

**City of Fort Lauderdale
Nuisance Abatement Board Minutes
City Hall, City Commission Chambers, 1st Floor
100 North Andrews Avenue
Thursday, March 9, 2006 at 7:00 p.m.**

	Attendance	2006 Cumulative Attendance 3/05 to 3/06		Total Meetings
		<u>Present</u>	<u>Absent</u>	
<u>Members</u>				
Douglas Reynolds, Chair	P	10	1	11
Harry MacGrotty, Vice Chair	P	9	2	11
Caldwell Cooper	A	10	1	11
Ginnee Hancock	P	9	2	11
David C. Svetlick	P	11	0	11
Pat Mayers, Alternate	P	9	2	11
Laurie Watkins, Alternate	A	5	3	8

Staff Present

Marcia Gair, Board Clerk	P
Bruce Jolly, Board Attorney	P
Scott Walker, City Prosecutor	P
Capt. Reggie Gillis, Liaison	P
Sandra Goldberg, Recording Clerk	P

1. Call meeting to order, Pledge of Allegiance

Chair Reynolds called the meeting to order at 7:00 p.m.

2. Roll call, witness sign in, swearing in

3. Election of Chair and Vice-Chair

Chair Reynolds opened the floor for nominations for the position of Chair of the Nuisance Abatement Board.

Mr. MacGrotty moved to nominate Mr. Doug Reynolds for the position of Chair. The motion was seconded by Ms. Hancock. In a roll call vote, the motion passed unanimously.

Chair Reynolds opened the floor for nominations for the position of Vice Chair of the Nuisance Abatement Board.

Ms. Hancock moved to nominate Mr. Harry MacGrotty for the position of Vice Chair. The motion was seconded by Ms. Mayers. In a roll call vote, the motion passed unanimously.

4. Approval of minutes for February 9, 2006

Ms. Hancock brought an error to the Board's attention. On page 3 of 5, Case No. 06-02-05, Section 8 of the police recommendations, the Board amended the recommendations to require that the owner be assessed 100% of the investigative costs, rather than the 25%.

Motion made by Mr. Svetlick, seconded by Ms. Mayers to approve the February 9, 2006 minutes as amended. In a roll call vote, the motion passed unanimously.

5. Case Number 06-01-01, 740 Northwest 4 Avenue

- Notice of Status Hearing

Capt. Gillis reported that the owner of the property has complied with all the recommendations. The trash and debris have been removed and a no trespassing sign is posted and affidavit on file. The City has no further issues with this property.

Chair Reynolds asked when the jurisdiction ends on this matter. Capt. Gillis replied January, 2007. Chair Reynolds asked if Capt. Gillis was asking for any further action from the owner or asking him to come back. Capt. Gillis replied no.

Mr. Powell, owner of the property, stated that a friend of his currently residing in the apartment has commented on the increased police presence and the situation in the neighborhood has improved.

Chair Reynolds stated that there being no further issues; that the owner has complied with the Board's requirements, the matter is concluded.

6. Case Number 06-01-02, 734 Northwest 4 Avenue

- Notice of Status Hearing

Capt. Gillis reported that the owner of the property was not present this evening. While the owner has met most of the recommendations, two items were still outstanding. One, the fence had every other slat removed to allow visibility onto the property. The requirement was to remove the wood fencing completely. The second item not yet complied with is the requirement to install flood lights.

Chair Reynolds asked what remedy the City is asking. Capt. Gillis responded that he would like to know from the owner the reason why the flood lights have not been installed, but he would give them a little more time to remove the remainder of the fence. If they don't come into compliance, he would request that fines be imposed.

Chair Reynolds asked if the owner had called to advise they were not attending. Capt. Gillis and Detective Joel Winfrey replied, no they had not.

Mr. Walker asked that another notice be sent to the owner to appear next month. He stated that the Board, however, has the option to start assessing fines now.

Capt. Gillis stated that as far as the City is concerned, he agrees with increasing the assessment of the investigative costs to 100%.

Motion made by Ms. Hancock to assess 100% of the investigate costs, and assessment the maximum daily fine, seconded by Ms. Mayers.

Ms. Mayers stated that if the owners didn't make the effort to notify the city that they could not attend, then they should be assessed a fine.

Mr. Jolly stated that a fine should not be assessed for not appearing, but it would be appropriate to assess a fine for noncompliance.

Capt. Gillis stated that he agrees with assessing the full investigative costs but not with the daily fine.

Mr. Walker asked that this case be set on the docket for next month, and if at that time they are still not in compliance and they don't show up again, the City will agree to the Board assessing the daily fine.

Chair Reynolds asked Ms. Hancock if she wished to reframe the language of her motion or proceed.

Ms. Hancock replied that she would stay with the current motion. She stated that the owner was provided the proper notice and it is their responsibility to contact the City if there is a legitimate reason they cannot appear when requested.

Capt. Gillis stated that the owner has paid the 25% of the investigate costs already and that he would like to have the opportunity to have the owner reappear before the Board to explain why the flood lights have not been installed. Mr. Walker stated that the Board could assess the additional costs and daily fines and still require the owner to appear next month to explain why the remainder of the recommendations has not been met.

Capt. Gillis stated that the owner has four days left to complete the flood lights, but the fence removal time limit had passed.

Mr. MacGrotty asked Capt. Gillis to clarify the status of the fence. Detective Winfrey commented that the owner thought the major issue was the inability to see onto the property due to the wood fence. By removing every other slat, visibility was achieved; however, another violation of the Building Code was possibly created.

Discussion concluding, Chair Reynolds called for a vote on the motion. In a roll call vote, the motion failed 2-3 with the votes as follows: Ms. Hancock, yes; Ms. Mayers, yes; Mr. Svetlick, no; Vice Chair MacGrotty, no; and Chairman Reynolds, no.

Motion made by Ms. Hancock, seconded by Mr. Svetlick, to assess 100% of the investigate cost for noncompliance, less the 25% already paid, within thirty days of today's date.

Mr. MacGrotty suggested an amendment to the motion to request the owner to appear at the April 13, 2006 meeting. Amendment was accepted by Ms. Hancock and Mr. Svetlick. In a roll call vote, the motion passed unanimously.

Mr. Walker requested taking Item 8, Case No. 06-03-06 out of order.

8. Case Number 06-03-06, 640 Northwest 10 Terrace
• **Notice of Evidentiary Hearing**

Mr. Walker introduced Mrs. Frankie Foeman, owner, and her son Walter Foeman to the Board.

Capt. Gillis presented a summary on this case. In the second week of May 2005, third week of July of 2005, and fifth week of August of 2005 a confidential informant purchased cocaine from an individual at 640 NW 10 Terrace, Apartment 1. On September 9, 2005, a search warrant was served which resulted in the arrest of the individual.

Capt. Gillis stated the police recommendations as follows:

1. The owners will file a No Trespass Affidavit with the Fort Lauderdale Police Department and post No Trespassing signs on the property within fourteen (14) days and thereafter enforce no loitering and trespass laws. (FLPD / Records Division 954-828-5465)
2. The owners will adopt the Lease Addendum and Permitting Eviction for Drug Related Activities for all new tenants and renewals.
3. The owners will evict any tenant responsible for any nuisance abatement related crime within thirty (30) days.
4. The owners will remove all debris from the property within fourteen (14) days.
5. The owners will remove all derelict vehicles from the property within fourteen (14) days.
6. The owners will repair the west side trash enclosure within thirty (30) days and thereafter keep locked.
7. The owners will replace the fencing on the east side of the property (according to all City of Fort Lauderdale Code requirements) within sixty (60) days.
8. The owners will install flood lights on all sides of the building (according to all City of Fort Lauderdale Code requirements) within sixty (60) days.
9. If any of the above-listed items are not complied with within the time frame set forth, a fine in the amount of \$250.00, per day, per item, not to exceed \$250.00 per day, will be imposed for each day of non-compliance.

