

# City of Fort Lauderdale

*Parker Playhouse  
707 NE 8th Street  
Fort Lauderdale, FL 33304*



## Meeting Minutes

**Tuesday, February 20, 2018**

**6:00 PM**

**City Commission Chambers**

## **City Commission Regular Meeting**

***FORT LAUDERDALE CITY COMMISSION***

***JOHN P. "JACK" SEILER Mayor - Commissioner  
BRUCE G. ROBERTS Vice Mayor - Commissioner - District I  
DEAN J. TRANTALIS Commissioner - District II  
ROBERT L. McKINZIE Commissioner - District III  
ROMNEY ROGERS Commissioner - District IV***

***LEE R. FELDMAN, City Manager  
JOHN HERBST, City Auditor  
JEFFREY A. MODARELLI, City Clerk  
CYNTHIA A. EVERETT, City Attorney***

**MOMENT OF SILENCE**

Mayor Seiler announced a moment of silence for Marjory Stoneman Douglas High School.

**Invocation**

Rabbi Naparstek, Chabad Lubavitch

**Pledge of Allegiance**

Bayview Elementary School Student Council

**ROLL CALL**

**Present:** 5 - Commissioner Robert L. McKinzie, Commissioner Romney Rogers, Vice Mayor Bruce G. Roberts, Commissioner Dean J. Trantalis and Mayor John P. "Jack" Seiler

**QUORUM ESTABLISHED**

**Also Present:** City Manager Lee R. Feldman, City Clerk Jeffrey A. Modarelli, City Attorney Cynthia A. Everett, City Auditor John Herbst, and Sergeant at Arms Margaret Dryden

**No e-comments were submitted for this meeting.**

**ANNOUNCEMENTS**

With the assistance of Mayor Seiler, members of the Bayview Elementary School Student Council announced the following changes to the Agenda:

**Walk-On Items:**

Motion to Approve an Event Agreement with Light up the Night, LLC for The Hub Event

Resolution - Firearms

**Removed from Agenda:**

CM-3 - Motion to Approve a Lease Amendment with PDKN Holdings, LLC

CM-6 - Motion to Authorize the City Manager to Commence Negotiations for a Lease Agreement with Drive Shack Inc. for the Development and Improvement of Parcel C in the Airport Industrial Park at Fort Lauderdale Executive Airport

**CM-3**    [18-0111](#)    Motion to Approve a Lease Amendment with PDKN Holdings, LLC

**REMOVED FROM AGENDA**

**CM-6**    [18-0191](#)    Motion to Authorize the City Manager to Commence Negotiations for a Lease Agreement with Drive Shack Inc. for the Development and Improvement of Parcel C in the Airport Industrial Park at Fort Lauderdale Executive Airport

**REMOVED FROM AGENDA**

### **Approval of MINUTES and Agenda**

[18-0208](#)    Minutes for January 23, 2018 Commission Conference Meeting, January 23, 2018 Commission Regular Meeting and February 6, 2018 Commission Conference Meeting

Vice Mayor Roberts made a motion to approve this item and was seconded by Commissioner McKinzie.

**APPROVED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

### **PRESENTATIONS**

**PRES-1**    [18-0211](#)    Proclamation declaring February 25 - March 3, 2018 as Eating Disorders Awareness Week in the City of Fort Lauderdale

Dr. Alyssa Segal with The Alliance for Eating Disorders (Alliance) joined Vice Mayor Roberts at the podium for the presentation of the Proclamation declaring February 25, 2018 - March 3, 2018 as Eating Disorders Awareness Week in the City of Fort Lauderdale. Vice Mayor Roberts read the Proclamation in its entirety. Dr. Segal thanked Vice Mayor Roberts, Mayor Seiler and the Commission for the Proclamation. She expounded on the Alliance's efforts to address this important psychiatric health concern. Dr. Segal announced the upcoming walk benefiting the Alliance at Trade Winds Park, inviting the audience to

attend.

**PRESENTED**

**PRES-** [18-0207](#)

**2**

Police Officer of the Month

Police Chief Rick Maglione presented the February 2018 Police Officer of the Month Award to Officer Cody S. Campbell. Chief Maglione described a dangerous encounter Officer Campbell experienced with an armed suspect on March 10, 2017. As a result of Officer Campbell's heroic efforts, a violent felon with an extensive criminal record was arrested. Chief Maglione commended Officer Campbell for a job well done.

**PRESENTED**

**CONSENT AGENDA PUBLIC COMMENT**

Item CM-5 was pulled from the Consent Agenda for separate discussion by Commissioner McKinzie.

**CONSENT AGENDA**

**CONSENT MOTION**

**Approval of the Consent Agenda**

Commissioner McKinzie made a motion to approve the Consent Agenda and was seconded by Vice Mayor Roberts.

**Approve the Consent Agenda**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

**CM-1** [18-0118](#)

Motion to Approve Event Agreements for Hope Floats Benefiting Tomorrow's Rainbow and Clueless on Las Olas

**CM-2** [18-0119](#)

Motion to Approve Event Agreements and Related Road Closings: 23rd Annual Las Olas Wine & Food Festival, 23rd Annual Bank of America Wine, Spirits and Culinary Celebration, Flagler Village Block Party Weekend, Duck Fest Derby, March for Cancer and Sistrunk 5K

**APPROVED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler



- CM-4**    [18-0125](#)       Motion to Approve an Assignment and Assumption of an Agreement between TMF2013, LLC and TMF HOLDCO, LLC

**APPROVED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

- CM-5**    [18-0182](#)       Motion Authorizing a Revocable License with Beach Majors GMBH, LLC for the Construction of a Temporary Beach Statue

Commissioner McKinzie announced he pulled this item for further clarification.

Mayor Seiler recognized Stephanie Toothaker, Esq., on behalf of the applicant, Beach Majors GMBH, LLC. In response to Mayor Seiler, Ms. Toothaker confirmed the issue to be clarified is similar to the clarification made last year. In response to Commissioner Trantalis' question, Ms. Toothaker clarified the verbiage appearing on the statue for the volleyball tournament event. In response to Commissioner Trantalis' questions, Ms. Toothaker said the statue would go up tomorrow and would be taken down shortly after the end of the tournament. She confirmed the dates of the volleyball tournament event as February 27 - March 4, 2018 on Fort Lauderdale Beach.

Commissioner Trantalis made a motion to approve this item as amended denoting the description of the event statue's verbiage. The motion was seconded by Commissioner McKinzie.

**APPROVED AS AMENDED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

## **CONSENT RESOLUTION**

- CR-1**    [18-0159](#)       Resolution Authorizing Qualified Target Industry Tax Refund Incentive for Project Mulligan

**ADOPTED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

- CR-2**    [18-0143](#)       Resolution to Dispose of City-Owned Surplus Property located at 17XX NW 7 Court

**ADOPTED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

- CR-3**    [18-0190](#)       Resolution Declaring Notice of Intent to Lease the Property at NE 10th Street (Dania Farms) Dania Beach, Florida to Broward Maritime Institute, Inc.

**ADOPTED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

- CR-4**    [18-0127](#)       Resolution Approving the Submittal of a Matching Grant Application to the Florida Inland Navigation District (FIND), Waterway Assistance Program for the Coontie Hatchee Lagoon Constriction Phase II of up to \$214,203

**ADOPTED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

- CR-5**    [18-0047](#)       Resolution to Amend the Adopted Fiscal Year 2018 Nuisance Abatement Roll

**ADOPTED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

## **PURCHASING AGENDA**

- PUR-1**    [18-0016](#)       Motion to Approve Negotiated Fee Schedule and Contract for Landscape Architecture for DC Alexander Park Improvement Project - Keith and Associates, Inc. - \$121,955

**APPROVED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

## **MOTIONS**

- M-1**      [18-0123](#)       Motion to Approve an Event Agreement with Fort Lauderdale Woman's Club, Inc. for Fort Lauderdale Woman's Club House 100 Year Birthday Party

Commissioner Rogers made a motion to approve this item and was seconded by Commissioner McKinzie.

**APPROVED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

- M-2**     [18-0122](#)     Motion to Approve an Event Agreement with Broward Center for the Performing Arts, Inc. for Broward Center for the Performing Arts Benefit
- Commissioner Rogers made a motion to approve this item and was seconded by Vice Mayor Roberts.
- APPROVED**
- Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler
- M-3**     [18-0120](#)     Motion to Approve an Event Agreement with FLL Fashion Week, LLC for FLL Fashion Week 2018
- Commissioner Rogers made a motion to approve this item and was seconded by Vice Mayor Roberts.
- APPROVED**
- Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler
- M-4**     [18-0135](#)     Motion to Approve Assignment of Contract for Corrosion Inhibitor to Chemrite, Inc.
- Commissioner Rogers made a motion to approve this item and was seconded by Vice Mayor Roberts.
- APPROVED**
- Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler
- M-5**     [18-0175](#)     Motion Relating to a City Commission Request for Review - Aloft Hotel - Case Number R16011
- Mayor Seiler recognized Sidney Calloway, Esq., Shutts & Bowen, on behalf of the applicant, FEDEQ DV003, LLC. Mr. Calloway explained the applicant's plans moving forward. Commissioner Trantalis said he made the request for this De Novo Hearing review. He referred to the October 20, 2016 Water and Wastewater Capacity Availability Letter (Letter) from Staff regarding capacity at the George T. Lohmeyer Wastewater Treatment Plant (Plant). Commissioner Trantalis said that this project and item M-6's proposed project will maximize the Plant's capacity. He also noted the impact of Hurricane Irma on the Plant's capacity. Commissioner Trantalis commented on other factors impacting capacity Plant operations, including system breakdowns and shut downs that may cause reduced capacity levels. Due to these issues, Commissioner Trantalis voiced his concern over approving additional development until new facilities are built to accommodate

increasing demand. He also discussed capacity issues regarding the Peele Dixie and Fiveash Water Treatment Plants, pump stations and issues raised in the Reiss Report.

Mayor Seiler recognized Alan Dodd, Deputy Director of Public Works. Mr. Dodd confirmed that Pump Station 813 will have the capacity of 1,000,000 gallons per day. It is under construction and will be completed in October 2018. Commissioner Trantalis responded by reiterating concerns regarding the capacity levels for wastewater, water treatment (fresh water) and the pump stations in addition to infrastructure system conduits.

Commissioner Trantalis requested that the Commission set a date for a De Novo Hearing regarding the feasibility of items M-5 and M-6. He stated that a De Novo Hearing will allow for a full assessment of the facts regarding the impact of downtown building development and the ability of infrastructure to accommodate anticipated new construction related to the allocation of additional dwelling units.

In response to Mayor Seiler, Commissioner Trantalis confirmed he had no questions for the applicant.

