



ATTORNEYS AT LAW

SCOTT, HARRIS, BRYAN, BARRA & JORGENSEN, P.A.

December 14, 2006

Via U.S. Mail and Facsimile

City of Riviera Beach
Attn.: Carrie Ward, City Clerk
600 W. Blue Heron
Riviera Beach, FL 33419

Re: Elections for Referendum Petition on Repeal of Ordinance 3016
Election for Petition for Charter Amendment Establishing Height Limitations
for Municipal Beach Property
Election for Charter Amendment Limiting Number of Years that City may Lease
Municipal Beach Property

Dear Madam Clerk:

I represent the Petition Committee for the Referendum and Charter Amendments referenced above. I have received copies of your Certifications for the Referendum and Charter Amendments dated December 12, 2006. Your rejection of the Petitions is without merit. Pursuant to Article X, Section 4(b), the Petition Committee demands review by the Riviera Beach City Council. In accordance with this Charter provision, the Council must review the Certificates at its next meeting following this request. If you fail to place this request for review on the agenda for the next City Council meeting, then you will be in further violation of the City Charter.

The Referendum Petition and the Petitions for Charter Amendments were submitted to your office on November 3, 2006. Initially, your office was refusing to accept the Petitions but after intervention by Chairperson Ann Iles of the City Commission, you receded from this position and accepted the Petitions. Thereafter the Petitions were immediately transported by the City of Riviera Beach Police to the Palm Beach County Supervisor of Elections office. Dr. Arthur Anderson, Supervisor of Elections, timely and accurately completed Certifications of the Referendum and Charter Amendment Petitions on November 21, 2006. Those Certifications establish that at least 15% of the total number of qualified voters registered to vote at the last election signed the Referendum Petition, and at least 10% of the voters signed the Petitions for Charter Amendments.

Richard K. Barra • John L. Bryan, Jr. • S. Brian Bull • Barry D. Carothers
J. Richard Harris • Cynthia J. Jackson • John M. Jorgensen • Kevin M. Wagner (of counsel)

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Pursuant to Article X, Section 4(a) of the City Charter, as City Clerk, you were to complete a Certification as to the sufficiency of the Petitions within twenty (20) days after the Petitions were filed with your office. You failed in your duties as City Clerk to timely complete the Certificates of sufficiency since the twenty (20) days expired on November 23, 2006. The Certificates from your office are nineteen (19) days late and for this reason alone are invalid.

In your Certification on the Referendum Petition, you reduced the number of valid signatures certified by Dr. Anderson's office from 2,944 signatures to 413 signatures. You offer no explanation in the Certification for this drastic reduction in qualified signatures. I can only assume that you are following the same misguided logic as before, that only the Petition Committee members can circulate and obtain signatures on a Referendum Petition. The City Charter clearly does not impose such a requirement and you are violating the Charter by imposing such a rule.

As for the Charter Amendments, they are governed by Section 166.031, Florida Statutes. Your Certifications refer to the proposed Charter Amendments as initiative petitions. This is a not so transparent attempt on your part to graft a 15% voter requirement for the Charter Amendment Petitions when Section 166.031 provides that only 10% of the voters need sign a petition for an amendment. For your easy reference, Section 166.031(1) provides as follows:

The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

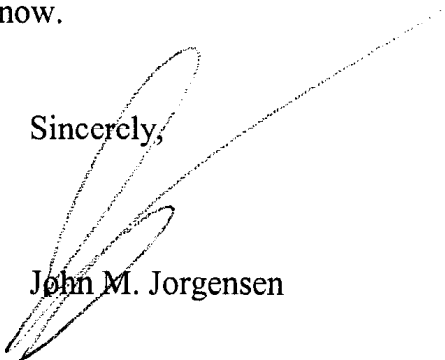
Section 166.031(3) further provides that a municipality may amend its charter pursuant to the procedures of the statute notwithstanding any charter provisions to the contrary. Indeed, there are no contrary provisions in the City's Charter since the Charter is silent on this issue. Even if there were contrary provisions, Section 166.031 would prevail.

In order to assist you in your interpretation of these issues, I am enclosing a copy of Section 166.031, Florida Statutes. I am also enclosing an opinion from the Office of Attorney General, State of Florida, AGO 88-30, which opinion further confirms that Section 166.031 controls the procedures for amendments to municipal charters.

By copy of this letter, I am advising the Mayor and City Council members that suit will immediately be filed to set the Referendum and Charter Amendments for Election in March 2007 should the City persist in refusing to acknowledge the validity of the Petitions. If you fail

to submit this issue to the City Council for its review as required by the City Charter, please notify me immediately so suit can be filed now.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Jorgensen". The signature is written in a cursive style with a large, sweeping initial "J" and "M".

John M. Jorgensen

JMJ/dls

cc: Ann Iles (via facsimile)
Bill Contole, Esq. (via facsimile)
Commissioner Karen Marcus (via facsimile)
Dawn Prado (via facsimile)
Mayor Michael Brown
Norma Duncombe
Vanessa Lee
Elizabeth 'Liz' Wade
Dr. Arthur Anderson (via facsimile)