special meeting, that's what's you have to
17 stick with. You don't usually add anything. You can delete.

18 THE CLERK: Madam Chair.

19 CHAIR BOTEL: Yes.

20 THE CLERK: There is a provision in resolution number 26-02
21 that states that you can add other business to a special meeting
22 agenda if it is approved by unanimous consent.

23 COUNCILPERSON MILLER-ANDERSON: During a special meeting?

24 THE CLERK: All of those present. Yes.

25 COUNCILPERSON MILLER-ANDERSON: During a special meeting?

1 THE CLERK: Yes.

2 COUNCILPERSON MILLER-ANDERSON: Okay.

3 CHAIR BOTEL: So I'll make a motion that we do the --

4 COUNCILPERSON McCOY: Well, I'm going to respond. So,
5 Ms. Wynn, can I get your attention?

6 CITY ATTORNEY WYNN: Yes.

7 COUNCILPERSON McCOY: I do not want to come to a meeting
8 and find out some rule that nobody has ever heard before. When
9 will somebody give us the rules? Because this is the first time
10 this has ever been stated, as long as I ever been watching the
11 city council meeting. So if there's rules -- like the Saturday
12 I missed, I found a rule -- I found a resolution that said this
13 resolution supersedes an ordinance. So I think what we should
14 do when we leave here is make sure that everybody understands
15 the rules to the game. No new resolutions and new rules popping
16 up at the last minute. I shared the same sentiments with
17 Councilwoman Miller-Anderson.

18 I'm just a little aggravated that it seems that this place
19 is -- there's no function or structure nowhere in here. And I'm
20 a little disappointed if somebody knew that beforehand and
21 decided to bring it up only at the meeting. This seems like an
22 ambush. Like, what are we doing?

23 I came to this meeting expecting to deal with one item.
24 Then I get introduced with a resolution that nobody on this
25 board knew about. Like, what are we doing? Do we care about

1 our time? Do we care about what matters? Do we care about the
2 rules? Or do we change them as we go?

3 CHAIR BOTEL: We don't have to take this up. We have --

4 COUNCILPERSON McCOY: No, I'm speaking in general terms,
5 Madam Chair. I'm a little upset with administration and legal
6 and the clerk and whoever else is responsible, because nobody up
7 here has ever heard of that resolution before.

8 And to sit here and do this on the fly, when I have other
9 commitments, and then we get special meeting after special
10 meeting, it's a little disingenuous to our time. You know, we
11 stayed until 11:00 on Wednesday. Last week we stayed until 1:10
12 or 1:15.

13 Can somebody help us out and make sure we get the right
14 rules?

15 CHAIR BOTEL: I don't have --

16 COUNCILPERSON McCOY: I'm speaking to the attorney.

17 CHAIR BOTEL: Ms. Wynn, you're recognized.

18 CITY ATTORNEY WYNN: Mr. McCoy, I will work with the clerk
19 and we will --

20 COUNCILPERSON McCOY: Well, I don't need to see that it's a
21 need for us to have a meeting if there are going to be rules and
22 resolutions popping up out of the blind that nobody knew about.
23 Not even the chairperson. Or perhaps she did, but not even
24 Councilwoman Miller-Anderson.

25 Do we even care about what matters or -- I mean, come on,

1 be a little courteous to what the members of this body have to
2 go through. I went to a meeting yesterday, to an HOA that I
3 stayed and took off from work and completely got canceled. Then
4 we get to a meeting today and now we're introducing a new rule
5 that nobody has ever even heard of.

6 CHAIR BOTEL: May I --

7 COUNCILPERSON McCOY: I yield.

8 CHAIR BOTEL: My only concern was, I wanted to try to not
9 have to have a meeting tomorrow night.

10 COUNCILPERSON McCOY: I'm speaking of the process.

11 CHAIR BOTEL: Okay.

12 COUNCILPERSON McCOY: And until they address the process --
13 that's what I want to hear.

14 CHAIR BOTEL: Okay.

15 CITY ATTORNEY WYNN: Mr. McCoy, this is a resolution from
16 2002. None of us were here at that time.

17 I have, because it was in my office when I took this
18 office, a set of resolutions that govern the conduct of meetings
19 here. I will work with the clerk to make sure that all of you
20 get a copy of these.