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue. Mr. Rosenthal commented, giving his viewpoint that experts in the field of infrastructure are best equipped to address questions raised by the Commission. He concurred with having a De Novo hearing that will allow sufficient time for Staff to report their conclusions. Mr. Rosenthal also commented on development in the City's central core, including The Wave project.

Mayor Seiler recognized Mr. Calloway. Mr. Calloway said this issue is set forth in the Unified Land Development Regulations (ULDR), citing its language, noting its requirement for additional review. He confirmed Staff has considered infrastructure capacity as part of the Development Review Committee (DRC) process. This project will not exceed or be detrimental to Staff's recommendation regarding infrastructure and a review has already taken place. Mr. Calloway respectfully requested Commissioner Trantalis' motion for a De Novo hearing be denied and that the development be based on the ULDR criteria.

Mayor Seiler recognized Alan Dodd, Deputy Director of Public Works. Mr. Dodd discussed confirmation by Staff about the projects noted in item M-5 and M-6 project. Commissioner Trantalis commented on the wastewater capacity letter, discussing the details with reaching levels close to capacity. Mr. Dodd confirmed review of the letters referenced by

Commissioner Trantalis, stating there is still sufficient capacity. Additionally, there are projects under construction that will increase capacity, expounding on this point. Further discussions ensued about correspondence addressing infrastructure capacity concerns, permitted capacity, issues raised in the Reiss Report and the impact of rainfall on the infrastructure system.

Mr. Dodd acknowledged that the City is at the upper limit for its permitted capacity. Vice Mayor Roberts discussed the timing of ongoing projects which will address capacity. Mr. Dodd said Staff will illustrate for the Commission the timeline for current capacity, projected flows over the next 35 years and the timing of infrastructure improvement availability.

Commissioner Trantalis commented on the Traffic Study approval letter regarding the increased traffic levels generated by items M-5 and M-6.

City Manager Feldman commented on timelines for current infrastructure projects. He also noted that based on current Code, the Commission cannot to be arbitrary about approving development projects based current capacity. Further comments and discussions ensued on additional capacity, improvements being made as part of the infrastructure rehabilitation project and timelines.

In response to Commissioner Rogers' question regarding the October 20, 2016 Letter, Mr. Dodd explained the procedure for revalidating the information contained in the Letter as part of the Development Review Committee Project Approval Process (DRC Approval Process). Further discussions continued on this issue.

Mayor Seiler recognized Matthew Scott, Esq., Dunay Miskel Backman. Mr. Backman discussed a Declaration of Easement (Easement) recorded against the hotel property in M-5. The owner of the hotel property must provide 52 parking spaces to the Nola Lofts property. The agreement between these parties has not been completed and was not resolved during the DRC Process. Mr. Scott said it made sense for the Commission to have a De Novo hearing as there is an easement issue that impacts neighbors. In response to Mayor Seiler's question, Mr. Scott confirmed the Easement has been in place for over 10 years, explaining the history involved. Further discussions ensued on the Easement.

Mayor Seiler recognized Mr. Calloway. Mr. Calloway said the Easement is something to be negotiated between the parties, commenting that it is not something which should be considered in his client's DRC application. Parking is provided by virtue of the Easement. Mr. Calloway commented on the next steps involved between the parties to address

the Easement, confirming Nola Lofts will have the 52 parking spaces. Regarding infrastructure concerns, he stated that there was adequate infrastructure capacity at the time Staff approved the application. Mr. Calloway urged the Commission to deny the De Novo Hearing.

Commissioner Trantalis made a motion to set a date for a De Novo Hearing for item M-5.

Vice Mayor Roberts commented on his concern about the Easement. Discussions ensued on a resolution to the Easement.

Mayor Seiler recognized Anthony Fajardo, Director of the Department of Sustainable Development. Mr. Fajardo confirmed Staff raised the issue of the Easement. The City Attorney's Office advised that as long as the applicant showed the Easement on the plans, the rest of the agreement was a private matter between the two parties. The application was moved forward based on this recommendation. Mr. Fajardo confirmed the Easement is recorded on the approved plans. Any change to the Easement's provision for the 52 parking spaces would be a violation of the approved plans and would need to go through another DRC Approval Process. Further discussions ensued on this issue being a private matter to be worked out between the parties. Updated infrastructure timelines for evaluating new development was also discussed.

City Manager Feldman expounded on the project's water and wastewater capacity availability letters, noting they are reservations used to calculate infrastructure capacity and all projects do not move forward. Until a building permit is issued, these reservations are not allocated.

Mayor Seiler recognized Jordana Jarjura, Esq., on behalf of Nola Lofts. Ms. Jarjura commented on the delay in the Easement negotiations. The Easement is for permanent parking and parking during construction. Ms. Jarjura confirmed the request for more time to complete Easement negotiations.

In response to Commissioner McKinzie's question, Mr. Calloway confirmed his request that the motion for a De Novo Hearing be denied, stating the matter between the private parties will be resolved. He reaffirmed Nola Lofts will always have parking. Discussions ensued on the allotted parking spaces in the plans and as stated in the Easement. In response to Mayor Seiler, Mr. Calloway stipulated that the Easement provides for 52 parking spaces, one for each unit owner at Nola Lofts.

In response to Mayor Seiler's question about plans for parking relocation during construction, Mr. Calloway responded that his client will work

closely with Nola Lofts Condominium to ensure that 52 parking spaces are available during construction.

Mayor Seiler requested the Easement listing the 52 parking spaces be made part of the record.

***A copy of this document is attached to these minutes.***

**MOTION DIED FOR LACK OF A SECOND**

**M-6**      [18-0179](#)

Motion Relating to a City Commission Request for Review - Next Las Olas - Case Number R17044

Commissioner Trantalis reiterated his remarks made on item M-5 concerning infrastructure capacity that also relates to M-6. He referenced the December 12, 2017 Water and Wastewater Capacity Availability Letter (Letter) relating to capacity at the water treatment plants. As discussed with item M-5, Commissioner Trantalis noted his concerns about reaching capacity at the water treatment plants and the possible negative impact on the community, citing portions of the Reiss Report and commenting on having a Consent Order.

Mayor Seiler recognized Paul Chettle, 200 S. Birch Road. Mr. Chettle commented about several sources who have analyzed capacity concerns indicating that adequate capacity does not exist. He also discussed ongoing concerns, work and timelines to upgrade existing infrastructure and the need for additional disclosure. Mr. Chettle discussed the need for increased capacity at the George T. Lohmeyer Water Treatment Plant (Plant) once the 90 percent threshold has been reached. He asked where the City is in the process, recommending that the City have additional information prior to making decisions about additional development.

In response to Commissioner Roberts' question, Mr. Chettle discussed information available to Staff. He cited the approval process for Affordable Housing in the Downtown Regional Activity Center (RAC) and the level of disclosure based on capacity and the timing of construction. Mr. Chettle recommended this be part of the approval process for all new development. There should be more disclosure to allow for a more informed decision about the need and funding for capacity expansion at the Plant.

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue. Mr. Rosenthal commented on the capability of Alan Dodd, Director of Public Works, City Manager Feldman and those representing this project, citing their qualifications.

Mayor Seiler recognized Robert Lochrie, Esq., Lochrie and Chakas, and on behalf of the applicant. Mr. Lochrie gave an overview and history of the approval process for this project. He acknowledged the importance of infrastructure discussions, commenting on the work and conclusions of Staff relating to infrastructure capacity for this project. Mr. Lochrie confirmed that as part of the approval process, the applicant agreed to replace an 8-inch clay infrastructure pipe with a 12 inch PVC infrastructure pipe. This will increase capacity for the project and surrounding buildings within the two-block area. It will also decrease the amount of effluent in the wastewater going to the Plant. Mr. Lochrie commented on the criteria by which the Commission could deny a motion to approve. Due to Code requirements in the Downtown RAC, the Commission would have to determine that Staff had made an error in applying Code in the Comprehensive Plan.

Commissioner Rogers made comments on the downtown core and the history of this project. He recommended this project move forward.

Commissioner Trantalis concurred with the goal of building a viable, workable downtown, urban center. He expounded on the project's plans. He discussed the importance of making an analysis of this area's existing infrastructure and the impact of additional development on the Plant.

Commissioner Trantalis requested that the Commission set a date for a De Novo Hearing regarding the feasibility of this item. He discussed the need to be smart regarding capacity, expounding on the need to pause, review all timelines and plans, and working at an unhurried pace.

Vice Mayor Roberts disagreed with Commissioner Trantalis' statement that the infrastructure system is close to capacity, commenting that the issue of capacity is currently being addressed with ongoing infrastructure work with associated timelines to remedy current concerns.

Further comments ensued.

**MOTION DIED FOR LACK OF A SECOND**

[18-0217](#)

WALK ON - Motion to Approve an Event Agreement with Light up the Night, LLC for The Hub Events

Mayor Seiler commented on this event's request for amplified music until midnight. City Manager Feldman commented that the initial request was for amplified music until 2:00 a.m. The applicant later agreed to midnight.



Mayor Seiler recognized, Eli Goldshtein, applicant and owner of the event entitled Light Up the Night. In response to Commissioner Rogers' question, Mr. Goldshtein confirmed the music speakers would be facing west. There is no housing in the area.

Commissioner McKinzie made a motion to approve this item with amplified music until midnight and was seconded by Commissioner Trantalis.

**APPROVED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

## RESOLUTIONS

**R-1**     [18-0185](#)     Appointment of Board and Committee Members

Commissioner Rogers said that Andy Mitchell indicated he would be unable to serve on the Beach Redevelopment Board. He requested Clerk Modarelli amend the Resolution accordingly. City Clerk Jeffrey Modarelli read the amended Resolution appointing Board and Committee Members into the record.

***A copy of the Board and Committee appointments as amended is attached to these minutes.***

Commissioner Trantalis introduced this Resolution as amended which was read by title only.

**ADOPTED AS AMENDED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

## ORDINANCE FIRST READING

**OFR-1**     [18-0200](#)     Ordinance Amending Schedule I of the Pay Plan by Creating a Deputy City Attorney Class

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue. Mr. Rosenthal discussed the need to adequately pay Staff in order to maintain quality employees. In response to Commissioner Trantalis, City Attorney Everett confirmed that this item provides for a new position and salary range. Discussions ensued on the salary range being an increase and dependent upon who is assigned to the position. It is an existing pay range within the system. Discussions ensued on this item creating a

#### Schedule I - New Job Classification.

Vice Mayor Roberts commented that no other department has a Deputy position at this pay range. City Attorney Everett confirmed.

Discussions ensued on the Police Chief and Fire Chief's maximum pay range. City Manager Feldman commented on departments with deputy positions and those with assistant positions. He explained the difference relates to the ability to recruit. City Attorney Everett said this is an exempt position in an executive office within the Office of City Attorney, not a department level position. Further discussions ensued.

