

**CITY OF FORT LAUDERDALE  
 NUISANCE ABATEMENT BOARD MINUTES  
 CITY HALL, CITY COMMISSION CHAMBERS, 1<sup>ST</sup> FLOOR  
 100 NORTH ANDREWS AVENUE  
 THURSDAY, OCTOBER 8, 2009, 7:00 P.M.**

<b><u>Members</u></b>	<b><u>Attendance</u></b>	<b>Cumulative Attendance 3/2009 through 2/2010</b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
Laurie Watkins, Chair	P	7	0
Ted Fling, Vice Chair	P	7	0
Linda Dawkins [Alternate]	P	6	1
Louise Dowdy	P	2	0
Sal Gatanio	P	4	1
Pat Mayers	P	7	0
D. Ryan Saunders [Alternate]	P	5	0

**Staff Present**

Joyce Hair, Board Clerk  
 Bruce Jolly, Board Attorney  
 Sgt. Hugo Fontalvo  
 Scott Walker, Assistant City Attorney  
 Det. Paul Maniates  
 B. Chiappetta, Recording Clerk, Prototype, Inc.

**Communication to the City Commission**

None

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	<b><u>Case Number</u></b>	<b><u>Respondent</u></b>	<b><u>Page</u></b>
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3.	<b>09-05-03</b>	<b>200 West Sunrise Blvd. - Star Food Mart</b>	<b><u>3</u></b>
		<b>Board Discussion</b>	<b><u>6</u></b>

**Purpose:** Promote, protect, and improve the health, safety, and welfare of the citizens by imposing administrative fines and other non-criminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances under circumstances when a pending or repeated violation continues to exist.

**1. Call meeting to order; Pledge of Allegiance**

The meeting was called to order at 7:00 p.m. and the Pledge of Allegiance was recited.

**2. Roll call; witnesses sign log; swearing in**

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

**Witnesses were sworn in.**

**3. Approval of minutes for September 2009**

Mr. Fling noted a correction on page 6, regarding a reference to Major Anthony Williams.

**Motion** made by Ms. Mayers, seconded by Mr. Saunders, to approve the minutes of the Board's September 2009 hearing as amended. In a voice vote, the motion passed unanimously.

Sgt Fontalvo introduced Det. Paul Maniates, who had been with the Department for 19 years. He explained Det. Maniates would take over Det. Maney's duties.

**4. Case Number 09-01-01  
1300 Northwest 6 Street  
NADA Market**

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- **Notice of Status Hearing**

Sgt. Fontalvo informed the Board that the property owner had been notified of the hearing, but he was still out of the country so he could not be present this evening.

Sgt. Fontalvo announced that in the past 30 days there had been 27 calls for service to the property, one of which was nuisance abatement related. This had been an arrest for possession of less than 20 grams of marijuana. The defendant was a driver inside a running vehicle at 8 p.m. on September 24. Sgt. Fontalvo stated based on the facts of the last 30 days, the property was in compliance and he recommended a status hearing be set for November 2009.

**5. Case Number 09-01-02  
1500 NW 6 Street  
Sistrunk Market**

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- **Notice of Status Hearing**

Sgt. Fontalvo presented a photo of the property and informed the Board that the same person owned this property and the NADA Market; he was not present because he was still out of the country.

Sgt. Fontalvo announced that in the past 30 days there had been 50 calls for service, none of which was nuisance abatement related. Sgt. Fontalvo stated based on the facts of the last 30 days, the property was in compliance and he recommended a status hearing be set for November 2009.

Ms. Dowdy asked if Sgt. Fontalvo had a report of an incident at this store approximately three weeks ago when someone had lost an eye. She stated, "The neighborhood really wants that store to go." Mr. Jolly reminded Ms. Dowdy that the Board's jurisdiction was limited to addressing nuisance-related violations as provided by statute: drugs, prostitution and gangs, not to "make businesses go." Mr. Jolly cautioned Board members to be careful about "reflecting the community-wide interest that a business is either A) an eyesore or B) just something that the community doesn't like. That will not suffice to effectuate a closure of the business under the limited powers that this Board has."

**6. Case Number 09-05-03  
200 West Sunrise Boulevard  
Star Food Mart**

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**• Notice of Status Hearing**

Sgt. Fontalvo informed the Board that the property owner had been notified of the hearing on September 15, 2009 and was present.

Sgt. Fontalvo said he would address the issues that had been brought up at the previous meeting: There was a question regarding a medical dispatch at the property in the two weeks prior to the meeting, but Sgt. Fontalvo had found no record of any such call during that time. He noted that another address could have been used for the call.

Another question had arisen regarding a suspect in one of the photos that a Board member had suspected was associated with the store staff, suggesting an illegal activity connection. Sgt. Fontalvo had run a criminal history on the individual, and his history was not indicative of any drug activity. The business owner also knew who this person was, but not by name. There was no evidence to support that this individual was involved in any drug activities.

The Board had requested Sgt. Fontalvo inspect the store's video data for the previous 7 to 10 days. The owner had informed Sgt. Fontalvo that there had been a system malfunction and those dates were not available.

Sgt. Fontalvo explained that the individual who maintained the video system for the store requested a hard drive to which he could download the data. Sgt. Fontalvo said this was not a simple process, and he needed permission to coordinate with IT personnel to access the website where the data was stored. He had so far not been able to check the video for the past 7 to 10 days.