21 COUNCILPERSON McCOY: Well, I don't think we just need to
22 adopt any agenda because I'm -- I'm not ready for somebody else
23 to introduce another rule or something else that's completely
24 arbitrary. It's like -- this sounds like some sort of kangaroo
25 court.

1 CITY ATTORNEY WYNN: And Mr. McCoy, again, as I stated,
2 this resolution requires a unanimous vote, therefore --

3 COUNCILPERSON McCOY: It doesn't matter if it required a
4 majority. What I'm saying to you is, you're putting us in the
5 game and now you're telling us the rules now. This is a
6 kangaroo court.

7 CHAIR BOTEL: Madam Chair, I'm going to withdraw my attempt
8 to add these items. We'll just meet tomorrow night.

9 Could I -- would anyone like to make a motion to adopt the
10 agenda?

11 COUNCILPERSON MILLER-ANDERSON: I make a motion to adopt
12 the agenda.

13 CHAIR BOTEL: Thank you.

14 Do we have a second to adopt the agenda?

15 Councilwoman Lanier, will you make a second to adopt the
16 agenda?

17 COUNCILPERSON MILLER-ANDERSON: Is she on?

18 CHAIR BOTEL: I second.

19 Madam Clerk.

20 COUNCILPERSON McCOY: Point of parliamentary entry. Is
21 there a specific page you're going to point to in that book that
22 allows you to make the second?

23 CHAIR BOTEL: We had this discussion at the --

24 COUNCILPERSON McCOY: So you can't point to it.

25 CHAIR BOTEL: We had this discussion at the training we

1 had, and it was covered --

2 COUNCILPERSON McCOY: Okay. But not in the book. Not in
3 the actual manual.

4 Or maybe somebody is going to surprise and tell me another
5 rule that we had adopted and nobody knew about.

6 CHAIR BOTEL: No, we discussed this at the training we had,
7 that the chair could in fact second a motion. And I'm going to
8 see if I can find it.

9 COUNCILPERSON McCOY: And then even more, we got a
10 councilperson that's calling for a special meeting that don't
11 even show up.

12 CHAIR BOTEL: She's here. She's been here. She -- I was
13 speaking with her before the meeting. They've lost the
14 connection. So she is here.

15 Let's see if I can find it. Unless somebody else wants to
16 attest to the fact that we learned this at our training.

17 COUNCILPERSON MILLER-ANDERSON: We did.

18 CHAIR BOTEL: We did. Okay. We did.

19 COUNCILPERSON MILLER-ANDERSON: I can't point to it in the
20 book though.

21 CHAIR BOTEL: I'm looking for it.

22 Well, I can't find it but we had it -- I mean, I could take
23 the time.

24 COUNCILPERSON McCOY: So absent of any kind of
25 authoritative source, then I don't think you can make a --

1 CHAIR BOTEL: All right. Let me find it. Let me find it.
2 Madam Clerk, would you be looking at the same time, please.

3 COUNCILPERSON McCOY: This is no different than the fight
4 that started in the back. There's no kind of rules in this
5 place.

6 CHAIR BOTEL: We covered this in our training and it was
7 made clear to us that the chair could second a motion. I just
8 need -- I don't know that I can find it right away. And if we
9 want to sit here all night figuring it out, we can but -- let's
10 see.

11 COUNCILPERSON McCOY: Is there any transmittal from the
12 Mayor, the City Administration, regarding the vetoes, was there
13 any, any comments or particular reference or memorandum as to
14 these items that were vetoed?

15 CITY MANAGER EVANS: Madam Chair, may I?

16 CHAIR BOTEL: Yes.

17 CITY MANAGER EVANS: There was no correspondence that was
18 provided to administration or legal with regards to the veto.
19 It was just written on the document that the Mayor executed.

20 CHAIR BOTEL: Well, this -- this -- on page 29 it says
21 another member seconds the motion and the chair is a fully
22 functional member of the body. It doesn't specify in this
23 chapter that a chair can second. But, again, this is the
24 training that we had. And unless -- oh. Councilwoman Lanier,
25 you're here. Would you second the motion, please, if you chose

1 to do so?

