

**City of Fort Lauderdale
Nuisance Abatement Board Minutes
City Hall, City Commission Chambers, 1st Floor
100 North Andrews Avenue
Thursday, July 13, 2006 at 7:00 p.m.**

	Attendance	2006 Cumulative Attendance 3/06 to 3/07		Total Meetings
		<u>Present</u>	<u>Absent</u>	
<u>Members</u>				
Douglas Reynolds, Chair	P	5	0	5
Harry MacGrotty, Vice Chair	P	4	1	5
Caldwell Cooper	P	2	3	5
Ginnee Hancock	P	4	1	5
David C. Svetlick	P	4	1	5
Pat Mayers, Alternate	A	4	1	5
Laurie Watkins, Alternate	P	3	2	5
<u>Staff Present</u>				
Marcia Gair, Board Clerk	P			
Richard Giuffreda, Board Attorney, Alt	P			
Scott Walker, City Prosecutor	P			
Sgt. Anthony Vinson, 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. Approval of minutes for June 8, 2006

Motion made by Mr. Caldwell, seconded by Ms. Hancock to approve the June 8, 2006 minutes as submitted. In a voice vote, the motion passed unanimously.

4. Case Number 06-07-08, 200 West Sunrise Boulevard

• **Notice of Evidentiary Hearing**

Sgt. Vinson presented a summary of Case No. 06-07-08, located at 200 West Sunrise Boulevard, the Sunrise Food Market. This case is the fourth time the property has been brought before the Nuisance Abatement Board. The present case is the first time with the current owner. The current owner is Dale Saunders, of Dale's Wheels and Tires. Sgt. Vinson stated he has been to the property to observe the situation and presented photographs to the Board. Sgt. Vinson stated

that between January 13, 2006 and July 7, 2006, there have been 272 calls for service at the property.

Chair Reynolds stated that before police recommendations were discussed, the Board needed to establish whether the property constitutes a nuisance and the Board has jurisdiction to take action.

Mr. Scott Walker introduced the owner and tenant: Dale Saunders the owner and Mr. Kahn, the operator of Star Food Mart approached the Board. Mr. Walker indicated that Mr. Kahn is agreeable to the stipulation agreement, but would ask the Board to consider an amendment to the stipulation agreement proposed by the police department. Mr. Kahn proposes to not allow anyone into the store from the period of 11:00 p.m. to 6:00 a.m. and install a window to conduct business through during that period.

Chair Reynolds asked if the owner and tenant are agreeing that the property constitutes a nuisance and the Board has jurisdiction, and they will let the Board set the recommendations and take actions.

Mr. Mohamad Kahn came before the Board. Mr. Kahn stated that he has been the owner of the business for the past nine months. He stated he was fully aware of all the police reports when he purchased the business. Mr. Kahn stated that they have sixteen surveillance cameras on the property and have someone monitoring the store at all times. He stated that they also have a loud speaker system installed to ask people to leave if they are causing trouble. No problems have occurred inside the store; the problems occur outside or behind the store. Mr. Kahn stated that he would like to install a window to conduct business through; no one would be allowed in the store between the hours of 11:00 p.m. and 6:00 a.m. Mr. Kahn stated he feels that the window would allow them to control the situation.

Chair Reynolds clarified Mr. Kahn's relation to the property. Mr. Kahn stated he is the tenant.

Mr. Dale Saunders came before the Board and stated he is the owner of the property. Chair Reynolds stated that as the property owner, that Mr. Saunders is accountable. Chair Reynolds asked Mr. Saunders if he understood that there has been an action filed that the property should be found a nuisance; and if found to be a nuisance that the Board has jurisdiction for one year and the Board can order certain actions to be made to correct the nuisances; and if the owner doesn't comply with those orders that he can be fined substantially. Mr. Saunders stated he understood.

Chair Reynolds asked Mr. Saunders if he is contesting whether the property was a nuisance or not. Mr. Saunders stated the calls to the police were made by the tenants and himself. Mr. Saunders stated that he feels the property itself is not really the nuisance; but it is the neighborhood in which the property is located that is the problem. He stated it is a low income area and there are a lot of abandoned buildings with a lot of vagrants. Mr. Saunders stated that

any store in an area with drug dealers and drug users will experience the same problems. Mr. Saunders stated that he has been running his business on Sunrise Boulevard for eleven years; and sometimes he has had to fight with people to get them off the property. He stated he has witnessed Mr. Kahn's employees asking people to leave the store and the people arguing and fighting and cursing.

Chair Reynolds clarified to Mr. Saunders that the purpose of this hearing and the Board is to deal with the specific property in question; not the surrounding area. Chair Reynolds asked Mr. Saunders again if he is acknowledging or contesting if the property is a nuisance.

