

**CITY OF FORT LAUDERDALE
NUISANCE ABATEMENT BOARD MINUTES
CITY HALL, CITY COMMISSION CHAMBERS, 1ST FLOOR
100 NORTH ANDREWS AVENUE
THURSDAY, MARCH 13, 2008 AT 7:00 P.M.**

<u>Members</u>	<u>Attendance</u>	Cumulative Attendance 3/08 through 2/09	
		<u>Present</u>	<u>Absent</u>
Douglas Reynolds, Chair	P	1	0
Pat Mayers	P	1	0
David C. Svetlick	P	1	0
Laurie Watkins, Alternate	P	1	0
Nathaniel Wilkerson	A	0	1

Staff Present

Joyce Hair, Board Clerk
Richard Giuffreda, Board Attorney
Lt. Wade Brabble, Liaison
Scott Walker, Assistant City Attorney
Detective Joel Maney, Ft. Lauderdale Police
Hilda Testa, Recording Clerk, Prototype, Inc.

Guests

Louis Ugaz	Tania Ouaknine
Wayne Johnson	Norman Elliot Kent
Kevin Kulik	Pam Roloff
Robert Alcock	Gerald Singer
Tim Emerson	

1. Call meeting to order; Pledge of Allegiance

The meeting was called to order at 7:06 p.m. and the Pledge of Allegiance was recited.

2. Roll call; witnesses sign log; swearing in

Ms. Testa called roll and determined a quorum was present.

Witnesses were sworn in.

3. Approval of minutes for February 2008

Motion made by Ms. Mayers, seconded by Ms. Watkins, to approve the minutes of the Board's February 2008 hearing. In a voice vote, the motion passed 4 - 0.

4. Election of Officers

Ms. Mayers nominated Mr. Reynolds as Chair; Ms. Watkins seconded. In a voice vote, Board approved 4 – 0.

Ms. Watkins nominated Mr. Svetlick as Vice Chair; Ms. Mayers seconded.

Mr. Svetlick nominated Ms. Watkins as Vice Chair; Ms. Mayers seconded. Mr. Svetlick declined his nomination as Vice Chair. In a voice vote, Board approved Ms. Watkins as Vice Chair. 4 – 0.

5. Case Number 07-11-10, 519 Northwest 23 Avenue – The Parisian Motel

- **Notice of Status Hearing**

Lt. Brabble informed the Board that the property was not in compliance regarding Item 7, the sale of condoms, and Item 8, the room rental period. He reported there had been ten calls for service in the past six months, two of which were nuisance related. In the past month there had been one call for service and this was not nuisance related.

Lt. Brabble reported Detective Maney had conducted an undercover operation utilizing another detective who presented himself as an individual meeting with a prostitute. The detective was rented a room for \$17 and was able to purchase three condoms and two washcloths. The clerk at this time was Ms. Ouaknine. The property was found to be in violation of items 7 and 8 which were not subject to the stay order granted by the Judge.

Mr. Giuffreda confirmed the Board could hear these items as they were not stayed. He noted that the stay order specified that the fines accrued could not be collected until the Court disposed of the writ on the merits.

Mr. Louis Ugaz, attorney for the owner, objected, and stated he had no rebuttal evidence.

Mr. Walker recommended the respondent return for a status report in April, and the Board agreed.

6. Case Number 07-10-08, 1028 Northwest 3 Avenue

- **Notice of Status Hearing**

Lt. Brabble informed the Board that the property was not in compliance regarding Item 3, exterior lighting; Item 4, the fencing; Item 5, windows in good repair; Item 6, debris on

the property and Item 8, the payment of \$745.00 of investigative costs and \$750.00 assessed fines. He reported there had been 30 calls for service over the past six months, four of which were nuisance related. In the past month, there had been four calls for service, none of which was nuisance related.

Lt. Brabble continued that Detective Maney had contacted Code Enforcement regarding this property. A second Code Enforcement inspection was scheduled for March 22.