Commissioner Rogers said that he is not comfortable with this item. He noted this request must come to the Commission and has not been done in the past nine years. City Attorney Everett confirmed. Commissioner Rogers commented on the lack of a job description associated with this item and the Commission Agenda Memo (CAM) states that there is no financial impact on the City. City Attorney Everett responded to Commissioner Rogers concerns. Commissioner Rogers commented on the Commission determining who would fill this position and the need for further explanation and clarification.

Mayor Seiler raised the issue of what procedures would be followed should the City Attorney depart with respect to this proposed Deputy position. City Attorney Everett expounded on this point. Further discussions ensued on this topic.

Mayor Seiler discussed the options to adopt this Ordinance on the First Reading to be followed by further discussions with City Attorney Everett prior to the Second Reading.

Commissioner Trantalis introduced this Ordinance on the First Reading.

#### **DEFEATED**

**Aye:** 2 - Commissioner Trantalis and Mayor Seiler

**Nay:** 3 - Commissioner McKinzie, Commissioner Rogers and Vice Mayor Roberts

#### **OFR-2** [18-0113](#)

Quasi-Judicial - Ordinance - Rezoning from Community Facility to General Industrial - Bridge Development Partners, LLC- 3033 and 3233 SW 12th Avenue - Case ZR 18001

Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.

Each City Commission member disclosed their verbal and written communications, site visits and expert opinions received.

Mayor Seiler opened the public hearing.

There being no one wishing to speak on this item, Commissioner Trantalis made a motion to close the public hearing, which was seconded by Vice Mayor Roberts. Roll call showed: AYES: Vice Mayor Roberts, Commissioner Trantalis, Commissioner McKinzie, Commissioner Rogers and Mayor Seiler. NAYS: None.

Commissioner Trantalis introduced this Ordinance for the First Reading which was read by title only.

**PASSED FIRST READING**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

**OFR-3** [18-0212](#)

Ordinance Amending Unified Land Development Regulations (ULDR) for Sign Requirements to Address Content Neutrality - Case T17006

Commissioner Trantalis introduced the Ordinance for the First Reading as amended which was read by title only.

**PASSED FIRST READING AS AMENDED**

**Aye:** 5 - Commissioner McKinzie, Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

[18-0234](#)

WALK-ON - Resolution - Reduce Gun Violence

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road. Mr. King commented about the Commission's position on The Gun Show, his position on gun control and previous incidents of gun violence in the nation's schools.

Mayor Seiler recognized Count Rosenthal, 1237 NW 4th Avenue. Mr. Rosenthal commented on efforts to bring arts-centered events to the War Memorial Auditorium and the contractual obligations with The Gun Show. He emphasized the need for continued pressure to encourage gun safety legislation.

The Commission discussed the applicability and accuracy of the Whereas Clauses in this item's proposed Resolution to reduce gun violence. Commissioner Trantalis commented on his revisions. City Attorney Everett asked for a consensus to allow rephrasing the Resolution. Discussions ensued on the wording for gun types used for hunting that can be purchased at the age of 18. Comments and

discussions ensued on other types of guns, semi-automatic, automatic, assault weapons and high-capacity gun magazines to be restricted to the age of 21 for purchase.

Senior Assistant City Attorney Paul Bangel clarified the wording for restricting types of guns that can be purchased at the age of 18. Mayor Seiler noted the need for AR-15's to be restricted to 21 years of age for purchase. Further discussions and comments ensued on the appropriate wording to clarify the Resolution.

Commissioner McKinzie commented on his position regarding the ability of 18 year olds to purchase guns, stating that the minimum age to purchase guns should be 21. Commissioner Trantalis concurred, noting the need for unanimity among the Commission about a position on this Resolution.

Police Chief Rick Maglione expounded and clarified aspects of automatic and semi-automatic guns. Discussions ensued on restricting the age of purchase for the following types of guns to the age of 21: automatic and semi-automatic guns, assault weapons and high-capacity gun magazines. Police Chief Maglione confirmed that special permits and vetting are required for the purchasing a gun silencer or a machine gun. Further discussions ensued on amending the Resolution to include these types of gun items.

City Auditor Herbst commented on the Resolution's wording regarding ammunition. Police Chief Maglione clarified the operations of different types of guns. He also commented on limiting the capacity of magazines and reloading devices to six rounds. Chief Maglione recommended recreating an ammunition registry, similar to the opioid registry. Senior Assistant City Attorney Bangel confirmed he would modify the language in the Resolution to reflect these recommendations.

Vice Mayor Roberts introduced this Resolution as amended which was read by title only.

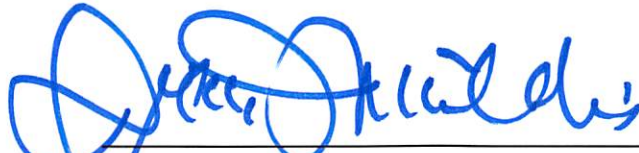
**ADOPTED AS AMENDED**

**Aye:** 4 - Commissioner Rogers, Vice Mayor Roberts, Commissioner Trantalis and Mayor Seiler

**Nay:** 1 - Commissioner McKinzie

## ADJOURNMENT


Mayor Seiler adjourned the Commission Regular Meeting of Tuesday,  
February 20, 2018 at 8:47 p.m.



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Dean J. Trantalis  
Mayor

ATTEST:



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Jeffrey A. Modarelli  
City Clerk

Regular Meeting m-5  
Provided by  
Anthony  
Fajardo

**WILL CALL - TRI-COUNTY**

Smoler, Lerman, Bente & Whitebook, PA  
2611 Hollywood Boulevard  
Hollywood, FL 33020

THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:  
David M. Layman, Esq.  
Greenberg Traurig, P.A.  
777 S. Flagler Drive, Suite 300 East  
West Palm Beach, FL 33401

**DECLARATION OF EASEMENT**

THIS DECLARATION (this "Declaration") is made as of March 20, 2008, by **NOLA LOFTS, LLC**, a Florida limited liability company ("Grantor"), having an address of 5810 Commerce Lane, Miami, Florida 33143, who hereby declares as follows:

**Background**

A. Grantor is the owner of the real property described on Exhibit "A" attached hereto (the "Phase Two Property"). The Phase Two Property is the potential Phase Two of Nola Lofts Condominium I, a condominium (the "Condominium") as described in that certain Declaration of Nola Lofts Condominium I, a condominium, recorded February 2, 2005, in Official Records Book 38993, at Page 1450, of the Public Records of Broward County, Florida (the "Declaration"). Pursuant to the Declaration, the Phase Two Property may be submitted as Phase Two to the Condominium, the phase-condominium described in the Declaration, within seven (7) years of the recording of the Declaration. However, there is no obligation for Grantor or its successors or assigns to submit Phase Two.

B. Pursuant to Section 3.3(b) of the Declaration, the use of certain parking spaces on the Phase Two Property has been initially assigned to Unit Owners pursuant to Temporary License Agreements for parking use. The Temporary License Agreements shall terminate only upon (i) assignment to the Unit Owner of the use of a parking space as a limited common element appurtenant to the Unit; or (ii) conveyance to the Unit Owner of a parking space Unit located either upon the Phase Two Property or upon property adjacent to the Phase Two Property.

C. The purpose of this Declaration is to confirm the rights of Unit Owners of the Condominium as to such parking, subject to the terms of the Declaration, and subject to the rights of Developer stated in the Declaration, Grantor being the successor to such rights.

D. The only mortgage affecting the Phase Two Property is held by Downtown Lofts, LLC, and Grantor is causing such holder to consent to this Declaration.

**Terms of Declaration**

In consideration of good and valuable consideration, Grantor hereby declares as follows:

1. The current use of parking spaces on the Phase Two Property is pursuant to the applicable Temporary License Agreements described in the Declaration, which Agreements may only be terminated upon the events described in Section 3.3(b) of the Declaration occurring. Grantor hereby confirms that the Temporary License Agreements described in Section 3.3(b)

X  
shall not terminate until either of the events described in Section 3.3(b) of the Declaration occur, and that each Unit owner of Phase One of the Condominium shall always have the right to use at least one parking space. Furthermore, as described in Section 3.3(b) of the Declaration, each Unit Owner in Phase One of the Condominium has agreed that each parking space may be relocated at any time, and from time to time, upon the development of the Phase Two Property, provided that at all times, each Unit shall have one parking space as stated in Section 3.3(b) of the Declaration. Such relocation may include the temporary relocation of parking spaces to an offsite location for logistical reasons arising in connection with the development of Phase Two, or any other development of the Phase Two Property.

2. The rights of the Unit Owners within Phase One to a parking space shall be permanent, and this Declaration shall include an easement for ingress and egress to the parking spaces on the Phase Two Property. Notwithstanding anything to the contrary stated in this Declaration, all rights and easements stated in this Declaration are subject to the rights of development of the Phase Two Property and other rights reserved to Developer (and therefor Grantor, as Developer's successor) in Section 3.3(b) of the Declaration and in the Temporary License Agreements. Subject thereto, such rights shall run with the land as to the Phase Two Property, and shall be binding upon Grantor, and its successors and assigns, for the benefit of the Unit Owners.

3. Nothing herein shall obligate the Grantor to construct Phase Two, and Grantor may make such other use of the Phase Two Property as allowed by law, subject to the parking rights of Unit Owners set forth in Section 3.3(b) of the Declaration. Furthermore, the rights of the Unit Owners to the Phase Two Property shall terminate automatically if Grantor, or its successors and assigns, provides each Unit Owner a parking space Unit on property adjacent to the Phase Two Property, as allowed under Section 3.3(b) of the Declaration.

[Signature page follows]

IN WITNESS WHEREOF, Grantor has executed this Declaration as of the date set forth above.

NOLA LOFTS, LLC, a Florida limited liability company

By: *Bruce Smoler*

Name: Bruce J. Smoler

Title: Managing Member

STATE OF FLORIDA

COUNTY OF Broward

ss.:

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of March, 2008 by Bruce Smoler, as Managing Member of NOLA LOFTS, LLC, a Florida limited liability company, on behalf of the company. He/she is personally known to me or has produced as identification.

NOTARY SEAL

Notary *Innocencia Ramos*

Print Name: \_\_\_\_\_

Notary Public, State of Florida

My commission expires: \_\_\_\_\_

NOTARY PUBLIC-STATE OF FLORIDA



Innocencia Ramos

Commission # DD488523

Expires: NOV 07, 2009

Bonded Thru Atlantic Bonding Co., Inc.



RESOLUTION NO: 18-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING, OR NOMINATING, IF APPLICABLE, BOARD AND COMMITTEE MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED HERETO AND MADE A PART HEREOF.