Mr. Walker stated that under Florida Statutes, he has to only show three affidavits of arrest cases that have occurred in order to constitute nuisance abatable offenses.

Mr. Saunders replied that he agrees that there are a lot of drugs in the area and agrees that there a lot of people that hang out around the store.

Chair Reynolds asked Mr. Walker to proceed with his evidence to prove his case that the property is a nuisance in order to move forward with the jurisdictional issue.

Mr. Walker asked Mr. Saunders if he would stipulate to the police reports; that what happened in the police reports are true and correct. Mr. Saunders replied, yes.

Mr. Walker entered all three affidavits into evidence. On that basis Mr. Walker asked the Board to declare the property a nuisance.

Chair Reynolds asked if there were any objections to the police reports being entered into evidence.

Vice Chair MacGrotty stated that maybe the property owner might be more comfortable if he had an attorney with him at the next Board meeting so that he is comfortable he is getting the representation he requires. Chair Reynolds stated that the owner has that right, but he was aware of the hearing tonight and he did not bring an attorney. Chair Reynolds asked Mr. Saunders if he would like to request a continuance. Mr. Saunders stated that no, he agrees that the property constitutes a nuisance.

Chair Reynolds clarified that Mr. Saunders accepts that the property is a nuisance under Florida Statutes and that the Board has jurisdiction over the property. Mr. Saunders replied, yes.

Chair Reynolds asked now that jurisdiction had been established, would the City proceed with the City recommendations.

Sgt. Vinson stated the police recommendations were as follows:

1. Within fourteen (14) days, the owner will ensure the surveillance cameras are monitored every day from 7am to 11pm.
2. Within thirty (30) days, the owner will hire uniformed security to patrol the premises every day from 11pm to 7am.
3. 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.
4. The owner is assessed 25% (\$162.42) of the investigative costs to be paid within thirty (30) days. The Board will waive the balance (\$487.28) of the investigative costs if the owner(s) complies with the Board's Order within the specified time frame(s). If the owner(s) fails to comply within the specified time frame(s), the remaining 75% of the investigative costs will be assessed. (Total costs \$649.70)
5. The owner will appear before the Nuisance Abatement Board at the September Nuisance Abatement meeting (or, if no meeting occurs in September, at the succeeding Nuisance Abatement meeting) for a status hearing.
6. The Nuisance Abatement Board will retain jurisdiction over the property for a period of one (1) year.

Chair Reynolds asked Mr. Saunders if he had any comment on the recommendations. Mr. Saunders stated that it would be very expensive to hire a security guard everyday from 11 p.m. to 7 a.m. If Mr. Kahn can close the store and install a window so all business is transacted from the outside, it would be less costly.

Chair Reynolds asked the city's position on the proposal of the window installation. Sgt. Vinson stated that the proposal may be one alternative if someone from the outside was monitoring during the late night hours, and contacting the police department if there were any problems, along with the outside PA system; but the police department would have to evaluate the outcome. Sgt. Vinson stated that he would not be agreeable to modifying the recommendations at this time. He would like to see if the uniformed presence would be more effective in moving people along in the beginning.

Mr. Kahn asked the Board if they would allow them the opportunity to try the window option. If people know they cannot come in the store, he is confident that the problems will decrease.

Chair Reynolds asked when the window could be installed. Mr. Kahn replied by the end of July. Mr. Kahn stated that he can monitor the store from his home. There are sixteen cameras installed; four of which are outside. Mr. Kahn stated he would like the opportunity to show that this option would be effective.

Chair Reynolds asked if Mr. Kahn would hire a security guard until the window is installed. Mr. Kahn stated that it would be unnecessary because he is monitoring the store from his home at all times. The PA system works 99% of the time; people leave when asked.

Chair Reynolds opened the hearing up to the public.

Pamela Roloff, 1101 NW 2nd Avenue. Ms. Roloff stated that her property is definitely affected by the market. Drug dealers are always walking past her property to get to the "hub." Ms. Roloff presented photographs to the Board taken that afternoon showing the loitering drug dealers and prostitutes. Ms. Roloff stated that the window option would just increase the number of people hanging out outside the store. She continued that people loiter for hours at the market. The drug dealers use bicycles to go around the neighborhood selling their drugs because of the barricades. Ms. Roloff stated that the only solution is to close down the store. She stated that the neighborhood is not improving because of the market; shutting down the store will help the situation in the neighborhood a lot. If the owners want to keep the store open, they need to hire security guards; otherwise they need to leave. Ms. Roloff stated that the store also sells beer on Sunday mornings which brings the prostitutes to the store in the mornings to get their clients. Ms. Roloff alleged that the store may even be getting a cut of the action.

Mr. Tony Featherly, 1034 NW 2nd Avenue. Mr. Featherly stated that the store is the hub of all the drug activity in the area. The same people go in and out of the store repeatedly. Mr. Featherly alleged that someone in the store is selling drugs.