Mr. Walker requested that fines for the out of compliance items be imposed. Lt. Brabble stated certified mail regarding this hearing was sent to the owner on February 27, 2008 and was received. Lt. Brabble determined the fine period should run from February 1, 2008 to the present date at \$250 per day. Mr. Walker clarified that until the property was in compliance, the fines would continue to run.

Motion made by Mr. Svetlick, seconded by Ms. Mayers, to impose the fines accrued from February 1, 2008 at \$250 per day, to run until the property was in compliance. In a roll call vote, motion passed 4 – 0.

7. Case Number 08-02-01, 200 West Sunrise Blvd – Star Food Mart

- **Notice of Evidentiary Hearing**

Lt. Brabble testified that on January 2 and 11, 2008, detectives made undercover crack cocaine buys on the property. On January 11, an officer made an arrest on the premises for the possession of cocaine. Over the last six months, there had been 160 calls for service at the property, 15 of which had been nuisance related. In the past month, there had been ten calls for service, none of which was nuisance related.

Lt. Brabble informed the Board that the notice of hearing sent to the owner had not included the hearing date. He added that the owners were already turning the property around and had complied with all of the items the City recommended.

Mr. Walker recommended this item be withdrawn until proper notice was made. Mr. Giuffreda stated the Board had jurisdiction, but since notice was defective, the Board should not hear the case for due process reasons.

The owners were present, and Chair Reynolds asked if they had objected to the defective notice. Mr. Walker reported the owners were present, and their attorney had informed him they knew the notice was defective. Because of this, Mr. Walker recommended the Board not hear the case.

Mr. Norman Kent, attorney, asked the Board not to hear the case at this time, stating the hearing notice was deficient.

8. Case Number 08-02-03, 400 West Sunrise Blvd – Mo Money Pawn

- **Notice of Evidentiary Hearing**

Lt. Brabble testified that between October 29, 2007 and January 31 2008 detectives had conducted undercover investigations at the No Money Pawn Shop regarding dealing in stolen property. Operations were conducted on January 16, 20, 30 and 31. On three occasions, subjects at the No Mooney Pawn Shop had purchased items that they believed to be stolen from an undercover detective. A search warrant was executed on January 31, 2008 and additional items were recovered.

In the past six months, there had been 28 calls for service at the property, 1 of which was nuisance related. In the past month, there had been 3 calls for service, none of which was nuisance related.

Lt. Brabble stated the following recommendations:

1. The owner will maintain a trespass affidavit on file with the Police Department and post "No Trespassing" signs on the east and north side of the property within seven (7) days.
2. The owner will maintain all exterior lighting and ensure that the lighting is in good working order per City code.
3. The owner will maintain the property free of debris and trash.
4. The owner will post video surveillance warning signs on the exterior and interior walls of the business prior to the April Nuisance Abatement Board meeting (April 10, 2008).
5. The owner will install video surveillance cameras inside and outside of the store which will monitor any and all of the activity inside as well as outside of the business. These cameras will be installed and positioned so any and all of the activity inside as well as outside of the store will be video recorded. The video will be made available to the Fort Lauderdale Police Department during all business hours.
6. The owner will ensure the surveillance cameras are monitored every day during hours of operation.