10. The owners are assessed 25% (\$446.12) of the investigative costs to be paid within thirty (30) days. The Board will waive the balance (\$1338.36) of the investigative costs if the owners comply with the Board's Order within the specified time frame(s). If the owners fail to comply within the specified time frame(s), the remaining 75% of the investigative costs will be assessed. (Total costs \$1784.48).
11. The owners will appear before the Nuisance Abatement Board at the May Nuisance Abatement meeting (or, if no meeting occurs in May, at the succeeding Nuisance Abatement meeting) for a status hearing.
12. The Nuisance Abatement Board will retain jurisdiction over the property for a period of one (1) year.

Mr. Walker stated that the owner has agreed to the recommendations, however, Mr. Foeman asks that you question him instead of his mother due to her age. Chair Reynolds stated that the Board would need to obtain from Mrs. Frankie Foeman her affirmation of Mr. Foeman's statements.

Mrs. Foeman was sworn in.

Mrs. Foeman confirmed that she is the owner of the subject property. Chair Reynolds asked Mrs. Foeman if she was aware of the City's proposed stipulation agreement; asked if she understood the terms and has read the agreement; if she was prepared to comply with the agreement; that fines could be imposed if she did not comply; and that she may be asked to reappear before the Board. Mrs. Foeman replied yes to all the questions.

Mr. Walker stated that the City did receive in the mail affidavits signed by all the tenants stating that if they are selling or taking drugs, they will be evicted from the property. The question is that it does not specifically say "lease amendment" as required in Recommendation 2.

Chair Reynolds asked Mrs. Foeman if they have leases with the existing tenants. Mrs. Foeman replied no, they pay month to month. Chair Reynolds asked if the City had a different form to meet this requirement would they be willing to sign as well. Mrs. Foeman replied, yes.

Mr. Foeman stated that an affidavit of compliance was what was submitted, not really a lease amendment. Mr. Walker stated that two of the people that signed it are the two that were arrested.

Chair Reynolds asked Mr. Foeman if they planned to evict the two tenants that were arrested for drugs. Mr. Foeman stated that they just received the recommendations today, but will move ahead with complying with the recommendations.

Ms. Mayers asked Mr. Foeman if the current tenants are evicted, would he require new tenants to sign leases. Mr. Foeman replied yes they would. They currently have long-term tenants.

Ms. Hancock asked how many units were on the property. Mr. Foeman replied five. Ms. Hancock recommended that in the future they consider hiring a service that would screen tenants. Even though it may cost you, you can ask prospective tenants to pay the cost.

Mr. MacGrotty asked if the arrested tenants have been evicted. Mr. Foeman replied that they have not been at this time, they just received the recommendations. The subject tenants did sign the affidavit however.

Capt. Gillis stated that Recommendation 3 requires the tenants to be evicted. Mr. Foeman stated he understands the requirements, he has just received them. Chair Reynolds asked Mr. Foeman if he will evict the tenants in conformance with the recommendations. Mr. Foeman replied yes, they would.

Ms. Hancock stated that in regards to Recommendation 10, that the owner should pay the full investigative costs; it is not right for the taxpayers of the City to shoulder that burden.

Chair Reynolds indicated that the process was that the recommendations are the terms the owner and the City agreed upon. The process is to vote yes or no on the stipulation agreement and then the Board moves onto the next step depending on the outcome of the vote.

Capt. Gillis stated that the City was not prepared to require the owner to pay 100% of the investigative costs at this time. Further, because the owner has obtained signatures from all the tenants on affidavits, it is not necessary to require the lease amendment; therefore, strike Recommendation 2. The City is satisfied with the affidavit.

Mr. Walker confirmed Capt. Gillis' statement and noted that the affidavits are notarized.

Motion made by Ms. Mayers to accept the stipulation agreement between the City and the owner. In a roll call vote, the motion passed 3-2 with the votes as follows: Ms. Hancock, no; Ms. Mayer, no; Mr. Svetlick, yes; Vice Chair MacGrotty, yes; and Chairman Reynolds, yes.

