



May 10, 2023

VIA U.S. MAIL and EMAIL: jrodstrom@rodstromlaw.com

John E. Rodstrom, III
1712 N. Victoria Park Rd.
Fort Lauderdale, FL 33305

Re: City Attorney Opinion - Petition to Save Snyder Park

Dear Mr. Rodstrom:

This correspondence constitutes the opinion of the City Attorney referenced in Section 3.15 of the Charter of the City of Fort Lauderdale, Florida, regarding the legality of the ordinance proposed by the Save Snyder Park Committee, (the "committee"), and submitted by John E. Rodstrom, III as their legal counsel on March 9, 2023. (the "submission").

The submission contained a packet consisting of a cover letter; a letter from the Office of the Broward County Supervisor of Elections verifying the validity of 1,025 signatures; a proposed ordinance; and a composite Exhibit C consisting of several spreadsheets labeled "Petition to Save Snyder Park Signatures" ("spreadsheets"), individual petitions entitled "Petition to Save Snyder Park" ("individual petitions"), and an untitled document containing what appears to be a grouping of six names with addresses, and voter precincts. According to the affidavit submitted by committee chairperson Kevin Cochrane signers of the petitions and spreadsheets were presented with the language included in the individual petitions. Section 3.15(a) of the City's Charter provides that "A committee of not less than one thousand (1,000) electors of the city shall prepare and sign a petition addressed to the City Commission of the City of Fort Lauderdale requesting that a **proposed ordinance attached to the petition be enacted**." [emphasis added]. Courts apply the rules of statutory construction when interpreting the provisions of the charter. "When the language of the municipal charter is clear and unambiguous, the court must interpret it literally, giving the words of the charter their plain and ordinary meaning." 2A McQuillin Mun. Corp. § 9.25. (3d ed.). The literal construction of the charter provision constrains my legal opinion to the review of the following language presented to the electors with the petition for consideration:

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"The petition seeks to enact an ordinance to ensure the City of Fort Lauderdale adheres to the purpose and intent of the deed.

This petition seeks the following:

(a) That the City of Fort Lauderdale immediately declare all areas of Snyder Park as a public space reserved only for natural growth, vegetation, and enjoyment of citizens as a public park;

(b) That the City of Fort Lauderdale find alternative public lands for development of privately-funded pickle ball courts to: (1) prevent reduction of natural growth, vegetation, and use of Snyder Park as a public park for purposes of commercial activity and; (2) meet the growing need of Fort Lauderdale residents for new pickle ball courts that are publicly accessible and for all residents to enjoy;

(c) That the City of Fort Lauderdale budget in the FY2024-25 fiscal year to begin the process of rehabilitation of the 8 acres of Snyder Park proposed for commercial development to restore its natural vegetation for the quiet enjoyment of the citizens of Fort Lauderdale."

The following opinion and legal concerns raised herein are set forth following references to the applicable and relevant sections of the proposed ordinance.

(a) This petition seeks ...[t]hat the City of Fort Lauderdale immediately declare all areas of Snyder Park as a public space reserved only for natural growth, vegetation, and enjoyment of citizens as a public park;

Legal Issues:

1. An ordinance is defined in Section 166.041(1)(a), Florida Statutes, to mean "... an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law." Legislative actions are those that result in the formulation of a general rule or policy. *Board of County Commissioners of Brevard County v. Snyder*,

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627 So.2d 469, 474 (Fla. 1993). In contrast, a resolution is defined in Section 166.041(1)(b), Florida Statutes, to mean "...an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body." The rules of statutory interpretation and construction provide that each ordinance provision is construed to give it reasonable effect and its plain and obvious meaning. This provision seeks a declaration. The Oxford Language Dictionary defines a declaration as "a formal or explicit statement or announcement." The plain and obvious meaning of this provision is a request for an expression from the City declaring Snyder Park a public space. Such declarations are more properly considered as a provision of a resolution rather than an ordinance as no regulation is being proposed.