7. The owner will provide the Police Department the required TPC/IP (aka: IP address) to access the video/data being transmitted from the camera(s) for the purpose of reviewing the information. This access must be accessible to the Police Department twenty four (24) hours a day, seven (7) days a week, 365 days a year.
8. The data/video obtained from the video system can be used by the Police Department for any purpose they desire relevant.
9. The owner will provide the Police Department any required Passwords and or member/log-in names or numbers to access the account.
10. The owner will notify the Police Department immediately if there are any changes to the IP, Passwords, Member/log-in name.
11. The owner will notify the Police Department immediately if any of the camera(s) are moved or relocated.
12. The owner is assessed 50% (\$1,253.00) of the investigative costs to be paid prior to the April 2008 Nuisance Abatement Board meeting (April 10, 2008). The Board will waive the balance (\$1,253.00) of the investigative costs if the owner complies with the specified time frame(s). If the owner fails to comply within the specified time frame(s), the remaining 50% of the investigative costs will be assessed. (Total costs \$2,506.00)
13. 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.
14. The owner will appear before the Nuisance Abatement Board at the May, 2008 Nuisance abatement meeting (or, if no meeting occurs at the succeeding Nuisance Abatement meeting) for a status hearing.
15. The Nuisance Abatement Board will retain jurisdiction over the property for a period of (1) year March 13, 2009.

Mr. Walker said the City had stipulation from the owner. The owner refused to stipulate.

Detective Jack Gee testified he had received a number of complaints regarding the No Money Pawn Shop from other detectives. Mr. Kevin Kulik, attorney for the owner, objected to this hearsay evidence. Chair Reynolds explained that hearsay was permissible at this hearing.

Detective Gee continued that the Police Department had conducted a sting operation whereby a detective was fitted with audio and video transmitters and instructed to use language that would "advise the persons at No Money that the property was stolen."

On January 16, 2008, Detective Richie brought DVDs and an iPod to the No Money Pawn Shop and the Pawn Shop employees purchased the iPod only. Detective Gee testified that the transaction was made properly per State Statute 539. On this first occasion, the undercover detective did not indicate the items were stolen.

On January 22, 2008, Detective Richie visited the shop while wearing audio and video devices. Detective Gee testified that Detective Richie first tried to use an old identification document in the name of a much older man. The clerk only refused this identification when he realized it had expired in the late 1990s. Detective Richie then provided another form of identification with different information, which the clerk accepted without question.

On the January 22 visit, Detective Richie presented DVDs, two Microsoft Zune players and two car stereos. Detective Gee confirmed that for all of the undercover operations, Target Stores had provided and valued the items to be used. On this occasion, the clerks accepted all of the items, and during their conversation, Detective Richie indicated these items were "taken off the truck; it never made it inside the store." Mr. Kulik objected to Detective Gee's paraphrasing of what was said. Chair Reynolds overruled the objection.

Detective Gee confirmed for Mr. Walker that the audio and video files were in the possession of the Broward County State Attorney's office. Detective Gee quoted from his report, which was transcribed verbatim from the audio/video files. Detective Richie had stated, "We be pullin' a couple to the side....they don't even see that in the store...I can get you what you need, I'm lookin' at a 42 right now, flat screen." The clerks acknowledged his remarks, and Detective Richie advised, "That one? Okay, I'll tell him to pull it aside."

Detective Gee testified that after Detective Richie received money for the goods, he requested a copy of the transaction, which was required by State Statute, and the clerks informed him that they had purchased the items outright, and he therefore did not receive a copy.

Detective Gee testified that on January 30, Detective Richie went to No Money Pawn with a 19-inch flat screen TV and an X-Box 360. He explained to the clerk that the shop should stay open later because his accomplice had almost been caught "tryin' to get this one." The clerk stated he did not want this property, and advised Detective Richie that

“they may take it down the road there.” Mr. Kulik objected to this testimony as hearsay. Chair Reynolds overruled the objection.

Detective Gee testified that he had taken the files to the State Attorney’s office, and the Assistant State Attorney advised him to attempt another transaction. Mr. Kulik objected to this testimony as hearsay and Chair Reynolds overruled the objection.

Detective Gee testified that on January 31, Target had furnished the detectives with DVDs, which the clerk purchased from Detective Richie without requesting any identification, and without filling out the required transaction form. Detective Richie also indicated he had taken the items himself. After Detective Richie left, Police had conducted a search warrant on the location.