2 COUNCILPERSON LANIER: Second.

3 CHAIR BOTEL: Did she second?

4 Okay. Thank you.

5 It has been moved and seconded that we adopt the agenda.

6 Madam Clerk.

7 THE CLERK: Councilperson McCoy?

8 COUNCILPERSON McCOY: No.

9 THE CLERK: Councilperson Miller-Anderson.

10 COUNCILPERSON MILLER-ANDERSON: Yes.

11 THE CLERK: Councilperson Lanier.

12 COUNCILPERSON LANIER: Yes.

13 COUNCILPERSON MILLER-ANDERSON: I think she said yes.

14 CHAIR BOTEL: Was that a yes, Walter? Can you hear her?

15 MR. STEPHENS: Yes.

16 CHAIR BOTEL: That was a yes. Go ahead.

17 THE CLERK: Pro-Tem Lawson.

18 COUNCILPERSON LAWSON: Yes.

19 THE CLERK: Chair Botel.

20 CHAIR BOTEL: Yes. The agenda is adopted by a vote of four
21 to one.

22 Are there any -- there is no consent agenda. Are there any
23 disclosures from the council?

24 I don't see any.

25 We can move right to -- let's see. Please be reminded that

1 the City Council has adopted "Rules of Decorum Governing Public
2 Conduct during Official Meetings" which has been posted at the
3 entrance of the hall. In an effort to preserve order, if any of
4 the rules are not adhered to, the Council Chair may have any
5 disruptive speaker or attendee removed from the podium, from the
6 meeting and/or the building, if necessary. Please govern
7 yourselves accordingly.

8 Public comments shall begin at 7:30 p.m. unless there is no
9 further business of the City Council, which in the event it
10 shall begin sooner. In addition, if an item is being considered
11 at 7:30 p.m., then comments from the public shall begin
12 immediately after the item has been concluded. Any person who
13 would like to speak, during public comments, please fill out --
14 oops. My page is missing, I'm sorry. Please fill out a comment
15 card located on the table. Thank you.

16 Madam Clerk, ordinance, item number one.

17 THE CLERK: Ordinance number 4155. An ordinance of the
18 City Council of the City of Riviera Beach, providing for the
19 submission to the electors the amendment to the city charter in
20 accordance with Section 166.031, Florida Statutes; submitting
21 proposed charter amendment concerning deleting requirement that
22 fifty percent of all street and secondary drainage improvements
23 shall be paid by the benefited property owner and that Council
24 may determine the assessments for curbs, gutters, valley
25 gutters, and sidewalks; and calling a special election on the

1 proposed amendment to the city charter to be held in conjunction
2 with the regular City Council election on Tuesday, the 9th day
3 of March 2021; providing notice of special election; providing
4 for balloting and election procedures; providing for inclusion
5 in the charter; providing for severability; providing for
6 conflicts; and providing for an effective date.

7 Madam Chair, Members of the Board, we do not have any
8 public comments on this item. The acceptance of public comments
9 on this item is now closed.

10 CHAIR BOTEL: Thank you.

11 COUNCILPERSON MILLER-ANDERSON: I move that we approve
12 ordinance number 4155.

13 CHAIR BOTEL: Thank you.

14 Would someone care to second?

15 COUNCILPERSON LANIER: Second.

16 CHAIR BOTEL: Thank you.

17 Do we have any presentation? I presume not since we've
18 already addressed this. Do we, Mr. City Manager?

19 CITY MANAGER EVANS: No, Madam Chair, unless the Board
20 needs an additional presentation, there's no presentation today.

21 CHAIR BOTEL: Thank you.

22 Any questions or comments from the Board?

23 COUNCILPERSON LAWSON: Madam Chair.

24 CHAIR BOTEL: You're recognized, Mr. Lawson.

25 COUNCILPERSON LAWSON: Thank you, Madam Chair.

1 Madam Chair, as I stated previously, my comments were that
2 we need to educate and update our residents on this ordinance
3 that we're attempting to change. We say that we want to give
4 community participation, but no community charrettes have been
5 held to discuss this ordinance change. This was not presented
6 from a charter review committee, this was brought together and
7 brought to us by staff.