Capt. Gillis requests that the owners come back before the Board at the May meeting.

7. Case Number 06-01-03, 1491 Northwest 22 Street

- **Notice of Status Hearing**

Capt. Gillis stated that the owner, Mr. Brown, was not present. Mr. Brown came in front of the Board two months ago. The tenants selling drugs on the property have been evicted. The only stipulation not met is that the tenants in Apartment B, who are required to be evicted as part of the nuisance abatement agreement, have not been evicted due to problems with the Section 8 Code.

Ms. Mayers asked if there is a drug violation, don't the Section 8 benefits cease. Detective Winfrey reported that once he had reached Mr. Brown, Mr. Brown indicated he had not evicted the Apartment B tenants. Mr. Brown stated that he wasn't sure if he could share any of the nuisance abatement case information with the Section 8 people. Detective Winfrey advised Mr. Brown he could share the information and Mr. Brown said he would then contact the Section 8 department to get the eviction started.

Capt. Gillis stated that Mr. Brown has complied with all other requirements and has paid the 25% assessment. The City would request to bring him back next month to discuss the remaining issue. Mr. Brown has been very cooperative and the City is satisfied with his actions. Capt. Gillis would like to give Mr. Brown the opportunity to report on the eviction of the Section 8 tenants.

Motion made by Ms. Hancock, seconded by Vice Chair MacGrotty to assess 100% of the investigate cost for noncompliance, less the 25% already paid, within thirty days of today's date, and request the owner to attend the April 13, 2006 meeting. In a roll call vote, the motion passed unanimously.

9. Board Discussion

Ms. Hancock stated she would like to see the Board no longer negotiate investigative costs. It is not fair to the residents of Fort Lauderdale to bear the burden. Landlords are not managing properties. She would like to see the standard change to 100% at the beginning.

Capt. Gillis responded that the recoupment of investigative costs was originally set up with the consideration that each case has individual sets of circumstances. Every situation is different. He stated the reason the City starts with the 25% is to create leverage later on by imposing a larger percentage. He would request that it remain the way it is and assess on a case by case basis.

Ms. Hancock stated that the City has other options. If an owner doesn't comply we can assess the daily fine. If they still do not comply, their property can be taken away. There is plenty of incentive for them to comply.

Mr. Walker stated that when the case law was coming down; the goal was to establish steps between cost and confiscation. That would allow increasing assessments within the twelve month period. The reason for the steps is that the City would be providing a property owner several opportunities to come into compliance. The reason for that is that if it goes to appeal, the judge will see the Board took gradual steps.

Mr. Walker continued that he is not philosophically opposed to Ms. Hancock's position; however, he would hate to see the Board assess costs on the first hearing, and then assess maximum fines on the second. He stated he would like to build a system where the Board gives the owner ample opportunity to comply.

Ms. Hancock stated that her proposal only addresses investigative costs; the Board can assess daily fines at any time during the twelve month period.

Capt. Gillis stated that as he sees it as a property owner, you can manage your property every day and don't know if there is someone selling drugs. Then all of a sudden something happens and the owner is facing an \$1800 charge. Capt. Gillis continued that there are cases where that situation applies; which is why the costs should be considered on a case by case basis.

Ms. Hancock stated that it would be more consistent to assess the full cost for everyone that comes before us; otherwise it could be viewed as favoritism.

Mr. Walker stated that you could ask the Police Department to start at the 50% level. Capt. Gillis stated that he understands that the Board makes the decision on the final recommendations; however it is up to the Police Department to make the recommendations. The Police Department is satisfied with it as is.

Chair Reynolds clarified for the record in matter 06-01-03 where the Board assessed the full costs, payment must be paid within thirty days from today's date.

Next meeting: April 13, 2006

Thereupon, with no additional business to come before the Board, the meeting adjourned at 7:47 p.m.