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BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the City Commission of the City of Fort Lauderdale, Florida does hereby appoint board and committee members as set forth in the exhibit attached hereto and made a part hereof.

SECTION 2. These appointments shall take effect immediately upon passage and adoption of this resolution.

ADOPTED this the 20th Day of February, 2018.

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Mayor  
JOHN P. "JACK" SEILER

ATTEST:

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City Clerk  
JEFFREY A. MODARELLI

## **EXHIBIT TO RESOLUTION 18-**

### **BEACH BUSINESS IMPROVEMENT DISTRICT ADVISORY COMMITTEE**

Philippe Thevenet (alternate member) representing Conrad Fort Lauderdale Beach Resort, FLB R-UNITS LLC, is appointed to the Beach Business Improvement District Advisory Committee, in the category of seven of the ten highest assessed property owners or a representative of such assessed property owners, for a one year term beginning September 1, 2017 and ending August 31, 2018 or until his successor has been appointed.

### **BOARD OF ADJUSTMENT**

Ian Seitel has been appointed to the Board of Adjustment, as an alternate member, for a two year term beginning December 21, 2017 and ending December 20, 2019 or until his successor has been appointed.

### **EDUCATION ADVISORY BOARD**

Thomas Harrison has been appointed to the Education Advisory Board to complete an unexpired term ending June 15, 2018 or until his successor has been appointed.

WALK-ON Resolution  
2/20/2018  
Provided by City  
Attorney  
Version 1

SUNRISE, FLORIDA

RESOLUTION NO. R-18-NO. 18-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SUNRISE FORT LAUDERDALE, FLORIDA, CALLING ON THE STATE OF FLORIDA, GOVERNOR RICK SCOTT, PRESIDENT DONALD TRUMP, AND THE FEDERAL GOVERNMENT TO REDUCE GUN VIOLENCE IN AMERICA AND HELP PREVENT FUTURE SHOOTINGS BY REQUIRING A BACKGROUND CHECK FOR EVERY FIREARM SALE; SUPPORTING THE PASSAGE OF A RED FLAG LAW; SUPPORTING RAISING THE AGE FOR LEGAL PURCHASE OF FIREARMS OTHER THAN SHOTGUNS, AND THE PURCHASE OF HIGH-CAPACITY MAGAZINES, AND AMMUNITION TO 21 TWENTY-ONE; SUPPORTING THE PASSAGE OF LEGISLATION THAT WOULD KEEP MILITARY-STYLE WEAPONS AND HIGH-CAPACITY MAGAZINES AWAY FROM OUR SCHOOLS; AUTHORIZING DIRECTING THE CITY CLERK TO TRANSMIT-DISTRIBUTE THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

~~WHEREAS, the City of Sunrise City Commission has repeatedly passed Resolutions urging State and Federal elected bodies to strengthen gun laws meant to protect our community; and~~

~~WHEREAS, National the executive and legislative branches of government and State leaders continue to have failed to act to implement enact sensible gun law reforms legislation that are supported by a majority of the nation; and~~

~~WHEREAS, an increase in the amount of hate groups, international and lone wolf domestic terrorism; underfunded community mental health programs, and easy access to military grade, high capacity magazine assault weapons have created circumstances which have led to contributed to an unprecedented number of several mass shootings in American communities in recent years; and~~

~~WHEREAS, in recent years, mass shootings involving military grade high-high-capacity magazine assault weapons have occurred in 2007 at a college in Virginia Polytechnic Institute and State University ("Virginia Tech"), and in 2012 at a Century 16 Movie Theater in Aurora, Colorado; and~~

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WHEREAS, in February 2013, in the wake of numerous mass shootings culminating in the Sandy Hook Elementary School shooting in Newtown, Connecticut, the City Commission of the City of Sunrise passed Resolution No. 13-21 to urge the federal government to reduce gun violence in America through the "Fix Gun Checks Act;" and

WHEREAS, in January 2014, the City Commission of the City of Sunrise passed Resolution No. 14-9 to support efforts to reduce gun violence and illegal firearms trafficking through more responsible gun sales and marketing practices; and

WHEREAS, further mass shootings occurred in the 2015 attack at the Inland Regional Center in San Bernardino, California; the 2016 attack on the Pulse nightclub in Orlando, Florida; and the 2017 attack at the Route 91 Harvest Festival in Las Vegas, Nevada; and

WHEREAS, on November 5, 2017, a mass shooting occurred at the First Baptist Church in Sutherland Springs, Texas, in which 26 were killed and injured 20 injured others. As has been noted, "the attack was the deadliest mass shooting by one person in Texas and the fifth deadliest mass shooting in the United States. It was the deadliest shooting in an American place of worship in modern history, surpassing the Charleston church shooting of 2015[3] and the Waddell Buddhist temple shooting of 1991."; and

WHEREAS, on February 14, 2018, a mass shooting occurred at Marjory Stoneman Douglas High School in Parkland, Florida, killing 17 students, teachers and coaches and wounding 14 others, 5 with life-threatening injuries; and

WHEREAS, an AR-15-style rifle was used in the mass shootings in Newton, Connecticut; Aurora, Colorado; San Bernardino, California; Las Vegas, Nevada; Sutherland Springs, Texas; and Parkland, Florida; and

#### BACKGROUND CHECKS FOR ALL SALES AND TRANSFERS

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WHEREAS, according to Everytown For Gun Safety Support Fund, which is an independent, non-partisan 501(c)(3) organization dedicated to understanding and reducing gun violence in America:

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- Background checks are a central component of America's efforts to keep guns from criminals: since their inception, they have blocked over 3 million gun sales to prohibited purchasers.

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- According to a study by the Department of Justice, between 1994 and 2014, federal, state, and local agencies conducted background checks on more than 180 million firearm applications and denied 2.82 million gun sales to prohibited purchasers;

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• and

WHEREAS, despite this success, the system is undermined by legal loopholes and missing records that enable too many dangerous individuals to obtain weapons they later use in crimes; and

WHEREAS, it is estimated that state and federal agencies have failed to report more than one million records of persons with dangerous mental illness into the National Instant Criminal Background Check System ("NICS") which initiates background checks into three databases: the National Crime Information Center (NCIC), the Interstate Identification Index, and the NICS Index; and

WHEREAS, on April 16, 2007, Seung-Hui Cho shot and killed 32 people at Virginia Tech with guns that were legally purchased because records of his mental health status were missing from the NICS; and

WHEREAS, on January 8, 2011, Jared Loughner, someone with a reported history of drug abuse and serious mental illness who should have been in the NICS database but was not, killed six Tucsonans – Christina-Taylor Green, Dorothy Morris, Judge John Roll, Dorwan Stoddard, Phyllis Schneck, and Gabe Zimmerman – and shot 13 others, including U.S. Congresswoman Gabrielle Giffords; and

WHEREAS, on July 20, 2012, James Holmes, using a semi-automatic rifle and other guns, allegedly shot and killed 12 people and injured at least 58 others in a movie theater in Aurora, Colorado, using some of the thousands of rounds of ammunition that the shooter had recently purchased online without any background check; and

WHEREAS, on August 5, 2012, Wade Michael Page, using a semi-automatic handgun, allegedly shot and killed 6 people and injured 3 others at a Sikh temple in Oak Creek, Wisconsin; and

WHEREAS, on October 21, 2012, Radcliffe Haughton, using a semi-automatic handgun, shot and killed his estranged wife and two others; and though a restraining order had

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been issued against Haughton – making him a prohibited person under federal law – Haughton was able to avoid a background check by purchasing the gun from a private seller through armslist.com; and

WHEREAS, on December 14, 2012, Adam Lanza, using two semi-automatic handguns, shot and killed 27 people, including 20 children at Sandy Hook elementary school; and

WHEREAS, the shooter in the Sutherland Springs, Texas massacre should have been prevented from purchasing any firearm because of a domestic violence conviction and court-martial while in the United States Air Force. However, according to news reports, the Air Force did not provide the conviction to the FBI National Crime Information Center database; and

WHEREAS, in the wake of the Virginia Tech shootings, Virginia and other states have submitted hundreds of thousands of new mental health records into the NICS database, yet 19 states have each submitted fewer than 100 mental health records since that massacre; and

WHEREAS, under federal law, licensed gun dealers are mandated to conduct NICS checks before proceeding with a sale, but this requirement does not apply to so-called private sellers who are present in large numbers at gun shows and sell guns over the internet; and

WHEREAS, it is estimated that 6.6 million guns were sold privately in the U.S. between November 2011, and November 2012, and undercover investigations have shown that many private sellers at gun shows and online will proceed with sales even when they are made aware that prospective purchasers cannot pass a background check; and

WHEREAS, more than 12,000 Americans are murdered with guns every year, and too many of these crimes are committed by individuals who are barred from purchasing or possessing guns under federal law; and

WHEREAS, other tragedies including the 1999 Columbine High School shooting in Colorado, the 2010 attack on law enforcement at the Pentagon, and the 2012 mass shooting at a Pittsburgh psychiatric clinic were perpetrated by individuals who obtained guns through unregulated private sales, with no paperwork required and no questions asked; and

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WHEREAS, the Fix Gun Checks Act was introduced in the U.S. Congress, and this legislation would have addressed the two major flaws in the nation's gun background check system by improving compliance with federal record reporting requirements, and by requiring background checks for all U.S. gun sales; and

WHEREAS, 90 percent of Americans and 90 percent of gun owners support fixing gaps in the gun background check database, and 86 percent of Americans, 82 percent of gun owners nationwide, and 74 percent of National Rifle Association ("NRA") members support mandatory criminal background checks for all gun sales; and

~~WHEREAS, the City of Sunrise has been a strong advocate for common sense policies that keep guns out of dangerous hands while respecting the rights of law-abiding gun owners, and strongly believes that Congress and state governments should take action to close deadly gaps in the NICS; and~~

WHEREAS, more than 50 national organizations support closing gaps in the gun background check database and requiring a background check for all gun sales, including the U.S. Conference of Mayors, National Urban League, National Association for the Advancement of Colored People, and the National Coalition Against Domestic Violence, the International Association of Chiefs of Police, the Major Cities Chiefs Association and the Police Executive Research Forum; and

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#### RED FLAG LAWS

WHEREAS, implementation of RED FLAG LAWS, allows the community to protect itself and according to Everytown For Gun Safety:

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- Like many mass shooters, the 19-year-old suspected of shooting and killing at least 17 people and injuring at least 14 others at a high school in Parkland, Florida displayed warning signs prior to the shooting. Unfortunately, Florida does not have a Red Flag Law—a law increasingly being adopted by states that empowers family members and law enforcement to seek an Extreme Risk Protection Order, a court order temporarily restricting a person's access to guns when they pose a danger to self or others. Five states have Red Flag Laws in place—and bills are currently pending in another 18 states;

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- Red Flag Laws can save lives by creating a way for family members and law enforcement to act before warning signs escalate into tragedies;
- When a person is in crisis, loved ones and law enforcement are often the first to see signs that they pose a threat. Red Flag Laws allow them to seek help from a court to remove guns from dangerous situations;
- Red Flag Laws empower law enforcement and immediate family members to petition a court for an Extreme Risk Protection Order, sometimes called a Gun Violence Restraining Order.
- If a court finds that a person poses a significant danger of injuring themselves or others with a firearm, that person is temporarily prohibited from purchasing and possessing guns and is required to turn over their guns while the order is in effect.
- Five states have Red Flag Laws—and bills are currently pending in another 18 states, including Florida;
- A nationwide study of mass shootings from 2009 to 2016 revealed that in least 42 percent of those incidents, there is documentation that the attacker exhibited dangerous warning signs before the shooting.
- The alleged mass shooter who shot and killed 17 people and injured 14 others at a high school in Parkland, Florida on February 14, 2018 also displayed warning signs prior to the shooting. He was expelled from school, and students and teachers reported that he displayed threatening behavior. His mother contacted law enforcement on multiple occasions regarding his behavior, and he was known to possess firearms.
- Final orders—which generally last for up to one year—can only be issued after notice and an opportunity to be heard. At the hearing, the person would have the chance to respond to evidence that they are too dangerous to have a gun.
- A temporary order—which typically lasts 14 to 21 days—can be issued before a full hearing is held, but only if there is clear evidence that an order is necessary to prevent immediate danger.