8 So I have a series of questions that I want to ask to staff
9 prior to us moving forward. But my concerns -- and I want to go
10 on the record -- are that we're going into the holidays, we've
11 experienced a pandemic that this country has never experienced
12 in the last hundred years, and the county is potentially heading
13 into another potential shut down, which can also affect the
14 ability to market and advertise to our residents. I believe
15 it's absolutely --

16 COUNCILWOMAN LANIER: Can you hear me now?

17 CHAIR BOTEL: Mr. Lawson has the floor, Councilwoman
18 Lanier.

19 COUNCILPERSON LANIER: I'm sorry. I just wanted to make
20 sure you guys could hear me. Sorry about that, Mr. Lawson.

21 CHAIR BOTEL: Yes, we can hear you. Thank you.

22 COUNCILPERSON LAWSON: So moving forward with this
23 ordinance, I believe it's absolutely irresponsible of us to do
24 that; because the fact that this hasn't been vetted with the
25 community, nor have we had any community charrettes to discuss

1 this ordinance, and we're going into a potential lock down, I do
2 not believe staff will have sufficient time between now and
3 March to get this information out.

4 I want to go on the record and state to every resident that
5 I am not inclined or supportive of an additional tax on our
6 residents. I want to be clear, because somehow from either
7 staff or on this dias it got out to a resident that I was
8 supportive of an additional tax on the Singer Island bridges. I
9 want that to be clear that I'm not supporting an additional tax.

10 I want this ordinance to pass. There was a comparable
11 ordinance that was read in 2008, that went to the ballot, that
12 did not pass. And that was due to the number of ordinances that
13 were on the ballot and also not educating our residents on what
14 they were voting for within a timely fashion.

15 I believe that we have over six months to a year to take
16 this out to the community and to update them on this process.
17 The Mayor vetoed these ordinances because of the rushed nature
18 of this. And I'm supportive of the Mayor's ability to do that.

19 I do not support us rushing this ordinance onto the ballot
20 when we have the ability of other options.

21 So my series of questions are going to start with
22 Mr. Evans. Do we have an idea of what the financial impact is
23 on the residents that are going to be affected by these
24 properties, in reference to any of the projects we've done over
25 the last six months?

1 CITY MANAGER EVANS: As it relates to the projects that
2 have been done over the last six months, there has not been the
3 calculation with regards to the fiscal impact per resident.
4 Staff would have to do that calculation. But it's a provision
5 that's been in the charter and hasn't been utilized since the
6 1980s.

7 COUNCILPERSON LAWSON: Colleagues, we're voting on
8 something that we don't know what the financial impact is,
9 that's one. Whether we're adding additional tax or not, we have
10 no idea what we're voting on. So just to say we're not going to
11 vote on it because we do not want to tax our residents is not
12 fair because we don't know what we're voting on. That's number
13 one.

14 Madam Chair, I have a question for the City Attorney.

15 CHAIR BOTTEL: Go ahead.

16 COUNCIL PERSON LAWSON: Thank you.

17 Ms. Wynn, is there any case law that supports us putting a
18 freeze or moratorium on the section of this charter so that we
19 don't implement this policy?

20 CITY ATTORNEY WYNN: I haven't found any case law that
21 discusses moratoriums on charter provisions. However, there is
22 a recent case out of the City of West Palm Beach, about six
23 months ago, in June of 2020, where West Palm Beach was not
24 enforcing certain provisions of their zoning ordinance and a
25 citizen brought a lawsuit against them. And they did not -- the

1 citizen did not prevail because the court held that the
2 enforcement of the provision by the city was discretionary.

3 That case is on appeal to the Florida Supreme Court. The
4 court accepted jurisdiction of that. But the significance of
5 the case is that the court, the lower court, the Fourth District
6 Court of Appeals, held that the citizen that brought the claim
7 had to show special damages that were different from anyone else
8 suffered in the city as a whole; and that they were not able to
9 show those special damages. So basically the case holds that
10 unless you can show special damages, you cannot bring an action
11 against the -- a successful action against the city to enforce
12 certain codes, unless those codes apply to health and safety.