As a result of the search, Detective Gee reported they recovered only one car stereo from the transaction in which the DVDs, Zunes and car stereos were brought in. The search also revealed that only the existing car stereo was listed on the transaction form. The clerk had also written a different, smaller amount of money as having been given to Detective Richie for the item. The search warrant also turned up ebay receipts dated eight to ten days after the items were brought in. These receipts indicated all of the other property had been sold, even though they were supposed to hold it in the shop for 30 days pursuant to State law.

Detective Gee testified that both clerks had been charged with dealing in stolen property, dealing in stolen property by use of the Internet, and violations of the Pawn Broker Act.

Mr. Walker moved report 07-12-523 into evidence. Mr. Kulik objected. Chair Reynolds overruled the objection. Detective Gee confirmed that he had submitted all reports regarding this case to the Board prior to the hearing.

Mr. Kulik asked Detective Gee to confirm that he, personally, had not entered the store and conducted these transactions. Detective Gee confirmed that Detective Richie had conducted the transactions. He further stated Jerry Singer, the owner of the shop, was not present during any of the transactions.

Detective Gee explained to the Board that State Statute 539 allowed the Police to conduct Pawn Shop inspections. He had conducted inspections at the No Money Pawn Shop and found numerous violations over the years. Mr. Kulik objected and Chair Reynolds overruled the objection.

Mr. Walker rested the City’s case and asked the Board to declare the property a nuisance.

Mr. Kulik called Mr. Gerald Singer, owner of the business. Mr. Singer testified he had owned the No Money Pawn for 15 years at this location. He said he had cooperated with various law enforcement organizations on many investigations and this was the first time anything like this had happened.

Mr. Singer testified he had been unable to understand Detective Richie's slang in his conversation with the clerks. He stated that the one time Detective Richie claimed the property had come off a truck, or a security guard had chased him, the clerk had thrown him out of the store. Mr. Singer noted that the clerk had also refused to accept the expired I.D. Mr. Singer was unaware of any Police calls for service to his store. He said, "I could line up 20 detectives here...to tell you how much we've helped the City. I think we were set up and I just don't think it's right."

Mr. Kulik rested his case.

Detective Gee explained to Ms. Mayers the process an owner of stolen property must go through to recover his property from a pawn shop.

Chair Reynolds opened the public hearing.

Mr. Robert Alcock, President of South Middle River Homeowners Association, said he wanted the Board to close this business down. He believed they had heard evidence that "this business is no good." Mr. Alcock was certain that some of the \$10,000 worth of property that had been stolen from his own home had been sold to this shop. He admitted he had no proof of this.

As there were no other members of the public wishing to speak on this item, the public hearing was closed.

Motion made by Ms. Watkins, seconded by Ms. Mayers, to declare the property a nuisance, and to invoke jurisdiction. In a roll call vote, motion passed 4 – 0.

Mr. Walker confirmed he was requesting the recommendations made earlier.

Mr. Kulik stated the Police had "produced the events" that the Board was considering in order to declare the property a nuisance. Mr. Kulik said the property was already monitored 24 hours a day; it only lacked the Internet access component. He objected to requiring Mr. Singer to spend the money to add the Internet component. Mr. Kulik said, "Everything in this Police investigation was completely and totally unconstitutional." He objected to the hearsay testimony, stating, "I understand that hearsay rules can be lax at a hearing like this, but 100 percent hearsay is not admissible in any kind of hearing like this."

Mr. Kulik said the recommendations were “essentially pointless” and the owner would continue to record all activity and cooperate with the Police. Mr. Kulik did not believe the evidence supported any additional recommendations.

Motion made by Mr. Svetlick, seconded by Ms. Watkins, to adopt the recommendations submitted by the City. In a roll call vote, motion passed 4 – 0.

Mr. Singer stated he had taken no disciplinary action against the employees involved. He had read the Police report and concluded the employees had done nothing wrong.