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WHEREAS, currently pending in the Florida Legislature is House Bill 231/Senate Bill 530 which would implement a Red Flag Law, and had these bills been passed

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and signed into law, there is a high likelihood the Parkland massacre would have been averted and those loved ones saved; and

#### **MINORS UNDER FLORIDA LAW ARE PERMITTED TO PURCHASE GUNS**

—WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Laws imposing minimum age requirements for the possession and purchase of firearms are intended to decrease access to firearms by young people and, correspondingly, to decrease the number of suicides, homicides, and unintentional shootings among that population;
- In 2014, 21,101 people under the age of 21 were shot by guns. 3,265 died from those gunshot wounds. Of these deaths, 1,925 were classified as homicides, 1,145 as suicides, and 122 as the result of unintentional shootings;
- Firearms were used in 41% of suicide deaths among individuals under age 21 in 2014.

WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Federal law in this area distinguishes between long guns (assault style rifles, rifles and shotguns) and handguns, and between gun possession and gun sales. Federal law also provides stronger age restrictions for sales by licensed gun sellers.
- Licensed firearms dealers may not sell or deliver a handgun or ammunition for a handgun to any person the dealer has reasonable cause to believe is under age 21.
- Dealers may not sell or deliver a long gun, or ammunition for a long gun, to any person the dealer knows or has reasonable cause to believe is under age 18.
- Unlicensed persons may not sell, deliver or otherwise transfer a handgun or handgun ammunition to any person the transferor knows or has reasonable cause to believe is under age 18, with certain exceptions.—
- Unlicensed persons may sell, deliver, or otherwise transfer a long gun or long gun ammunition to a person of any age.

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WHEREAS, in summary, with some exceptions, federal law prohibits the possession of a handgun or handgun ammunition by any person under the age of 18 but does not set a minimum age for the possession of long guns or long gun ammunition; and

WHEREAS, under Florida law, the purchase of a long gun is allowed for a person under 21 years of age; and

WHEREAS, in order to restrict such purchase and/or possession of a long gun, high capacity magazines and ammunition, the Florida legislature would need to amend Fla. Stat. §§ 790.17(2), 790.18; Fla. Stat. § 790.22(3), (5); and

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#### **ASSAULT WEAPON AND HIGH CAPACITY MAGAZINE RESTRICTIONS HAVE BEEN HELD CONSTITUTIONAL**

WHEREAS, Maryland, Connecticut and New York, in response to mass shootings resulting in the massacre of students, teachers and others, passed similar prohibitions on sales of assault weapons and large capacity magazines; and

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WHEREAS, after lengthy litigation, those laws were upheld by U.S. Federal Courts as constitutional, concluding that the Second Amendment does not reach to protect the purchase and sale of weapons of war. Kolbe v. Hogan, 849 F.3d 114 (Fourth Cir. 2017); New York State Rifle and Pistol Ass'n, Inc. v. Cuomo, 804 F.3d 242 (Second Cir. 2015); and

WHEREAS, in response to the Sandy Hook massacre, Maryland enacted the State's Firearm Safety Act of 2013 (the "FSA"), which bans the AR-15 and other military-style rifles and shotguns (referred to as "assault weapons") and detachable large-capacity magazines, providing "that a person may neither "transport an assault weapon into the State" nor "possess, sell, offer to sell, transfer, purchase, or receive an assault weapon." See Md. Code Ann., Crim. Law § 4-303(a). The banned assault weapons include "assault long gun[s]" and "copycat weapon[s]." Id. § 4-301(d)."; and

WHEREAS, the Maryland FSA defines an assault long gun as a rifle or shotgun "listed under § 5-101(r)(2) of the Public Safety Article," including the "Colt AR-15," "Bushmaster semi-auto rifle," and "AK-47 in all forms." See Md. Code Ann., Crim. Law § 4-301(b); Md. Code Ann., Pub. Safety § 5-101(r)(2). The list of prohibited rifles and shotguns consists of "specific assault weapons or their copies, regardless of which company produced and manufactured that assault weapon." See Md. Code Ann., Pub. Safety § 5-101(r)(2); and

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WHEREAS, the Maryland "FSA provides a separate definition for a copycat weapon that is premised on a weapon's characteristics, rather than being identified by a list of specific firearms. In relevant part, a copycat weapon means: (i) a semiautomatic centerfire rifle that can accept a detachable magazine and has any two of the following: 1. a folding stock; 2. a grenade launcher or flare launcher; or 3. a flash suppressor; (ii) a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds; (iii) a semiautomatic centerfire rifle that has an overall length of less than 29 inches; \* \* \* (v) a semiautomatic shotgun that has a folding stock; or (vi) a shotgun with a revolving cylinder. See Md. Code Ann., Crim. Law § 4-301(e)(1)."; and

WHEREAS, "[i]n banning large-capacity magazines along with assault weapons, the FSA provides that "[a] person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine that has a capacity of more than 10 rounds of ammunition for a firearm." See Md. Code Ann., Crim. Law § 4-305(b). A detachable magazine is defined as "an ammunition \*123 feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge." Id. § 4-301(f)."; and

WHEREAS "[u]nder the FSA's exceptions, "[a] licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or a copycat weapon that the licensed firearms dealer lawfully possessed on or before October 1, 2013," and "[a] person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, may ... possess and transport the assault long gun or copycat weapon." See Md. Code Ann., Crim. Law § 4-303(b)(2), (3)(i). The FSA does not ban the possession of a large-capacity magazine. Further, the FSA explicitly allows the receipt and possession of an assault weapon or large-capacity magazine by a retired Maryland law enforcement officer if the assault weapon or large-capacity magazine "is sold or transferred to the person by the law enforcement agency on retirement" or "was purchased or obtained by the person for official use with the law enforcement agency before retirement." Id. § 4-302(7)."; and

WHEREAS the Kolbe Court stated "[s]imply put, AR-15-type rifles are "like" M16 rifles under any standard definition of that term. See, e.g., Webster's New International Dictionary 1431 (2d ed. 1948) (defining "like" as "[h]aving the same, or nearly the same, appearance, qualities, or characteristics; similar"); The New Oxford American Dictionary 982 (2d ed. 2005) (defining "like" as "having the same characteristics or qualities as; similar to"). Although an M16 rifle is capable of fully automatic fire and the AR-15 is limited to semiautomatic

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fire, their rates of fire (two seconds and as little as five seconds, respectively, to empty a thirty-round magazine) are nearly identical. Moreover, in many situations, the semiautomatic fire of an AR-15 is more accurate and lethal than the automatic fire of an M16. Otherwise, the AR-15 shares the military features—the very qualities and characteristics—that make the M16 a devastating and lethal weapon of war.”; and

WHEREAS, the Kolbe Court held “[w]hatever their other potential uses—including self-defense—the AR-15, other assault weapons, and large-capacity magazines prohibited by the FSA are unquestionably most useful in military service. That is, the banned assault weapons are designed to “kill[ ] or disabl[e] the enemy” on the battlefield. See J.A. 735. The very features that qualify a firearm as a banned assault weapon—such as flash suppressors, barrel shrouds, folding and telescoping stocks, pistol grips, grenade launchers, night sights, and the ability to accept bayonets and large-capacity magazines—“serve specific, combat-functional ends.” See id. at 1120. And, “[t]he net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond that of other firearms in general, including other semiautomatic guns.” Id. at 1121-22.”; and

WHEREAS, the Kolbe Court found, “[l]ikewise, the banned large-capacity magazines “are particularly designed and most suitable for military and law enforcement applications.” See J.A. 891 (noting that large-capacity magazines are meant to “provide[ ] soldiers with a large ammunition supply and the ability to reload rapidly”). Large-capacity magazines enable a shooter to hit “multiple human targets very rapidly”; “contribute to the unique function of any assault weapon to deliver extraordinary firepower”; and are a “uniquely military feature[ ]” of both the banned assault weapons and other firearms to which they may be attached. See id. at 1151.”; and

WHEREAS, the Kolbe Court concluded, “[b]ecause the banned assault weapons and large-capacity magazines are clearly most useful in military service, we are compelled by Heller to recognize that those weapons and magazines are not constitutionally protected.”; and

WHEREAS, the en banc panel of the Fourth Circuit in Kolbe held that “[1] banned weapons and magazines were not protected by Second Amendment; [2] the Maryland FSA did not violate Equal Protection Clause; and [3] the Maryland FSA was not void for vagueness under Due Process Clause;” and

WHEREAS, the Kolbe holding that such reasonable restrictions did not violate the Second Amendment was consistent with the earlier holding of the Second Circuit in New



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York State Rifle and Pistol Ass'n, Inc. v. Cuomo, 804 F.3d 242 (Second Cir. 2015) which held: "[1] laws prohibiting possession of certain semiautomatic weapons, large-capacity magazines, and on number of bullets in a magazine would be reviewed under intermediate scrutiny; [2] prohibitions on possessing certain semiautomatic assault rifles with one or more military-style features did not violate the Second Amendment's right to bear arms; [3] prohibitions on possessing large-capacity magazines not violate the Second Amendment's right to bear arms; [4] New York law prohibiting possession of a magazine for a firearm loaded with more than seven rounds violated the Second Amendment right to bear arms; [5] laws criminalizing possession of magazines that could be "readily restored or converted to accept" more than ten rounds were not unconstitutionally vague; [6] Connecticut law prohibiting possession of certain specified firearms and any "copies or duplicates thereof with the capability of" the listed models was not unconstitutionally vague; [7] New York law prohibiting possession of semiautomatic pistols that were semiautomatic versions of an automatic rifle, shotgun or firearm" was not unconstitutionally vague; and [8] provision of New York law prohibiting semiautomatic assault rifles with a "muzzle break" was not unconstitutionally vague;" and