13 COUNCILPERSON LAWSON: Thank you, Attorney Wynn.

14 So, Colleagues, to be clear, we have the ability to not
15 enforce this portion of the charter and this ordinance over the
16 next twelve months, six months, whatever time frame we have,
17 which gives us sufficient time to vet this item, which gives us
18 sufficient time to complete our community charrettes, and which
19 gives us sufficient time to make sure that this does pass on the
20 ballot.

21 We do not want this to go out there and this fail and now
22 we are obligated to be able to tax whatever residents would have
23 this 50 percent taxation on the street work, road work, bridge
24 work, gutter work, that's being done.

25 So I want to make sure that our residents are highly

1 informed of exactly what they're voting on, to make sure we're
2 completely updated and educated on what we're voting on, and we
3 make the proper decision so that it gets done.

4 And I would be supportive of it getting on the next ballot.
5 Which gives Mr. Evans and staff sufficient time to get all the
6 information over to us. And then we can also give it out to the
7 residents. Not during a pandemic. Not during a holiday season,
8 that's going to essentially cut off the next four to six weeks;
9 which would give us two weeks of marketing to 35,000 residents.

10 So I believe that we should either table this item or come
11 back and revisit this item at a later date, which gives
12 sufficient time to review this item.

13 And I am not supportive of an additional tax. I'm not
14 supportive of this being implemented. And if we can allow for
15 this not to be enacted over the next twelve months, that will
16 avoid any other tax, whether it's any portion of the City of
17 Riviera Beach.

18 Thank you, Madam Chair.

19 CHAIR BOTEL: Thank you. Mr. Evans -- excuse me.
20 Commissioner Miller-Anderson is recognized.

21 COUNCILPERSON MILLER-ANDERSON: No, I actually was going to
22 ask a question regarding the reason for the Mayor vetoing the
23 item. I mean, I guess I heard the answer already, so my
24 comments towards the ordinance and my position hasn't changed
25 from the other times that I've spoken. Thank you.

1 COUNCILPERSON LANIER: Madam Chair.

2 CHAIR BOTEL: Yes, you're recognized, Commissioner Lanier.

3 COUNCILPERSON LANIER: I just wanted to say that I am in
4 support of this ordinance. I think that it is a very simple --
5 it is a very simple ordinance. What it is is an ordinance that
6 says if we are going -- I mean, for example, if we're going to
7 repave your street over -- if we're going to repair the allies
8 behind your yard, that when we -- when the City spends this
9 money to do this work, that we're going to come back and tax the
10 residents 50 percent of that work. So if it's five or seven or
11 seventy thousand dollars, half of that money has to come from
12 residents.

13 This is an ordinance that was placed in the charter. It
14 has not been used, as the City Manager has stated, since the
15 1980s. But as the City Attorney alluded to, a resident has sued
16 to enforce it, to say that if you come down where I live on 13th
17 Street, and you pave my road, I have to pay you 50 percent and
18 the residents on this road have to pay the City back 50 percent
19 of them doing that work. And what this ordinance basically
20 states is that the City won't do that.

21 If we take this ordinance out of the charter, that means
22 that the residents will not have to pay 50 percent for any road
23 work, alley work, gutter work, that is done in their
24 neighborhoods. I thought this was a -- and in fact, I thought
25 this was the most simplest of the -- of the ordinances that --

1 you know, I don't know anyone who lives in the City of Riviera
2 Beach, who lives anywhere, who would be willing to pay 50
3 percent of any road work done on their road in their
4 neighborhood. I just don't see where residents would have an
5 issue with or even understanding; you either pay 50 percent or
6 you don't. This ordinance says you don't. And it's just that
7 simple. And I am in support of it.

