



City of Delray Beach

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Minutes - Draft

City Commission

Mayor Shelly Petrolia
Vice Mayor Adam Frankel
Deputy Vice Mayor Juli Casale
Commissioner Ryan Boylston
Commissioner Shirley Ervin Johnson

Tuesday, January 10, 2023 3:15 PM

Delray Beach City Hall or Watch on YouTube:

<https://www.youtube.com/channel/UCc2j0JhnR8Hx0Hj13RhCJ> ag/streams

Special Meeting at 3:15 PM

Pursuant to Section 3.12 of the Charter of the City of Delray Beach the Mayor has instructed me to announce a Special Meeting of the City Commission to be held for the following purposes:

SP.1. APPROVAL OF RESOLUTION NO. 17-23 AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT WITH THE HIGHEST-RANKED QUALIFIED FIRM FOR SOLID WASTE AND RECYCLING COLLECTION SERVICES PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2022-046.

The January 10, 2023 Special City Commission Meeting was called to order at 3:15 pm.

The roll call was taken by Alexis Givings, Deputy City Clerk, and the following were present:

Present: 4 Mayor Shelly Petrolia, Vice Mayor Adam Frankel, Deputy Vice Mayor Juli Casale, Commissioner Shirley Ervin Johnson

Absent: 1 Commissioner Ryan Boylston

Others present were:

Terrence Moore - City Manager

Lynn Gelin - City Attorney

Mr. Moore explained that this item is the result of a request for proposal process that was initiated late summer in 2022 regarding the Solid Waste Franchise Agreement. Proposals were made available via the qualification and ranking process. Representatives from both Coastal Management and Waste Management were present to provide presentations of their interest in offering services to the community. Mr. Moore also recognized Mr. John Archambo, the City's outside consultant.

Ms. Gelin advised that a randomizer program was used to make the selection of who presented first.

John Casagrande, Vice President of Coastal Waste and Recycling, introduced members of his team prior to beginning his PowerPoint presentation. He stated that the focus was only going to be on three (3) topics. The first topic was regarding the Bio Diesel Trucks, which is part of the green initiative for the City. He explained that the advantages of the bio diesel trucks are that they have less down time, are more reliable, provide better service and costs about \$65,000 less than a Compressed National Gas (CNG) truck. Additionally, he mentioned the company is investing in electric trucks; in which electric trucks have no emissions and have zero noise. These trucks would be used to service the pails along the beach, Atlantic Avenue and Pineapple Grove. The second topic was to establish a recycling program downtown. He advised that he will meet with the Downtown Development Authority (DDA) to assist in meeting with the businesses and owners to develop a pilot program that meets their needs. The first six (6) months of the pilot program will be no cost to the business owners. Lastly, he spoke about their detailed transition plan and the anticipated start date, if awarded the contract. He spoke about the three (3) municipalities that Waste Management lost to Coastal Management and the transitions. To end, Mr. Casagrande stated that their Best and Final Offer (BOFA) was \$1.2 million dollars a year cheaper than Waste Management's BOFA, and approximately \$13 million dollars over the life of the contract.

Barbara Herrera, representative of Waste Management (WM), stated that their initial proposal was \$22.9 million dollars different than their competitor, representing a savings. She noted that they were ranked #1, three times by two evaluation committees in Delray Beach. She advised that they are a local team with national support. As the incumbent in Delray Beach, she asked they be allowed to negotiate an agreement with the City Manager that can be brought back to the City Commission. Ms. Herrera advised that the City asked them to provide the best and final offer, in which they found a reduction and impact to the residents in the form of \$2 million dollars. In comparison to the competitor, she noted that is a price difference of \$1.09 per home, representing about five cents per residential service. She stated they have a proven environmental commitment and that they will have 21 CNG trucks dedicated to Delray Beach, which are much quieter than diesel trucks and far superior at reducing greenhouse gas emissions. She asked the commission to see this Request for Proposal (RFP) process through to its natural conclusion and allow WM to meet with the City Manager to negotiate an agreement they can bring back with pride.