—WHEREAS, presently pending in Florida is similar legislation, Senate Bill 196/House Bill 219 which would prohibit "the sale or transfer of an assault weapon or large-capacity magazine; specifying circumstances in which the manufacture or transportation of assault weapons or large-capacity magazines is not prohibited; providing enhanced criminal penalties for certain offenses when committed with an assault weapon or large-capacity magazine, etc.;" and

—WHEREAS, following the lead of other states, and having had Federal Courts consistently hold that such restrictions are constitutional, it is time to implement such restrictions; and

#### **FLORIDA LAW INAPPROPRIATELY PUNISHES ELECTED OFFICIALS FOR TRYING TO PROTECT THEIR RESIDENTS**

—WHEREAS, in 1987, the Florida Legislature passed Chapter 87-23, Laws of Florida, which created Florida Statutes section 790.33 and declared the preemption of the whole field of regulation of firearms and ammunition, reserving the exclusive right to regulate and/or enforce any laws involving firearms and ammunition to the Florida Legislature and the State of Florida; and

WHEREAS, in 2011, the Florida Legislature passed and Governor Scott signed Chapter 2011-109, Laws of Florida to allow the Governor to remove from office, without due

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process of law, any person acting in an official capacity for a local authority, including an elected official, who passes an ordinance or causes to be enforced a local ordinance, administrative rule or regulation impinging on the exclusive authority of Florida legislature to regulate firearms and ammunition in all respects; and

WHEREAS, the 2011 Amendment to Florida Statutes section 790.33 provides for personal liability of any person who enacts or causes to be enforced any local ordinance impinging upon the Legislature's occupation of the whole field of regulation of firearms and ammunition; and

WHEREAS, the 2011 Amendment to Florida Statutes section 790.33 also provides that if a Court finds a willful or knowing violation of the prohibition on the ability of local government to regulate or enforce firearms or ammunition in any regard, the Court may impose a personal fine of up to \$5,000 on the elected or appointed local government official(s) or administrative agency head and cause the county, agency, municipality, district or other entity to reimburse the legal cost of those who sue to overturn the ordinance, rule, regulation and/or enforcement effort and to pay their actual damages; and

—WHEREAS, pursuant to Florida Statutes section 790.33, local communities appear powerless to enumerate elements of the standard of care which should be met to protect the community; and

—WHEREAS, the City Commission of the City of ~~Sunrise-Fort Lauderdale~~ urgently requests the Governor and Legislature of the State of Florida to address this deficit in law by enacting legislation that would allow municipalities the ability to address these public health, safety and welfare items by enacting local legislation without fear of removal from office, in accordance with the unique local characteristics of a community and with due respect to the risk to public; and

—WHEREAS, local governments have a duty to protect their residents, visitors, tourists and businesses and that such duty should not be infringed upon by State government; and

WHEREAS, according to Subsection 166.041(1)(b), Florida Statutes (2017), a "Resolution" means 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."; and

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WHEREAS, this Resolution is not an administrative rule or regulation impinging upon the State of Florida's exclusive occupation of the field of regulation of firearms and ammunition, and is not a regulation, measure, directive, rule, enactment, order, or policy;

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NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISEFORT LAUDERDALE, FLORIDA:

Section 1. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Resolution.

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Section 2. The City urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Section 790.33, Florida Statutes section 790.33.

Section 3. The City supports federal legislation that would require a background check for every firearm sale whether the legislation is enacted by passage of the Fix Gun Checks Act in the United States Congress or some other legislation.

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Section 34. The City urges the Florida legislature to immediately pass House Bill 231/ Senate Bill 530, popularly described as a "Red Flag Law," to protect our community from those who are identifiable as a threat to safety and security.

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Section 45. The City urges immediate amendment to Florida law to raise the age for legal purchase of guns, including long guns other than shotguns, and the purchase of high-high-capacity magazines, and ammunition to 21 years of age.

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Section 56. The City urges immediate passage of legislation that would get military-style weapons and high-capacity magazines away from our community and especially our schools and that would increase the minimum age to purchase and possess a weapon-firearm other than a shotgun from age 18 to age 21.

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~~Section 6. The City urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Florida Statutes section 790.33.~~

Section 77. The City urges Florida Governor Rick Scott to take action to pass gun reform, even if it means extending the 2018 legislative session, to:

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- Raise the minimum age to allow for the purchase of guns other than shotguns, and the purchase of ammunition, to 21;
- Eliminate the loopholes in the private transfer of weapons and require full background checks for all sales and transfers of firearms;
- Repeal the prohibitions and penalties in Section 790.33(3), Florida Statutes;
- Enact legislation regarding Red Flag Law to allow Extreme Risk Protection Orders such as those proposed in House Bill 231 and Senate Bill 530;
- Enact the Gun Safety legislation set forth in Senate Bill 196 and House Bill 219 to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

Section 8. -The City Clerk is hereby directed to distribute this Resolution to President Donald Trump, Governor Rick Scott, the United States Congressional Delegations from Florida, the Broward County Legislative Delegation, and the Broward League of Cities.

Section 9. Effective Date. This Resolution shall be effective immediately upon its passage.

~~PASSED AND ADOPTED THIS~~ this this DAY OF day of \_\_\_\_\_, 2018.

Mayor  
JOHN P. "JACK" SEILER

**ATTEST:**

City Clerk  
JEFFREY A. MODARELLI

~~ATTEST:~~





## SUNRISE, FLORIDA

RESOLUTION NO.                      R-18-NO. 18-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SUNRISEFORT LAUDERDALE, FLORIDA, CALLING ON THE STATE OF FLORIDA, GOVERNOR RICK SCOTT, PRESIDENT DONALD TRUMP, AND THE FEDERAL GOVERNMENT TO REDUCE GUN VIOLENCE IN AMERICA AND HELP PREVENT FUTURE SHOOTINGS BY REQUIRING A BACKGROUND CHECK FOR EVERY FIREARM SALE; SUPPORTING THE PASSAGE OF A RED FLAG LAW; SUPPORTING RAISING THE AGE FOR LEGAL PURCHASE OF FIREARMS, HIGH-CAPACITY MAGAZINES, AND AMMUNITION TO 21TWENTY-ONE; SUPPORTING THE PASSAGE OF LEGISLATION THAT WOULD KEEP MILITARY-STYLE WEAPONS AND HIGH-CAPACITY MAGAZINES AWAY FROM OUR SCHOOLS; AUTHORIZING DIRECTING THE CITY CLERK TO TRANSMIT-DISTRIBUTE THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

~~WHEREAS, the City of Sunrise City Commission has repeatedly passed Resolutions urging State and Federal elected bodies to strengthen gun laws meant to protect our community; and~~

~~WHEREAS, National the executive and legislative branches of government and State leaders continue to have failed to act to implement enact~~ sensible gun law reforms legislation that are supported by a majority of the nation; and

~~WHEREAS, an increase in the amount of~~ hate groups, international and lone wolf domestic terrorism, underfunded community mental health programs, and easy access to military grade, high capacity magazine assault weapons have created circumstances which have ~~led to contributed to an unprecedented number of several~~ mass shootings in American communities in recent years; and

~~WHEREAS, in recent years,~~ mass shootings involving military grade ~~high-high-~~ capacity magazine assault weapons have occurred in 2007 at ~~a college in~~ Virginia Polytechnic Institute and State University ("Virginia Tech"), and in 2012 at a Century 16 Movie Theater in Aurora, Colorado; and

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WHEREAS, in February 2013, in the wake of numerous mass shootings culminating in the Sandy Hook Elementary School shooting in Newtown, Connecticut, the City Commission of the City of Sunrise passed Resolution No. 13-21 to urge the federal government to reduce gun violence in America through the "Fix Gun Checks Act;" and

WHEREAS, in January 2014, the City Commission of the City of Sunrise passed Resolution No. 14-9 to support efforts to reduce gun violence and illegal firearms trafficking through more responsible gun sales and marketing practices; and

WHEREAS, further mass shootings occurred in the 2015 attack at the Inland Regional Center in San Bernardino, California; the 2016 attack on the Pulse nightclub in Orlando, Florida; and the 2017 attack at the Route 91 Harvest Festival in Las Vegas, Nevada; and

WHEREAS, on November 5, 2017, a mass shooting occurred at the First Baptist Church in Sutherland Springs, Texas, in which 26 were killed and injured 20 others. As has been noted, "the attack was the deadliest mass shooting by one person in Texas and the fifth deadliest mass shooting in the United States. It was the deadliest shooting in an American place of worship in modern history, surpassing the Charleston church shooting of 2015[3] and the Waddell Buddhist temple shooting of 1991."; and

WHEREAS, on February 14, 2018, a mass shooting occurred at Marjory Stoneman Douglas High School in Parkland, Florida, killing 17 students, teachers and coaches and wounding 14 others, 5 with life-threatening injuries; and

WHEREAS, an AR-15-style rifle was used in the mass shootings in Newton, Connecticut; Aurora, Colorado; San Bernardino, California; Las Vegas, Nevada; Sutherland Springs, Texas; and Parkland, Florida; and

#### **BACKGROUND CHECKS FOR ALL SALES AND TRANSFERS**

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WHEREAS, according to Everytown For Gun Safety Support Fund, which is an independent, non-partisan 501(c)(3) organization dedicated to understanding and reducing gun violence in America:

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- Background checks are a central component of America's efforts to keep guns from criminals: since their inception, they have blocked over 3 million gun sales to prohibited purchasers.