2. "An ordinance should be clear, definite, and certain in its terms, and an ordinance which is so vague that its precise meaning cannot be ascertained is invalid." 12A Fla. Jur 2d Counties, Etc. § 227. Assume for argument's sake that the provision could be construed as a regulation of the use of the land, the provision would be invalid because it is vague in the following ways:
 - a. The provision does not legally define the property that constitutes "all areas of Snyder Park." Snyder Park is a name assigned to a group of 8 parcels of city-owned land, whereas the petition appears to apply its restrictions to only 8 acres of the site. A legal description should be provided that identifies the parcels specifically subject to this provision to provide notice of the areas subject to the provision and to prevent the arbitrary expansion or reduction the application of this provision.
 - b. An ordinance must provide a definite warning of what conduct is required or prohibited. *State v. Hanna*, 901 So. 2d 201 (Fla. 5th DCA 2005); *Southeast Aluminum Supply Corp. v. Metropolitan Dade County*, 533 So. 2d 777 (Fla. 3d DCA 1988). The reservation of Snyder Park for "natural growth, vegetation, and enjoyment of citizens as a public park" does not sufficiently alert potential violators of what conduct or action would constitute a violation of the proposed reservation. The terms "natural growth" and "vegetation" should be

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defined and conduct that would prevent the natural growth, vegetation, and enjoyment of citizens should be identified and specifically prohibited.

(b) This petition seeks ...[t]hat the City of Fort Lauderdale find alternative public lands for development of privately-funded pickle ball courts to: (1) prevent reduction of natural growth, vegetation, and use of Snyder Park as a public park for purposes of commercial activity and; (2) meet the growing need of Fort Lauderdale residents for new pickle ball courts that are publicly accessible and for all residents to enjoy;

Legal Issue:

This provision is not drafted as a proposed regulation but rather as a request that the City to find alternative public lands for the development of privately-funded pickle ball courts. As previously stated, an ordinance is an official legislative action of the City. The plain and obvious meaning of this provision is a request that the City find alternative public land for development of privately-funded pickle ball courts is administrative in nature and is therefore not the proper subject of an ordinance.

(c) This petition seeks ..."[t]hat the City of Fort Lauderdale budget in the FY2024-25 fiscal year to begin the process of rehabilitation of the 8 acres of Snyder Park proposed for commercial development to restore its natural vegetation for the quiet enjoyment of the citizens of Fort Lauderdale."

Legal Issue:

This provision is not drafted as a proposed regulation but rather as a directive that the City budget for the rehabilitation of the 8 acres of Snyder Park proposed for commercial development in the FY2024-25 fiscal year. An ordinance is an official legislative action of the City. The plain and obvious meaning of this provision is directive for the City to add a project to the budget is administrative in nature and is not the proper subject of an ordinance.

The undersigned reserves the right to modify or supplement the foregoing legal opinion and legal concerns based upon any additional facts, language, or applications that may

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be revealed or communicated in the future, either through written amendments of the proposed ordinance, through public hearings, or other sources of information not currently available or not relevant at the time of the issuance of this opinion.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



D'Wayne M. Spence
Interim City Attorney

DMS:mp/L-23-051

cc: The Honorable Mayor and City Commission
Greg Chavarria, City Manager
David R. Solomon, City Clerk
Patrick Reilly, City Auditor

Attachment: Draft Ordinance

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ORDINANCE NO. C-23-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, CREATING SECTION 19-7. ENTITLED "SNYDER PARK" OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO PROVIDE FOR THE PROTECTION OF SNYDER PARK FOR USE AS PUBLIC GREEN SPACE; AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. Section 19-7. entitled "Snyder Park" of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby created to provide as follows:

Sec. 19-7. – Snyder Park

- (a) That the City of Fort Lauderdale immediately declare all areas of Snyder Park as a public space reserved only for natural growth, vegetation, and enjoyment of citizens as a public park; and
- (b) That the City of Fort Lauderdale find alternative public lands for development of privately-funded pickle ball courts to:
 - (1) prevent reduction of natural growth, vegetation, and use of Snyder Park as a public park for purposes of commercial activity; and
 - (2) meet the growing need of Fort Lauderdale residents for new pickle ball courts that are publicly accessible and for all residents to enjoy; and
- (c) That the City of Fort Lauderdale budget in the FY2024-25 fiscal year to begin the process of rehabilitation of the 8 acres of Snyder Park proposed for commercial development to restore its natural vegetation for the quiet enjoyment of the citizens of Fort Lauderdale.

SECTION 2. That, at the direction of the City Attorney, the publisher of the Code of Ordinances of the City of Fort Lauderdale, Florida, is authorized to conform chapter, article, section, subsection, and clause numbers and letters, and capitalization, set forth in this

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

Ordinance, to the numbering, lettering, and capitalization structure established in the Code of Ordinances of the City of Fort Lauderdale, Florida, and to correct non-substantive scrivener's errors in the codification of this Ordinance.

SECTION 3. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 5. That this Ordinance shall be in full force and effect upon its final passage.

PASSED FIRST READING this _____ day of _____, 2023.

PASSED SECOND READING this _____ day of _____, 2023.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN