



Memorandum

To: Mayor and City Commissioners

From: Kimberly A. Kisslan, City Attorney *KAK*

Date: July 22, 2021

RE: Significant Activities from July 1, 2020 through June 30, 2021

Through the leadership of the City Commission, my office has contributed to the successes of the City. This Memorandum highlights some of the significant activities during my review period of July 1, 2020 through June 30, 2021. Further detail may be obtained in reviewing the reports that I regularly provide to you.

During this review period, Mark Lubelski became City Manager, Assistant Deputy Mayor Guzman was voted into office, the voters approved making the Fire Chief a Charter Officer, and the City Commission appointed John McNamara as the Fire Chief Charter Officer. Due to COVID-19, my office primarily teleworked from March 2020 through May 2021. However, all of my staff came into City Hall as needed to ensure that our functions were fully performed.

In April 2021, Human Resources advertised the vacant Assistant City Attorney position. Over 30 attorneys applied, we scheduled 8 interviews, and we selected Navin Ramnath who starts on August 2, 2021.

Some significant items I have worked on during the review period are itemized here:

CITY COMMISSION. I prepared the necessary resolution and ordinances for the 2020 general election, the 2020 special election, and the charter items for voter referendum. I reminded the Commission about the applicability of Sunshine law to the Commissioner-Elect. I prepared and provided the New Commissioner Orientation and Broward County Elected Official Code of Ethics training for the newly elected Assistant Deputy Mayor and provided it to her. I researched various issues regarding Commissioner requested topics on issues such as fireworks, tobacco and vaping, and Juneteenth. I continue to keep the Commission updated on changes to the Broward County Elected Official Code of Ethics.

Series 2020 Municipal Complex Project bonds. The \$40,350,000 Special Obligation Bonds, Series 2020 (Municipal Complex Project) were sold to Citigroup Global Markets, Inc. via a competitive sale, and the closing occurred in January 2021. The Series 2020 bonds were issued to pay costs related to the development, design, acquisition, construction, improvement, expansion, equipping, installation and furnishing of the City's municipal complex. The total issuance, including costs and interest, was \$46,547,024.90 with a True Interest Cost of 2.24% (prior to post sale re-sizing) for the 30-year financing. While the aggregate principal amount was not to exceed \$55,000,000, any subsequent borrowing is anticipated to be by bank loan.

COVID-19. I drafted legislation to extend Ordinance No. 654 in approximately 60-day increments. Ordinance No 654 authorizes the City Manager (instead of the City Commission) to issue weekly extensions of the declaration of a city state of emergency. I wrote legislation that allowed the advisory boards to meet virtually. When the Governor's authorization for virtual meetings expired, I drafted legislation to allow the public to continue to attend City Commission Meetings virtually while the Commission met in person and drafted legislation to return the City Commission's telephonic participation resolution back to its pre-COVID state. Tom Moss created the Communications Media Technology (CMT) resolution and reviewed and updated the Mayor's scripts, notices and legal ads for meetings to ensure compliance with the changing requirements. Additional COVID-19 activities include the following:

- Participated in calls regarding legal issues associated with the Sunrise CARES Utility Relief Program and drafted approving Resolution;
- Participated in regularly scheduled calls among the County and City attorneys;
- Reviewed agreements for the City to create coronavirus relief programs;
- COVID-19 and reopening of the State, County and City;
- Worked on resolutions and agreements for Strategic Philanthropy; and
- Worked on resolutions for Sunrise CARES Utility Relief Program, small business program, and residential assistance program under the CARES Act.

FIRE CHIEF. I created the initial draft of John McNamara's Employment Agreement as Fire Chief and identified additional decision points. I worked on charter language, job description, an amendment to Ordinance No. 715-X to remove Fire Chief's pay range, an amendment to code regarding City elections, an amendment to Code to establish job requirements, and other items relating to making the Fire Chief a Charter Officer.

WINDSOR/SUNRISE GOLF & COUNTRY CLUB. I worked on many items relating to the dedication of the City park including the development agreement, the Ordinance approving the Petition to Establish the Solterra Community Development District, and the eminent domain acquisition easement resolution. Next steps involve reviewing the proposed Interlocal Agreement Solterra. The pre-suit offer letter has been sent to the property owner in compliance with the Florida Statutes on eminent domain.

METROPICA. I drafted the new cost recovery agreement and began conversations with the Developer's Community Development District lawyer regarding the reestablishment of Metropica Improvement District as the Metropica Community Development District and the actions needed to address the existing Construction and Finance Agreement.

AMAZON. I worked on issues relating to Amazon including reviewing drafts of proposed code amendments, the voluntary list agreement, vacation of several easements, creation of several easements, temporary drainage, flowage and retention easements, and termination of the 1985 settlement agreement. I provided the City Commission the requested analysis regarding the code amendments.

GENERAL ACTIVITIES. In addition to all of the agenda preparation for each meeting, I worked on the items listed below:

- Reviewed Countywide issues such as the Transportation Surtax ILA, the CARES Act Interlocal Agreement, and proposed alternatives to the County's charter proposals
- Advised City Manager of his emergency powers and required collective bargaining actions for Hurricane Isaias, Tropical Storm Eta, and Hurricane Elsa.
- Prepared a gift law summary for new City Manager and his staff
- Worked on numerous items regarding the City's 457, 401 and Retirement Health Savings Plans including plan amendments and approving resolutions; resolution to authorize the Finance Director to add a feature to the 457(b) plan; and resolution clarifying the Finance Director's role with respect to the plans.
- Researched procurement issues relating to Traffic Control Art Wrap, revised the Letter of Understanding for the artists, and prepared the approving Resolution.
- Assisted Purchasing with revising its Purchase Order
- Worked on new E-Verify language for contracts and procurements
- Identified bond issues within various contracts and review with bond counsel
- Amended drainage moratorium established by Ordinance No. 651
- Worked on zoning in progress and moratorium regarding small box stores
- Worked on issues relating to Sunrise Transit Hub until County withdrew its request for a Development Agreement
- Worked with Risk Management on issues relating to Central Square's data breach and notification to utility customers and various State Attorney General offices
- Worked to have Landstar quit claim deed its property to the City for a park

UTILITIES. I reviewed Purchasing's drafts of the RFQ for the procurement of new Continuing Services Agreements for water, wastewater, wastewater reuse, and gas. This RFQ ultimately resulted in 6 Continuing Services Agreements which I worked on with Purchasing.

The City has been working on reclaimed water since 2014, and a number of items were finalized internally including the reclaimed water ordinance for Chapter 15, the land development code ordinance with changes that would be necessary, the reclaimed water use agreement, and the approving resolution. These actions culminated in the Utilities Workshop regarding Water & Wastewater Master Plan, Comprehensive Utility Rate Study, and Wastewater Reuse Program. Next steps include developing the rates and properly noticing the rates in order for these items to be presented to the City Commission for its consideration.

The City Commission heard an item regarding the Davie Utility evaluation of options up to and including acquisition. The City Commission approved a conflict waiver for Nabors

Giblin to represent the City in this regard. The internal team has had an initial meeting with representatives from the Town of Davie. Several internal meetings have occurred to discuss next steps, experts, estimated costs, and creation of a timeframe for the conduct of the due diligence for the options up to and including acquisition which would involve the issuance of bonds.

EAST SIDE IMPROVEMENTS. The City's East Side Improvements Master Plan identified a number of strategies in March 2019. As a result of the Master Plan, the City has been acquiring a number of properties. During my review period, the City purchased Library Square Unit 6, purchased Library Square Unit 7 and leased it back to the Seller, and purchased Library Square Unit 8. While the City had an agreement to buy Library Square Unit 4, title issues prevented its closing. The City purchased the oldest tax certificate to try to buy Unit 4 at tax deed sale; however, another tax certificate holder put the property up for sale. At the July 13, City Commission Meeting, the Commission approved a resolution authorizing the City to bid on Unit 4. Concurrently, we have been working on issues relating to Library Square's common areas which are proposed for the Village Art Plaza. A Right of First Refusal has been drafted as a proposed bylaw amendment. Additionally, we have had internal discussions regarding the ability of 75% of unit owners to terminate the condominium association under the condominium's bylaws.

Across the street from Library Square, the City purchased 6665-6671 Sunset Strip. Additionally, we worked on the agreement to purchase 6561 Sunset Strip (which the Commission just approved on July 13, 2021).

Other East Side Improvement projects included work on the agreement for the sale of Sunset Strip Square to a major developer; review of notice of non-renewal of lease for Super Stop, and work on the agreement regarding the demolition of the former gas station and the construction of the parking lot.