8 Thank you, Madam Chair.

9 CHAIR BOTEL: Thank you.

10 Commissioner McCoy, do you have a statement or a question?

11 Commissioner McCoy, do you have a question or a comment?

12 COUNCILPERSON McCOY: No. Thank you.

13 CHAIR BOTEL: Thank you.

14 COUNCILPERSON LAWSON: Madam Chair.

15 CHAIR BOTEL: I just want to make one comment.

16 COUNCILPERSON LAWSON: Thank you.

17 CHAIR BOTEL: I am very much in support of this ordinance
18 being passed and having this put on the agenda 89 days from now.
19 I think in 89 days if we can't get the communication that needs
20 to happen with the citizenry, then shame on us. I think that we
21 have plenty of time to inform our citizens about the importance
22 of removing this Draconian rule from our charter. It just has
23 to go. And it seems to me to be very simple, something that we
24 can explain quite simply, vote to remove this and you will save
25 yourself the headache of potentially someday being charged to

1 have road work done in your neighborhood.

2 Mr. Lawson, you're recognized.

3 COUNCILPERSON LAWSON: Thank you, Madam Chair.

4 The time frame, Mr. Evans, on when a marketing strategy is
5 going to begin before these amendments have approved.

6 CITY MANAGER EVANS: Madam Chair. With respect to the
7 marketing for this, staff has already convened to discuss the
8 marketing strategies associated with this. Legal is also
9 involved in the discussions.

10 We wanted the ordinances to pass before we then move
11 forward with the implementation in the marketing strategy.

12 And I made it abundantly clear to staff and all those
13 involved, we want an award winning marketing campaign; so we
14 will do every and anything that we can to ensure that
15 individuals are informed with regards to the information. We
16 have talked about face-to-face community meetings. We have
17 talked about --

18 COUNCILPERSON LAWSON: Mr. Evans, I'm sorry. Just the time
19 frame, when it will begin.

20 CITY MANAGER EVANS: As soon as this ordinance passes, if
21 it does pass, staff begins the marketing strategies and putting
22 together the items; so I would say we would start disseminating
23 information probably in the next seven to ten days.

24 COUNCILPERSON LAWSON: Okay. And, Mr. Evans, with this
25 item, is it possible to be used as a benefit or a tool for

1 residents to come together and tackle any neighborhood
2 improvements if they choose.

3 CITY MANAGER EVANS: The -- the way it, it's stated, if the
4 residents conceivably wanted to come to the Board and said that
5 there's not a project that's budgeted for but we wanted to have
6 our project as a priority, they can conceivably point to that
7 provision in the charter and say, well, then, go ahead and
8 execute the, the mechanism in the charter that says for you to
9 assess us, the property owners that are deriving a benefit. So
10 if residents conceivably wanted to have an improvement
11 prioritized or have an improvement put forth that may not be
12 budgeted for, that can be the mechanism that they can ask for
13 the Board to consider as they would want to see some increased
14 improvements.

15 To that point -- and when I've seen this particular type of
16 mechanism utilized, it's utilized in a lot of coastal
17 communities where dredging behind persons' homes is something
18 that is done.

19 And so there has been situations where those individuals
20 that live on the island per se, and if there is canals that are
21 back behind their property, and that is something that is
22 outside of their responsibility, I've seen where in Sarasota
23 County that individuals would ask the county to effectively
24 assess them to assist in dredging around their docks and around
25 the back of their homes. So that's when I've seen this

1 particular type of provision utilized in other situations.

2 The challenging part with this particular item, it says
3 shall. It doesn't say may. It says shall. And so that is
4 consistent with every road project or projects associated with
5 the items contained in the charter. It says that the Board
6 shall assess. Versus may.

7 And that's probably a question for the attorney with
8 respect to the case that's in litigation in West Palm, if it was
9 incorporated in the charter and if it's a shall versus a may.
10 Because there's obviously, for legal scholars, there's a
11 difference.

12 COUNCILPERSON LAWSON: Correct.

13 And the type of work that could be assessed or supported by
14 that community, we have outlined as road work, we have outlined
15 as gutters. What other benefits would residents be able to
16 take? Would decorative lighting, a seawall, would these be
17 implemented in the potential of allowing for a taxation to
18 assist with the cost?