Rick Kania, Director of Revenue for Waste Management and Delray Beach resident, expressed his concerns regarding the process, evaluation committees, public presentations and the competitor's tabulation, which he noted had errors and equated to about a \$441,000 advantage for the competitor. He spoke briefly about the BOFA and reduction rates. Lastly, he asked the City Commission if they were willing to take the risk of assigning this contract to a different collector within the initial term. He implored the Commission to follow the recommendations of senior staff and negotiate with the most qualified bidder.

SP.2. Public Comments

Mayor Petrolia opened the floor for public comments.

Dan Comerford, Mayor of the Town of Jupiter Inlet Colony, expressed his recommendation for Waste Management and spoke about the RFP process.

June Jackson, 42 NW 11th Avenue, and representative of Knowledge is Power, expressed her support for Waste Management.

Mayor Petrolia closed public comments.

Mayor Petrolia asked the City's consultant, Mr. Archambo to provide a brief background of his experience. Mr. Archambo, stated that he has been in the garbage business for about 48 years. Mayor Petrolia asked if he had a recommendation with respect to the bidding process or the RFP process. He advised that he is more familiar with a sealed bid, which takes out subjectivity of an RFP. He stated that the sealed bids pre-qualify the haulers in advance and after going through the pre-qualification, the sealed bids are open and the lowest bidder wins.

Discussion ensued regarding the type of bid the City opted to choose in the selection process. Mayor Petrolia asked Mr. Archambo to provide his recommendation as the City's consultant. Mr. Archambo stated that his presentation was to do a brief comparison of the bid numbers and answer questions; however, that changed due to there being a BOFA on the table. He noted that both companies are reputable but had concerns with Coastal Management bidding \$4 million dollars less than Waste Management.

Further discussion ensued regarding the bid process and the vast number of questions in the pre-bid documents. Mr. Moore noted that he supported the recommendation of the documents after meeting with department directors and counsel. Further discussion ensued regarding the revelation of the BOFO numbers and whether the process was fair with the competitors seeing each other's numbers.

Waste Management representatives and Coastal Management representatives entertained questions from the City Commission. Afterwards, Deputy Vice Mayor Casale made a motion for discussion, and seconded by Vice Mayor Frankel, to award the contract to Waste Management and negotiate to Coastal Management's price.

Deputy Vice Mayor Casale withdrew her motion. She made another motion to select Waste Management and negotiate. Mayor Petrolia passed the gavel and seconded the motion.

The motion was carried by the following vote:

YES: 2 - Deputy Vice Mayor Casale, Mayor Petrolia

NO: 2 - Commissioner Johnson, Vice Mayor Frankel

Failed

Commissioner Johnson made a motion, seconded by Vice Mayor Frankel, to move forward with Coastal Management.

The motion was carried by the following vote:

YES: 2 - Commissioner Johnson, Vice Mayor Frankel

NO: 2 - Mayor Petrolia, Deputy Vice Mayor Casale

Ms. Gelin opined and advised the City Commission to discuss alternatives as the current fees will expire soon and may go up higher than what was being proposed.

Deputy Vice Mayor Casale made a motion to accept and negotiate with Waste Management. The motion was seconded by Vice Mayor Frankel.

Discussion ensued regarding the price and services offered by both competitors. Further discussion ensued regarding recycling, in which Mr. Moore asked the Commission to allow him the opportunity to incorporate their points of view, move forward and come back with a recommendation at a future meeting in February.

The motion was carried by the following vote:

YES: Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale

NO: Commissioner Johnson

With no further business to discuss, Mayor Petrolia adjourned the Special City Commission Meeting at 4:30 p.m.

This was approved.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <u>Boylston Ryan Charles</u>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <u>Delray Beach City Commission</u>	
MAILING ADDRESS <u>2 NW 24th Street</u>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <u>Delray Beach</u>	COUNTY <u>Palm Beach</u>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <u>1-10-23</u>		NAME OF POLITICAL SUBDIVISION: <u>X</u>	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Ryan Boylston, hereby disclose that on January 10th, 2023:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☒ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Constal Waste is a client of my agency, Palm Beach Agency, (DBA ATON). Constal answered a city RFP for waste management. I recused myself from the 3:15pm meeting to discuss this topic.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

1/10/23

Signature

R-Boylston

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.