PERSONNEL

- Worked on LOU with Police regarding two (2) Tier 2 officers that should have been in Tier 1
- Worked with Human Resources, Finance and others to resolve issues relating to public service aides and police records specialists and overtime for special details at the arena
- Police LOU for second Commander in Crisis Negotiation Unit
- Participated in union negotiations with the IAFF for both of its bargaining units

OUTSIDE LITIGATION. I supervise the non-insurance covered litigation. As a result, I have not expended budgeted funds to pay for those attorneys' fees. Tom Moss handled All County Towing which settled in July 2020. Tom Moss is currently defending the lawsuit that was re-filed by GGH regarding a code enforcement lien. Significantly, the City has not had any outside counsel defending any non-insurance covered lawsuits since February 2020.

CITY ATTORNEY'S OFFICE. The City Attorney's Office provides guidance to the City Commission, the Charter Officers, and the Departments. We provide legal advice to the advisory boards including the Charter Review Board and the Unsafe Structures Board. We prosecute code compliance violations and municipal ordinance violations. We review a myriad of contracts and policies, research issues as they arise, and work extensively on each City Commission agenda. The City Attorney's Office prepares and handles a large volume of items and balances the City's needs in a timely, cost-efficient manner. As you know, the performance of this office is difficult to "measure." To the extent measurable statistics exist for my review period exist, I have included them below.

In July 2011, when I became City Attorney, my office performed all of the functions performed by the prior two (2) City Attorneys and their respective staffs. Those functions resulted in the following measurements during this review period:

- ✓ 337 Resolutions or Ordinances drafted
- ✓ 64 contracts reviewed where Commission approval was not needed
- ✓ 8 policies reviewed.

In addition, I pulled code enforcement from outside counsel and Tom Moss began prosecuting municipal ordinance violations and some forfeiture cases in-house. Since becoming City Attorney, new laws (red light camera violations, County's Elected Official Code of Ethics, and Risk Protection Orders) and City practices (decision to seek Grant funding) have created additional legal matters which have been performed in-house. The additional measurable work absorbed by my office during the review period includes:

- ✓ 88 attorney hours on red light camera violations, valued at \$195/hour or \$17,160
- ✓ 2,381 red light camera notices prepared regarding use of video evidence
- ✓ 12 Risk Protection Orders filed and/or extended
- ✓ 2 municipal ordinance violations
- ✓ 195 code enforcement cases prosecuted

My office has been responsible with the monies allocated to it for specialized counsel and litigation. My budget was under budget for FY 19/20 and is projected to be under budget for FY 20/21. My office assists the City in recovering monies through partial releases in Code cases, bankruptcies, foreclosures, and miscellaneous settlements. All County Towing fully paid the City \$115,000.00 pursuant to the settlement agreement which was approved by the City Commission in July 2020.

Looking Forward to July 2021 through June 2022

During this current employment year (July 2021 to June 2022), I expect to devote substantial efforts to the following projects:

- Windsor Investments (Sunrise Golf & Country Club): This matter involves the Developer's dedication of a City park, and the City's possible eminent domain of 2 parcels to provide an access corridor to the park. We are awaiting the property owner's response to the City's pre-suit letter. The Solterra Community

Development District was created by the City Commission, and the City and Solterra will be entering into an Interlocal Agreement.

- East Side Redevelopment: Continued actions will occur regarding the acquisition of the remaining Library Square Units and regarding the common areas that are essential to the Village Arts Plaza. Additional action will occur regarding the acquisition and/or sale of properties and as the City begins to utilize the properties it has purchased.
- Amazon: As the Amazon project progresses, there are a number of items that will need to be finalized including the code amendments, vacation and creation of easements, etc.
- Water: Rate structures need to be developed for the proposed conservation rate ordinance and for reclaimed water ordinance. The reclaimed water user agreement will need to be reviewed regarding the City Commission's desire to limit hours of use. The reclaimed water Ordinance, related land development code agreement, and user agreement will require City Commission approval.
- Davie Utility Evaluation: If the City Commission authorizes this item to move forward after reviewing the costs of Phase I, there are a number of activities that will be undertaken with respect to the legal due diligence. Should the item move forward to acquisition, the issuance of bonds will be labor intensive.
- Labor: Negotiations are underway with the fire unions. The police unions and the general employees union have asked to begin negotiations.

In conclusion, it is my personal privilege to provide this summary of Significant Activities. My staff and I have provided the City Commission, the Charter Officers, the Department Directors and the residents with high quality legal services in a timely manner while maintaining fiscal responsibility.