Mr. J.J. Hankerson, President of the Progressive Village Civic Association, 905 NW 2nd Avenue. Mr. Hankerson stated that the store has become a nest for the drug dealers in the area. It is an ongoing problem all night long and all day long. There is also a lot of trash left around the property as well.

Chair Reynolds asked Mr. Hankerson what he feels would be a solution. Mr. Hankerson replied that security guards are needed. Chair Reynolds asked when guards would be most useful. Mr. Hankerson stated that the problem is constant. Security guards would be needed twenty-four/seven. Mr. Hankerson stated that the window and PA system would not be effective. He doesn't want anyone to lose their business, but the store is tearing up their community and it needs to be corrected.

Mr. Doug Sterner, 632 NW 2nd Avenue, Vice President of the Progressive Village Civic Association. Mr. Sterner stated that he agrees that the store is the magnet for illegal activities in the neighborhood. He stated that this is not the first time the property has been before the Board; he is asking that the Board give the community a chance, not the property owner. Mr. Sterner stated that it is time the Board sends a tough message to other businesses that operate in the same manner. The message is that the interest of the community must come first.

Ms. Joanne Smith, President of South Middle River, 620 Tennis Club Drive. Ms. Smith stated that she doesn't witness the problem at this store, but her neighborhood has the same problem down on Andrews Avenue. The stores in her area close at a certain hour. If the stores are selling only sodas, etc. from 11:00 p.m. to 7:00 a.m., they are not losing a lot of money. That system has worked very well in their neighborhood.

Mr. Tim Smith, South Middle River resident. Mr. Smith stated that he is appalled at the attitude of the owner and operators of the store; they don't get it. Mr. Smith stated that they live there; the owners go home at night. Mr. Smith asked the Board to be strict and send a message to people that come in and abuse the neighborhood.

Chair Reynolds asked Mr. Smith if he had a suggestion for a solution. Mr. Smith replied that at a bare minimum he would suggest the store close at 10:00 p.m. and have a full time security guard while they are open. Let the police evaluate it for sixty days and then maybe they can loosen up the reins if the situation has improved.

Mr. Saunders indicated that the barricades that were put in three years ago along the five or six block area don't allow vehicles in or out. It has created a "park-like" atmosphere for people to hang out. Mr. Saunders indicated that he has been a resident of the area since 1980; he doesn't take the money and go home somewhere else. He stated the problem is not just on 2nd Avenue, the drug dealers and prostitutes hang out on 1st, 2nd, 3rd, and 4th, 5th; it is the entire area. If they close the store, they will just move to another place in the area. Mr. Saunders stated that the barricades were put in to stop the vehicular drug traffic; now they're on bikes. He stated that the allegations that the store clerks are selling drugs in the store are not true. All these situations make it easy for people to come in and conduct drug trade and prostitution; the police can't follow them through the barricades.

Mr. Saunders stated that if security guards are hired, the people will just move one block over. Chair Reynolds stated that may be true, but the Board can only focus a solution on the specific property. Mr. Saunders stated he agrees that the corner needs cleaned up; they can try security.

Mr. Walker asked the residents about the barricades. He asked how they would feel about the barricades being removed. Mr. Sterner stated that they have asked the City to replace them; they are repeatedly being moved to allow vehicles through. Studies they've seen indicate that the barricades do work to reduce crime, illegal dumping, and all other issues the neighborhood is dealing with. As a Civic Association, they support effective, functional road barricades; they are just not there now, they are moved aside.

Mr. Walker asked if the group consensus is that they want the barricades. The residents replied yes, but they need to be kept in place. Mr. Sterner stated that they have spoken with Mr. Partington, the City Engineer and the CRA, to address the barricades. Mr. Partington has had crews out to replace them into proper position.

Mr. Kahn stated that no store employee has been conducting illegal activities inside the store. Mr. Kahn stated he watches the monitor from his home and requests people to leave on the PA system. Most of them listen and leave. Mr. Kahn stated that shutting down the store is not an option; they have made an investment here and they are trying everything they can to solve the problem.

Mr. Walker asked Mr. Kahn what time deliveries are made and where the trucks come. Mr. Kahn replied that deliveries are in the morning and the trucks park in the front, and sometimes if it is a large truck they park on the side. Mr. Walker asked Mr. Kahn if he was willing to help maintain the potted plants in the proper position to maintain the road closure. Mr. Kahn replied yes.

Vice Chair MacGrotty asked if the store operator has a no trespass affidavit on the property. Mr. Walker replied yes they do.

Chair Reynolds proceeded with the next step in the hearing.