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- According to a study by the Department of Justice, between 1994 and 2014, federal, state, and local agencies conducted background checks on more than 180 million firearm applications and denied 2.82 million gun sales to prohibited purchasers;

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WHEREAS, despite this success, the system is undermined by legal loopholes and missing records that enable too many dangerous individuals to obtain weapons they later use in crimes; and

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WHEREAS, it is estimated that state and federal agencies have failed to report more than one million records of persons with dangerous mental illness into the National Instant Criminal Background Check System ("NICS") which initiates background checks into three databases: the National Crime Information Center (NCIC), the Interstate Identification Index, and the NICS Index; and

WHEREAS, on April 16, 2007, Seung-Hui Cho shot and killed 32 people at Virginia Tech with guns that were legally purchased because records of his mental health status were missing from the NICS; and

WHEREAS, on January 8, 2011, Jared Loughner, someone with a reported history of drug abuse and serious mental illness who should have been in the NICS database but was not, killed six Tucsonans – Christina-Taylor Green, Dorothy Morris, Judge John Roll, Dorwan Stoddard, Phyllis Schneck, and Gabe Zimmerman – and shot 13 others, including U.S. Congresswoman Gabrielle Giffords; and

WHEREAS, on July 20, 2012, James Holmes, using a semi-automatic rifle and other guns, allegedly shot and killed 12 people and injured at least 58 others in a movie theater in Aurora, Colorado, using some of the thousands of rounds of ammunition that the shooter had recently purchased online without any background check; and

WHEREAS, on August 5, 2012, Wade Michael Page, using a semi-automatic handgun, allegedly shot and killed 6 people and injured 3 others at a Sikh temple in Oak Creek, Wisconsin; and

WHEREAS, on October 21, 2012, Radcliffe Haughton, using a semi-automatic handgun, shot and killed his estranged wife and two others; and though a restraining order had

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been issued against Haughton – making him a prohibited person under federal law – Haughton was able to avoid a background check by purchasing the gun from a private seller through armslist.com; and

WHEREAS, on December 14, 2012, Adam Lanza, using two semi-automatic handguns, shot and killed 27 people, including 20 children at Sandy Hook elementary school; and

WHEREAS, the shooter in the Sutherland Springs, Texas massacre should have been prevented from purchasing any firearm because of a domestic violence conviction and court-martial while in the United States Air Force. However, according to news reports, the Air Force did not provide the conviction to the FBI National Crime Information Center database; and

WHEREAS, in the wake of the Virginia Tech shootings, Virginia and other states have submitted hundreds of thousands of new mental health records into the NICS database, yet 19 states have each submitted fewer than 100 mental health records since that massacre; and

WHEREAS, under federal law, licensed gun dealers are mandated to conduct NICS checks before proceeding with a sale, but this requirement does not apply to so-called private sellers who are present in large numbers at gun shows and sell guns over the internet; and

WHEREAS, it is estimated that 6.6 million guns were sold privately in the U.S. between November 2011, and November 2012, and undercover investigations have shown that many private sellers at gun shows and online will proceed with sales even when they are made aware that prospective purchasers cannot pass a background check; and

WHEREAS, more than 12,000 Americans are murdered with guns every year, and too many of these crimes are committed by individuals who are barred from purchasing or possessing guns under federal law; and

WHEREAS, other tragedies including the 1999 Columbine High School shooting in Colorado, the 2010 attack on law enforcement at the Pentagon, and the 2012 mass shooting at a Pittsburgh psychiatric clinic were perpetrated by individuals who obtained guns through unregulated private sales, with no paperwork required and no questions asked; and

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WHEREAS, the Fix Gun Checks Act was introduced in the U.S. Congress, and this legislation would have addressed the two major flaws in the nation's gun background check system by improving compliance with federal record reporting requirements, and by requiring background checks for all U.S. gun sales; and

WHEREAS, 90 percent of Americans and 90 percent of gun owners support fixing gaps in the gun background check database, and 86 percent of Americans, 82 percent of gun owners nationwide, and 74 percent of National Rifle Association ("NRA") members support mandatory criminal background checks for all gun sales; and

~~WHEREAS, the City of Sunrise has been a strong advocate for common sense policies that keep guns out of dangerous hands while respecting the rights of law-abiding gun owners, and strongly believes that Congress and state governments should take action to close deadly gaps in the NICS; and~~

WHEREAS, more than 50 national organizations support closing gaps in the gun background check database and requiring a background check for all gun sales, including the U.S. Conference of Mayors, National Urban League, National Association for the Advancement of Colored People, and the National Coalition Against Domestic Violence, the International Association of Chiefs of Police, the Major Cities Chiefs Association and the Police Executive Research Forum; and

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#### RED FLAG LAWS

WHEREAS, implementation of RED FLAG LAWS, allows the community to protect itself and according to Everytown For Gun Safety:

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- Like many mass shooters, the 19-year-old suspected of shooting and killing at least 17 people and injuring at least 14 others at a high school in Parkland, Florida displayed warning signs prior to the shooting. Unfortunately, Florida does not have a Red Flag Law—a law increasingly being adopted by states that empowers family members and law enforcement to seek an Extreme Risk Protection Order, a court order temporarily restricting a person's access to guns when they pose a danger to self or others. Five states have Red Flag Laws in place—and bills are currently pending in another 18 states;

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- Red Flag Laws can save lives by creating a way for family members and law enforcement to act before warning signs escalate into tragedies;
- When a person is in crisis, loved ones and law enforcement are often the first to see signs that they pose a threat. Red Flag Laws allow them to seek help from a court to remove guns from dangerous situations;
- Red Flag Laws empower law enforcement and immediate family members to petition a court for an Extreme Risk Protection Order, sometimes called a Gun Violence Restraining Order.
- If a court finds that a person poses a significant danger of injuring themselves or others with a firearm, that person is temporarily prohibited from purchasing and possessing guns and is required to turn over their guns while the order is in effect.
- Five states have Red Flag Laws—and bills are currently pending in another 18 states, including Florida;
- A nationwide study of mass shootings from 2009 to 2016 revealed that in at least 42 percent of those incidents, there is documentation that the attacker exhibited dangerous warning signs before the shooting.
- The alleged mass shooter who shot and killed 17 people and injured 14 others at a high school in Parkland, Florida on February 14, 2018 also displayed warning signs prior to the shooting. He was expelled from school, and students and teachers reported that he displayed threatening behavior. His mother contacted law enforcement on multiple occasions regarding his behavior, and he was known to possess firearms.
- Final orders—which generally last for up to one year—can only be issued after notice and an opportunity to be heard. At the hearing, the person would have the chance to respond to evidence that they are too dangerous to have a gun.
- A temporary order—which typically lasts 14 to 21 days—can be issued before a full hearing is held, but only if there is clear evidence that an order is necessary to prevent immediate danger.

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WHEREAS, currently pending in the Florida Legislature is House Bill 231/Senate Bill 530 which would implement a Red Flag Law, and had these bills been passed

and signed into law, there is a high likelihood the Parkland massacre would have been averted and those loved ones saved; and

#### MINORS UNDER FLORIDA LAW ARE PERMITTED TO PURCHASE GUNS

—WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Laws imposing minimum age requirements for the possession and purchase of firearms are intended to decrease access to firearms by young people and, correspondingly, to decrease the number of suicides, homicides, and unintentional shootings among that population;
- In 2014, 21,101 people under the age of 21 were shot by guns. 3,265 died from those gunshot wounds. Of these deaths, 1,925 were classified as homicides, 1,145 as suicides, and 122 as the result of unintentional shootings;
- Firearms were used in 41% of suicide deaths among individuals under age 21 in 2014.

WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Federal law in this area distinguishes between long guns (assault style rifles, rifles and shotguns) and handguns, and between gun possession and gun sales. Federal law also provides stronger age restrictions for sales by licensed gun sellers.
- Licensed firearms dealers may not sell or deliver a handgun or ammunition for a handgun to any person the dealer has reasonable cause to believe is under age 21.
- Dealers may not sell or deliver a long gun, or ammunition for a long gun, to any person the dealer knows or has reasonable cause to believe is under age 18.
- Unlicensed persons may not sell, deliver or otherwise transfer a handgun or handgun ammunition to any person the transferor knows or has reasonable cause to believe is under age 18, with certain exceptions.—
- Unlicensed persons may sell, deliver, or otherwise transfer a long gun or long gun ammunition to a person of any age.

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WHEREAS, in summary, with some exceptions, federal law prohibits the possession of a handgun or handgun ammunition by any person under the age of 18 but does not set a minimum age for the possession of long guns or long gun ammunition; and

WHEREAS, under Florida law, the purchase of a long gun is allowed for a person under 21 years of age; and

WHEREAS, in order to restrict such purchase and/or possession of a long gun, high capacity magazines and ammunition, the Florida legislature would need to amend Fla. Stat. §§ 790.17(2), 790.18; Fla. Stat. § 790.22(3), (5); and

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#### **ASSAULT WEAPON AND HIGH CAPACITY MAGAZINE RESTRICTIONS HAVE BEEN HELD CONSTITUTIONAL**

WHEREAS, Maryland, Connecticut and New York, in response to mass shootings resulting in the massacre of students, teachers and others, passed similar prohibitions on sales of assault weapons and large capacity magazines; and

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WHEREAS, after lengthy litigation, those laws were upheld by U.S. Federal Courts as constitutional, concluding that the Second Amendment does not reach to protect the purchase and sale of weapons of war. Kolbe v. Hogan, 849 F.3d 114 (Fourth Cir. 2017); New York State Rifle and Pistol Ass'n, Inc. v. Cuomo, 804 F.3d 242 (Second Cir. 2015); and

WHEREAS, in response to the Sandy Hook massacre, Maryland enacted the State's Firearm Safety Act of 2013 (the "FSA"), which bans the AR-15 and other military-style rifles and shotguns (referred to as "assault weapons") and detachable large-capacity magazines, providing "that a person may neither "transport an assault weapon into the State" nor "possess, sell, offer to sell, transfer, purchase, or receive an assault weapon." See Md. Code Ann., Crim. Law § 4-303(a). The banned assault weapons include "assault long gun[s]" and "copycat weapon[s]." Id. § 4-301(d)."; and

WHEREAS, the Maryland FSA defines an assault long gun as a rifle or shotgun "listed under § 5-101(r)(2) of the Public Safety Article," including the "Colt AR-15," "Bushmaster semi-auto rifle," and "AK-47 in all forms." See Md. Code Ann., Crim. Law § 4-301(b); Md. Code Ann., Pub. Safety § 5-101(r)(2). The list of prohibited rifles and shotguns consists of "specific assault weapons or their copies, regardless of which company produced and manufactured that assault weapon." See Md. Code Ann., Pub. Safety § 5-101(r)(2); and

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WHEREAS, the Maryland "FSA provides a separate definition for a copycat weapon that is premised on a weapon's characteristics, rather than being identified by a list of specific firearms. In relevant part, a copycat weapon means: (i) a semiautomatic centerfire rifle that can accept a detachable magazine and has any two of the following: 1. a folding stock; 2. a grenade launcher or flare launcher; or 3. a flash suppressor; (ii) a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds; (iii) a semiautomatic centerfire rifle that has an overall length of less than 29 inches; \* \* \* (v) a semiautomatic shotgun that has a folding stock; or (vi) a shotgun with a revolving cylinder. See Md. Code Ann., Crim. Law § 4-301(e)(1)."; and

