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CITY COUNTY AND LOCAL GOVERNMENT ATTORNEY

September 2, 2022

Via E-Mail Only

Mayor and Commissioners
City of Lake Worth Beach
7 N. Dixie Highway
Lake Worth Beach, FL 33460

RE: Panhandling Ordinance – Agenda Item New Business F

Dear Mayor and Commissioners:

As you are aware, we are recommending that the City Commission consider repealing certain ordinances relating to panhandling primarily.

Over the past year, a number of courts nationwide have struck down panhandling ordinances. The courts have generally established that “solicitation of charitable contributions is protected speech” under the First Amendment of the United States Constitution. The 11th Circuit Court of Appeals (which oversees Florida and other states) has determined that, “like other charitable solicitation, begging is speech entitled to First Amendment Protection.”

On a local level, a federal court has entered a preliminary injunction prohibiting the City of Fort Lauderdale from enforcing their aggressive panhandling ordinance. More recently, the City of West Palm Beach has repealed their panhandling ordinance and paid attorney fees in excess of \$80,000 in a lawsuit challenging their ordinance. Palm Beach County and other local cities have also been sued.

As a result of these, and other lawsuits, the Palm Beach County Sherriff’s Office ceased enforcing panhandling ordinance countywide in January 2022.

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On June 29, 2022, the City of Lake Worth Beach was sued. As with numerous other panhandling cases, the Plaintiffs are seeking an injunction to enjoin the enforcement of the City's panhandling ordinances, alleging a violation of the First Amendment.

The City, through our insurance carrier, assigned Ben Bedard, of the Roberts, Reynolds, Beddard & Tuzzio firm, to represent the City. Recognizing the potential risk to the City of an order granting injunctive relief, and potentially awaiting damages and attorney's fees, Mr. Bedard has requested that the federal court stay (suspend) this lawsuit until the City Commission has had an opportunity to consider repealing these ordinances.

On August 19, 2022, the Federal Court entered the attached Order staying this matter until the City Commission has taken a final vote on whether to repeal these ordinances. As you can see, the Court requires the City to file status reports every three (3) weeks as to whether the ordinances are being repealed.

Based on the current state of the law in this area, we are recommending that the City Commission consider repealing these ordinances.

Sincerely,



Glen J. Torcivia
City Attorney

Enclosures

c: Carmen Davis
c: Captain Baer
c: Melissa Coyne

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-80951-CIV-DIMITROULEAS

CRAIG KERSH, MICHAEL FIELDS, ROY
KERSH, AND JAMES R. SOARES,

Plaintiffs,

vs.

CITY OF LAKE WORTH BEACH, FLA.,

Defendant.

**ORDER ON UNOPPOSED MOTION TO STAY AND FOR EXTENSION OF TIME TO
RESPOND TO PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF**

THIS CAUSE is before the Court upon Defendant City of Lake Worth Beach (“Defendant”)’s Unopposed Motion to Stay and for Extension of Time to Respond to Plaintiffs’ Motion for Injunctive Relief [DE 13], filed on August 18, 2022. The Court has carefully considered the Motion, the record, and is otherwise fully advised in the premises.

Defendant states that it intends to place the panhandling and right of way ordinances at the center of this dispute on the agenda for its upcoming City Commission meeting for a vote to repeal. As a vote to repeal the ordinances would render the injunctive relief Plaintiffs are seeking moot, Defendant requests a stay of this action until a final vote on repeal of the ordinances is held, which Defendant estimates will take six to eight weeks. Moreover, if the City Commission declines to repeal the ordinances, Defendant requests fourteen (14) days from the date of the final vote to respond to Plaintiffs’ Motion for Preliminary Injunction [DE 11].


Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Defendant’s Unopposed Motion to Stay and for Extension of Time to Respond to

Plaintiffs' Motion for Injunctive Relief (the "Motion") [DE 13] is **GRANTED IN PART**;

2. Defendant shall file a status report on or before **September 2, 2022** and every three (3) weeks thereafter;
3. This action is **STAYED** for a duration of sixty (60) days from the date of this Order, **or** until a final vote by the City Commission on repealing the subject ordinances is held, whichever is sooner; and
4. Defendant shall have seven (7) days from the Court's order lifting the stay to respond to Plaintiffs' Motion for Preliminary Injunction [DE 11] if, at that time, the subject ordinances have not been repealed.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,
this 19th day of August, 2022.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Counsel of record
Magistrate Judge McCabe