The Board had also asked Sgt. Fontalvo to check if the interior door was closed after 11 p.m., if the door was closed after hours, if the doors were locked after midnight, and to report on the number of customers entering the business after 11 p.m. Sgt. Fontalvo reported the manager closed the door at midnight, not 11 p.m. On two random checks, Sgt. Fontalvo found the outer door open at approximately 4 a.m., but the door that should be locked was locked. Surveillance also indicated that a few patrons had entered the second door [that should have been locked] on the morning of October 5. This surveillance had also revealed the presence of individuals gathering in front of the business at times.

The Board had asked Sgt. Fontalvo to report the latest and most frequent times for narcotics activity and the most common times for calls for service to the property. Sgt. Fontalvo had prepared a chart depicting a 90-day history of calls for service to the property.

The Board had also asked Sgt. Fontalvo to determine how often the video was erased. The video technician had informed him that this was determined by how fast the hard drive filled up.

Sgt. Fontalvo announced that in the past 30 days there had been 25 calls for service, three of which were nuisance abatement related. There had been one arrest for trespass, narcotics-related, that was called in by the clerk. The second call for service involved an individual loitering and prowling at the rear of the store and the third was for possession of drug paraphernalia.

Sgt. Fontalvo recommended granting 15 days for the property owner to provide him a password to access the video surveillance system.

Chair Watkins stated, "They never had this set up, because we've been asking for this" and she mentioned it was stipulated in the original agreement that this must be complied by July 9.

Sgt. Fontalvo informed Mr. Fling that Sky Watch would not be deployed at this location and they had decided on a different type of surveillance at the property.

The Board asked if the door closing time could be added to the order. Mr. Jolly stated it was within the Board's power to amend the existing order.

**Motion** made by Mr. Saunders, seconded by Mr. Gatano, to amend the Board's June 21 order to include the provision that the inner door would be closed from 11 p.m. to 7:00 a.m.

Chair Watkins requested amending the motion to indicate the door could reopen at 6:00 a.m. Mr. Saunders and Mr. Gatano agreed to this amendment.

The property owner requested to speak on this motion; Mr. Jolly informed her that as the motion had been seconded, it was closed to public comment.

In a roll call vote, Board approved 6 – 1 with Mr. Fling opposed.

Ms. Saunders stated Det. Maney must have had the IP address for the video or he would not have indicated the property was in compliance. She agreed to provide Sgt. Fontalvo with the information. Mr. Jolly recommended against punitive action regarding the video access at this time. He was uncomfortable regarding due process issues, and suggested a motion allowing the owner an additional 15 days [or some other time] to comply the related items 5 through 8. This would then be included in an amended order.

**Motion** made by Mr. Saunders, seconded by Ms. Mayers, to allow the owner 10 days to comply with the video access portion of the order for items 5 through 8. In a roll call vote, Board approved 6 – 1 with Mr. Fling opposed.

Chair Watkins opened the public input portion of the meeting.

Ms. Saunders advised the Board that she and her husband had taken ownership of the wheel and tire shop next door. They would be present on that property from now in.

Ms. Saunders said she had been in touch with Major Anthony Williams; he had arranged for a Police car to be parked at the store and this had worked very well.

Ms. P.J. Espinal, representative of the South Middle River Civic Association and Progresso Village, reported the south side of the building was not illuminated. She said the neighbors wanted the store to close at 10 p.m. because they felt it was a magnet for illegal activities overnight. She said this solution had been suggested by Police at their

neighborhood crime meeting. Ms. Espinal also suggested that a Police car be permanently parked at the property. Mr. Walker stated the store had paid for a 24-hour license. He cautioned that per a St. Petersburg case, forcing the store to close would be a form of a property taking. Mr. Jolly stated in order for the Board to take action, there must be proof that the nuisance problem was continuing, and there must be an evidentiary proceeding showing there had been arrests. Ms. Espinal said the Police did not arrive in time to make arrests when they called to report drug deals at the property.

Pursuant to Ms. Espinal's remark, Mr. Saunders asked Sgt. Fontalvo to check on the outside lighting at the store. Mr. Gatano noted that the Board's order did not indicate that the south side of the store must be illuminated. Sgt. Fontalvo informed the Board that the south side of the property was a fenced off vacant lot. Ms. Saunders confirmed that she owned this lot, that it was fenced in and the gate was locked. Sgt. Fontalvo agreed to check all of the lighting at the site and report back to the Board.

There being no other members of the public wishing to address the Board, Chair Watkins closed the public hearing portion of the meeting.

## **Board Discussion**

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Mr. Fling said last month the Board had requested the activity report for 1313 Northeast 5<sup>th</sup> Avenue. Sgt. Fontalvo reported in the past 30 days, there had been one call for service to the property and this had been traffic-related. The property was off Board jurisdiction.

### Off Jurisdiction:

Off jurisdiction October 23, 2009: 800 Northwest 11 Avenue - Residence

Sgt. Fontalvo reported that in the last 30 days there had been 11 calls for service to the property, none of which was nuisance abatement related.

Thereupon, with no additional business to come before the Board, the meeting adjourned at 7:50 PM.

The Board's next meeting was scheduled for November 12, 2009.