19 CITY MANAGER EVANS: Based on how it's written in the
20 charter, it's exclusive to all streets secondary drainage
21 improvements to be paid by the property owners. So it doesn't
22 go into anything more specific or anything broader than the
23 items that I've just read off. So it's very exclusive to
24 streets, drainage, and drainage improvements, it doesn't -- and
25 valley gutters and sidewalks and curbs. It doesn't get into

1 hardscape or picnic benches or lighting, et cetera.

2 COUNCILPERSON LAWSON: So being that it's so vague,
3 Mr. Evans -- and this charter provision, my concern, some of the
4 updates that have been done in the coastal areas, I'm pretty
5 sure that the argument could be made for certain repairs,
6 renovations to areas that could impact condos, streets, roads.

7 And this definitely could be looked at as a tool versus a
8 hindrance to our residents. Because, as you stated, if our
9 comprehensive plan, if our road work plan doesn't have something
10 or an item that a community wants to see brought to the table,
11 this could be used as a benefit for them.

12 And based upon the case law that's happening in West Palm,
13 it's discretionary to the Council. So we essentially could
14 implement not charging this to our residents over the next
15 twelve months.

16 Because right now a neighborhood could utilize this to pay
17 for projects, underground work, utilities, if they choose. And
18 now the example that the community made aside is either waiting
19 for the City to repair it, which may be 5, 10 years, or taking
20 upon themselves to say, hey, we want to make the improvements
21 and have the assistance of the City to pay for the cost.

22 So there's a lot of items that are kind of unclear with
23 this ordinance. And for us to rush and put it on the ballot
24 without having the proper information, I just cannot support it.

25 One of the things I could support is changing the language

1 from shall to may, because then that would clarify the confusion
2 that Mr. Evans just stated. And if he's seen it being utilized
3 in coastal communities, hell, this is a coastal community.

4 What are we doing by rushing this item? Why is it so
5 imperative that this gets on this ballot and we don't wait until
6 August, November or March of the following year? I just don't
7 see what the rush is.

8 Thank you, Madam Chair.

9 CHAIR BOTEL: Thank you.

10 Any other comments?

11 COUNCILPERSON McCOY: Yes, Madam Chair.

12 CHAIR BOTEL: You're recognized, Mr. McCoy.

13 COUNCILPERSON McCOY: So, thank you, Ms. Wynn, for
14 indulging me for some clarification of the charter and the
15 relating statute.

16 But, you know, what Councilman Lawson is suggesting, I'm
17 not particularly convinced by. However, we're not in a stage at
18 this point to make any modifications or amendments to the
19 ordinances. That has already come and gone. Am I right,
20 Ms. Wynn?

21 CITY ATTORNEY WYNN: That's correct.

22 COUNCILPERSON McCOY: Okay. And even more so, if that is
23 true, then why do we have the Clerk reading the title of the
24 ordinance when it should have been a resolution? Because if you
25 look at the charter, the charter says that the Mayor's vote may

1 be overridden by four votes, four votes in the affirmative. So
2 we shouldn't be reciting the title of the ordinance again
3 because you're suggesting when you read the ordinance that this
4 is an adoption of the ordinance.

5 It should have been a resolution. Because a resolution is
6 an expression of the body. And if the expression according and
7 consistent with the charter is that it may be overridden by four
8 votes in the affirmative, we're not rewriting the law nor are we
9 reading this law on the third reading. So it should have been
10 titled as a resolution. Wouldn't that have been more
11 appropriate than to basically name an ordinance again and read
12 it by title, instead of just saying a resolution overriding the
13 veto? Because clearly what was read is not proper.

14 CHAIR BOTTEL: Madam Attorney. I think what Mr. McCoy is
15 saying makes a great deal of sense to me.

16 Should we withdraw the motion to accept the ordinance and
17 make a different motion, and that would be a resolution to
18 override the mayor's veto? Would that be your legal advice?

19 CITY ATTORNEY WYNN: You can do it that way as well.

20 CHAIR BOTTEL: Okay. Who -- I think it was Councilwoman
21 Miller-Anderson who made the motion. Would you care to withdraw
22 that motion and then we'll make another one that as Mr. McCoy
23 suggests would be to overturn the mayor's veto?

24 COUNCILPERSON MCCOY: Override.

25 CHAIR BOTTEL: Override the mayor's veto.