Ms. Watkins stated she trusted the Police Department, and after listening to the evidence, she believed the events occurred. She felt it was not fair for Mr. Singer and his attorney to deny the events occurred.

Mr. Tim Emerson, South Middle River resident, felt the recommendations were not strong enough, since Mr. Singer was already in compliance with some of them. Mr. Emerson thought it was obvious that Mr. Singer was out of touch with activities at his business since he claimed he was unaware of the calls for service to the premises. Mr. Emerson wanted recommendations made to keep the employees accountable for activities at the shop.

Mr. Walker announced a status conference would be scheduled for May 8, 2008.

9. Case Number 08-02-02, 1300 Northeast East 2 Avenue - Residence

- **Notice of Evidentiary Hearing**

Lt. Brabble reported that between the second week of October 2007 and the second week of January 2008, there had been three occasions of controlled crack cocaine buys at the property. On January 23, a fourth buy was made. Three subjects were arrested at the conclusion of the operation. Lt. Brabble testified there had been 12 calls for service to the property in the past six months, one of which was nuisance related. There had been three calls for service to the property in the past month, none of which was nuisance related.

Lt. Brabble stated the following recommendations:

1. The owner will maintain a trespass affidavit on file with the Police Department and post “No Trespassing” signs on the east and south side of the property within seven (7) days.
2. The owner will maintain the property free of debris and trash.

3. The owner will repair all fencing surrounding the property over which he has control (according to all City of Fort Lauderdale Code requirements) prior to the April Nuisance Abatement Board meeting (April 10, 2008) and maintain the fencing in good order. No fencing will be maintained or constructed that would obstruct the view of the property from NE 2 Avenue, NE 13 Street and or the property adjacent on the east side. If fencing is owned by neighbor and not capable of being repaired, owner shall install new fencing and maintain said new fencing in good order.
4. The owner will adopt the Lease Addendum and Permitting Eviction for Drug and or Prostitution related activities for all new tenants and renewals.
5. The owner is assessed 50% (\$403.40) of the investigative costs to be paid prior to the April Nuisance Abatement Board meeting (April 10, 2008). The Board will waive the balance (\$403.40) of the investigative costs if the owner complies with the specified time frame(s). If the owner fails to comply within the specified time frame(s), the remaining 50% of the investigative costs will be assessed. (Total costs \$806.80)
6. 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 per day will be imposed for each day of non-compliance.
7. The owner will appear before the Nuisance Abatement Board at the May Nuisance abatement meeting (or, if no meeting occurs at the succeeding Nuisance abatement meeting) for status hearing.
8. The Nuisance Abatement Board will retain jurisdiction over the property for a period of (1) year March 13, 2009.

Lt. Brabble informed the Board they had worked with the owner, Mr. Johnson, and he had already complied with the requests and recommendations. The tenants had been evicted and Mr. Johnson now resided at the property.

Mr. Wayne Johnson, owner, stipulated the property constituted a nuisance and the Nuisance Abatement Board had jurisdiction. He agreed to the City's recommendations and willingly gave up his right to have counsel present. Mr. Walker agreed.

Chair Reynolds opened the public hearing. As there were no members of the public wishing to speak on this item, the public hearing was closed.

Motion made by Ms. Mayers, seconded by Ms. Watkins, to accept and approve the stipulation of jurisdiction and recommendations. In a roll call vote, motion passed 5 – 0.

10. Board Discussion

- **640 NW 10 Terrace Jurisdiction ends**

Lt. Brabble announced that the Board's jurisdiction of this property ended on March 9, 2008. The property was confirmed to be in compliance on March 4, 2008. In the past six months, there had been seven calls for service, none of which was nuisance related.

The Board's next meeting was scheduled for April 10, 2008.

Thereupon, with no additional business to come before the Board, the meeting adjourned at 8:25 p.m.

[Minutes prepared by J. Opperlee, Prototype, Inc.]