WHEREAS, "[i]n banning large-capacity magazines along with assault weapons, the FSA provides that "[a] person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine that has a capacity of more than 10 rounds of ammunition for a firearm." See Md. Code Ann., Crim. Law § 4-305(b). A detachable magazine is defined as "an ammunition \*123 feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge." Id. § 4-301(f)."; and

WHEREAS "[u]nder the FSA's exceptions, "[a] licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or a copycat weapon that the licensed firearms dealer lawfully possessed on or before October 1, 2013," and "[a] person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, may ... possess and transport the assault long gun or copycat weapon." See Md. Code Ann., Crim. Law § 4-303(b)(2), (3)(i). The FSA does not ban the possession of a large-capacity magazine. Further, the FSA explicitly allows the receipt and possession of an assault weapon or large-capacity magazine by a retired Maryland law enforcement officer if the assault weapon or large-capacity magazine "is sold or transferred to the person by the law enforcement agency on retirement" or "was purchased or obtained by the person for official use with the law enforcement agency before retirement." Id. § 4-302(7).", and

WHEREAS the Kolbe Court stated "[s]imply put, AR-15-type rifles are "like" M16 rifles under any standard definition of that term. See, e.g., Webster's New International Dictionary 1431 (2d ed. 1948) (defining "like" as "[h]aving the same, or nearly the same, appearance, qualities, or characteristics; similar"); The New Oxford American Dictionary 982 (2d ed. 2005) (defining "like" as "having the same characteristics or qualities as; similar to"). Although an M16 rifle is capable of fully automatic fire and the AR-15 is limited to semiautomatic



fire, their rates of fire (two seconds and as little as five seconds, respectively, to empty a thirty-round magazine) are nearly identical. Moreover, in many situations, the semiautomatic fire of an AR-15 is more accurate and lethal than the automatic fire of an M16. Otherwise, the AR-15 shares the military features—the very qualities and characteristics—that make the M16 a devastating and lethal weapon of war.”; and

WHEREAS, the Kolbe Court held “[w]hatever their other potential uses—including self-defense—the AR-15, other assault weapons, and large-capacity magazines prohibited by the FSA are unquestionably most useful in military service. That is, the banned assault weapons are designed to “kill[ ] or disabl[e] the enemy” on the battlefield. See J.A. 735. The very features that qualify a firearm as a banned assault weapon—such as flash suppressors, barrel shrouds, folding and telescoping stocks, pistol grips, grenade launchers, night sights, and the ability to accept bayonets and large-capacity magazines—“serve specific, combat-functional ends.” See id. at 1120. And, “[t]he net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond that of other firearms in general, including other semiautomatic guns.” Id. at 1121-22.”; and

WHEREAS, the Kolbe Court found, “[l]ikewise, the banned large-capacity magazines “are particularly designed and most suitable for military and law enforcement applications.” See J.A. 891 (noting that large-capacity magazines are meant to “provide[ ] soldiers with a large ammunition supply and the ability to reload rapidly”). Large-capacity magazines enable a shooter to hit “multiple human targets very rapidly”; “contribute to the unique function of any assault weapon to deliver extraordinary firepower”; and are a “uniquely military feature[ ]” of both the banned assault weapons and other firearms to which they may be attached. See id. at 1151.”; and

WHEREAS, the Kolbe Court concluded, “[b]ecause the banned assault weapons and large-capacity magazines are clearly most useful in military service, we are compelled by Heller to recognize that those weapons and magazines are not constitutionally protected.”; and

WHEREAS, the en banc panel of the Fourth Circuit in Kolbe held that “[1] banned weapons and magazines were not protected by Second Amendment; [2] the Maryland FSA did not violate Equal Protection Clause; and [3] the Maryland FSA was not void for vagueness under Due Process Clause;” and

WHEREAS, the Kolbe holding that such reasonable restrictions did not violate the Second Amendment was consistent with the earlier holding of the Second Circuit in New

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York State Rifle and Pistol Ass'n, Inc. v. Cuomo, 804 F.3d 242 (Second Cir. 2015) which held: "[1] laws prohibiting possession of certain semiautomatic weapons, large-capacity magazines, and on number of bullets in a magazine would be reviewed under intermediate scrutiny; [2] prohibitions on possessing certain semiautomatic assault rifles with one or more military-style features did not violate the Second Amendment's right to bear arms; [3] prohibitions on possessing large-capacity magazines not violate the Second Amendment's right to bear arms; [4] New York law prohibiting possession of a magazine for a firearm loaded with more than seven rounds violated the Second Amendment right to bear arms; [5] laws criminalizing possession of magazines that could be "readily restored or converted to accept" more than ten rounds were not unconstitutionally vague; [6] Connecticut law prohibiting possession of certain specified firearms and any "copies or duplicates thereof with the capability of" the listed models was not unconstitutionally vague; [7] New York law prohibiting possession of semiautomatic pistols that were semiautomatic versions of an automatic rifle, shotgun or firearm" was not unconstitutionally vague; and [8] provision of New York law prohibiting semiautomatic assault rifles with a "muzzle break" was not unconstitutionally vague;" and

—WHEREAS, presently pending in Florida is similar legislation, Senate Bill 196/House Bill 219 which would prohibit "the sale or transfer of an assault weapon or large-capacity magazine; specifying circumstances in which the manufacture or transportation of assault weapons or large-capacity magazines is not prohibited; providing enhanced criminal penalties for certain offenses when committed with an assault weapon or large-capacity magazine, etc.;" and

—WHEREAS, following the lead of other states, and having had Federal Courts consistently hold that such restrictions are constitutional, it is time to implement such restrictions; and

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#### **FLORIDA LAW INAPPROPRIATELY PUNISHES ELECTED OFFICIALS FOR TRYING TO PROTECT THEIR RESIDENTS**

—WHEREAS, in 1987, the Florida Legislature passed Chapter 87-23, Laws of Florida, which created Florida Statutes section 790.33 and declared the preemption of the whole field of regulation of firearms and ammunition, reserving the exclusive right to regulate and/or enforce any laws involving firearms and ammunition to the Florida Legislature and the State of Florida; and

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WHEREAS, in 2011, the Florida Legislature passed and Governor Scott signed Chapter 2011-109, Laws of Florida to allow the Governor to remove from office, without due

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process of law, any person acting in an official capacity for a local authority, including an elected official, who passes an ordinance or causes to be enforced a local ordinance, administrative rule or regulation impinging on the exclusive authority of Florida legislature to regulate firearms and ammunition in all respects; and

WHEREAS, the 2011 Amendment to Florida Statutes section 790.33 provides for personal liability of any person who enacts or causes to be enforced any local ordinance impinging upon the Legislature's occupation of the whole field of regulation of firearms and ammunition; and

WHEREAS, the 2011 Amendment to Florida Statutes section 790.33 also provides that if a Court finds a willful or knowing violation of the prohibition on the ability of local government to regulate or enforce firearms or ammunition in any regard, the Court may impose a personal fine of up to \$5,000 on the elected or appointed local government official(s) or administrative agency head and cause the county, agency, municipality, district or other entity to reimburse the legal cost of those who sue to overturn the ordinance, rule, regulation and/or enforcement effort and to pay their actual damages; and

—WHEREAS, pursuant to Florida Statutes section 790.33, local communities appear powerless to enumerate elements of the standard of care which should be met to protect the community; and

—WHEREAS, the City Commission of the City of ~~Sunrise-Fort Lauderdale~~ urgently requests the Governor and Legislature of the State of Florida to address this deficit in law by enacting legislation that would allow municipalities the ability to address these public health, safety and welfare items by enacting local legislation without fear of removal from office, in accordance with the unique local characteristics of a community and with due respect to the risk to public; and

—WHEREAS, local governments have a duty to protect their residents, visitors, tourists and businesses and that such duty should not be infringed upon by State government; and

WHEREAS, according to Subsection 166.041(1)(b), Florida Statutes (2017), a "Resolution" means 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."; and

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WHEREAS, this Resolution is not an administrative rule or regulation impinging upon the State of Florida's exclusive occupation of the field of regulation of firearms and ammunition, and is not a regulation, measure, directive, rule, enactment, order, or policy;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISEFORT LAUDERDALE, FLORIDA:

Section 1. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Resolution.

Section 2. The City urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Section 790.33, Florida Statutes section 790.33.

Section 3. The City supports federal legislation that would require a background check for every firearm sale whether the legislation is enacted by passage of the Fix Gun Checks Act in the United States Congress or some other legislation.

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Section 34. The City urges the Florida legislature to immediately pass House Bill 231/ Senate Bill 530, popularly described as a "Red Flag Law," to protect our community from those who are identifiable as a threat to safety and security.

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Section 45. The City urges immediate amendment to Florida law to raise the age for legal purchase of guns, including long guns, high-high capacity magazines, and ammunition to 21 years of age.

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Section 56. The City urges immediate passage of legislation that would get military-style weapons and high-capacity magazines away from our community and especially our schools and that would increase the minimum age to purchase and possess a weapon-firearm from age 18 to age 21.

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~~Section 6. The City urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Florida Statutes section 790.33.~~

Section 77. The City urges Florida Governor Rick Scott to take action to pass gun reform, even if it means extending the 2018 legislative session, to:

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- a. Raise the minimum age ~~to allow for~~ the purchase of guns and ammunition to 21;
- b. Eliminate the loopholes in the private transfer of weapons and require full background checks for all sales and transfers of firearms;
- c. Repeal the prohibitions and penalties in Section 790.33(3), Florida Statutes;
- d. Enact legislation regarding Red Flag Law to allow Extreme Risk Protection Orders such as those proposed in House Bill 231 and Senate Bill 530;
- e. Enact the Gun Safety legislation set forth in Senate Bill 196 and House Bill 219 to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

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Section 8. \_\_\_\_\_ -The City Clerk is hereby directed to distribute this Resolution to President Donald Trump, Governor Rick Scott, the United States Congressional Delegations from Florida, the Broward County Legislative Delegation, and the Broward League of Cities.

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Section 9. \_\_\_\_\_ -Effective Date. This Resolution shall be effective immediately upon its passage.

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\_\_\_\_\_ PASSED AND ADOPTED THIS \_\_\_\_\_ this this \_\_\_\_\_ DAY OF \_\_\_\_\_ day  
of \_\_\_\_\_, 2018.

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\_\_\_\_\_  
Mayor  
JOHN P. "JACK" SEILER

ATTEST:

\_\_\_\_\_  
City Clerk  
JEFFREY A. MODARELLI

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ATTEST:

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RESOLUTION NO. 18-

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Jeffrey A. Modarelli, City Clerk

Mayor Michael J.

Ryan John P. "Jack" Seiler, Mayor

~~Authentication:~~

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~~Felicia M. Bravo~~  
~~City Clerk~~

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~~Approved by the City Attorney  
as to Form and Legal Sufficiency.~~

~~Kimberly A. Kisslan~~

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