Vice Chair MacGrotty made a motion to declare the property a nuisance based on the evidence and stipulation of the owner and the Board shall retain jurisdiction for one year. Mr. Svetlick seconded the motion. The Board approved the motion unanimously.

Vice Chair MacGrotty made a motion to approve the police recommendations as stated. Mr. Svetlick seconded the motion.

Mr. Cooper stated that he could not vote for the police recommendations as submitted. He stated that he feels that a security guard is needed during all hours of operation and that he strongly feels that 100% of the investigative costs should be assessed. Mr. Cooper also stated that he would like to add to the recommendations that all the outside lights be repaired within thirty days.

Chair Reynolds asked if the property owner was willing to accept the stipulation to repair all the outdoor lights within thirty days. Mr. Kahn replied yes. Vice Chair MacGrotty accepted the addition of the repair of the outdoor lights as an amendment to his motion.

Ms. Hancock stated that she would also not vote to accept the recommendations. Ms. Hancock stated that the posters in the windows of the store are attractions to the kind of crowd they don't want hanging around the neighborhood. She stated that there is also outdoor storage, a hose, cleaning supplies, and an extension cord outside. These types of things indicate that it is not a nice, clean neighborhood and attracts the wrong element. Ms. Hancock requested that the operator take down the signs and posters, and clean up the area. Ms. Hancock also requested that the owner consider closing down at night.

Mr. Walker stated that the store operator is agreeable to removing the signs in the window.

Vice Chair MacGrotty asked Sgt. Vinson if he feels that if the store was closed, absent security during that time, would it still be a gathering point. Sgt. Vinson replied that changing the hours would probably help, but the removal of the signage would not be a substantial help because the visibility is not an issue. Sgt. Vinson stated that the hose and electrical cord he observed was from a car wash business on the site. Mr. Kahn indicated that some people came and washed some cars there for two days but he sent them away; there is no car wash business on the property.

Mr. Cooper asked what type of liquor license was approved for the property. Mr. Kahn indicated only beer and wine are sold at the store. Mr. Cooper asked Mr. Saunders how long he has owned the property. Mr. Saunders replied about a year and a half. Mr. Cooper asked if anyone from the neighborhood has reached out to Mr. Kahn or Mr. Saunders about the problems. Mr. Kahn and Mr. Saunders replied no.

Ms. Hancock stated that she objects significantly to the owner being assessed only 25% of the investigative costs.

Mr. Cooper asked if the property was still under the Board's jurisdiction, or has it ended. Mr. Walker indicated that he believed that jurisdiction has ended, but also that it was with a previous owner.

Chair Reynolds called for the vote on the motion. **In a roll call vote the motion failed 4-1 with the votes as follows: Vice Chair MacGrotty, no; Ms. Hancock, no; Mr. Svetlick, no; Mr. Cooper, no; Chair Reynolds, yes.**

Mr. Cooper moved the order to read as follows:

1. Within fourteen (14) days, the owner will ensure the surveillance cameras are monitored every day, twenty-four hours a day;
2. Within thirty (30) days, the owner will hire uniformed security to patrol the premises every day during all hours of operation;
3. The owner will repair all exterior light fixtures within thirty (30) days;
4. The owner will remove all advertising material and clean the store windows to allow complete and total observation from the exterior to the interior of the store;
5. 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;
6. The owner is assessed investigative costs in the amount of \$649.70 to be paid within thirty (30) days;
7. The owner will appear before the Nuisance Abatement Board at the September Nuisance Abatement meeting (or, if no meeting occurs in September, at the succeeding Nuisance Abatement meeting) for a status hearing; and,

8. The Nuisance Abatement Board will retain jurisdiction over the property for a period of one (1) year.

The motion was seconded by Vice Chair MacGrotty. In a roll call vote the motion passed 4-1 with the votes as follows: Mr. Cooper, yes; Ms. Hancock, yes; Mr. Svetlick, yes; Vice Chair MacGrotty, yes; Chair Reynolds, no.

5. Board Discussion

Ms. Kelly Elkins, representative for Tarpon Investment Group, approached the Board. Ms. Elkins indicated she had filed a motion to modify the fine in the order for Case No. 06-01-02, Tarpon Investment Group LLC.

Mr. Walker indicated that he has discussed the issue with the City Attorney's office regarding the Board's ability to amend an order once it has been recorded. Mr. Walker indicated that their only remedy is to negotiate with the City Attorney's office.

Chair Reynolds asked if the Board could make a recommendation to the City Attorney's office. Mr. Walker replied that he believes that a recommendation could be made; the Board just can not vote to change an order that has been recorded.

Mr. Walker asked the Board not to take a position at this point, because Ms. Elkins can go directly to the City Attorney's office and may be able to resolve the issue satisfactorily on her own.

Thereupon, with no additional business to come before the Board, the meeting adjourned at 8:19 p.m.