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In October 2009, Hollywood ophthalmologist Alan Mendelsohn was indicted for operating a \$2 million influence-peddling operation. Using the Florida Medical Association as a vehicle for transferring money to legislative candidates who later delivered key votes in Tallahassee, the slick-suited power broker also skimmed \$350,000 from his political fundraising apparatus to pay a mistress, feather a love nest and bankroll his children's education. By using the 527 tax designation, he could bypass the \$500 contribution limit and raise an inland lake of "soft money." While busy funneling \$millions through three political slush funds, Mendelsohn served on Governor Crist's transition team.

Faced with a threat to his wobbly political image, Crist sought to distance himself from his tainted supporter by asking the Supreme Court to convene a statewide Grand Jury to investigate corruption. Not wanting to appear complicit in the Governor's self-absolution strategy, the Court declined, calling the Governor's rationale "vague". On December 1, 2009, when the Feds bagged Attorney Scott Rothstein for operating a \$1.2 billion ponzi scheme, the national media painted the entire state as a behavioral sink. Literally overnight, on December 2nd, the Supreme Court approved Crist's amended request and appointed Broward Chief Judge Victor Tobin of the 17th Circuit to preside over the grand jury. It opened for business in February, 2010.

To provide lawmakers with relevant guidelines for the upcoming 2011 Legislative session, the Grand Jury completed a 127-page "Interim Report" on December 17, 2010 and released it on December 29th. The report states "We believe that the time for action is now, and we urge the Florida Legislature and other governmental bodies to address anti-corruption efforts using our findings and recommendations as a starting point."

While comprehensive, the report's tone is cynical, like a redundant complaint. After noting that recommendations from previous authoritative anti-corruption efforts were enacted slowly, ineffectively or not at all, the report acknowledges the dogma facing lawmakers, "We cannot ignore the reality that it is often hard to impose more severe restrictions on one's own interests." The jurors were particularly irritated by the fact that Florida's more than 800 federal corruption convictions from 1998 through 2007 lead the nation - by a country mile.

Decrying corruption "pervasive at all levels of government," the Grand Jury observed that "mismanagement and theft penalizes taxpayers by driving up the cost of all government services" and "calls for an immediate repeal of what can only be referred to as Florida's Corruption Tax." Lamenting gross statutory deficiencies in education, deterrence and enforcement, the jurors offered the following four reasons why "public officials are often not being punished under the public corruption laws in Florida."

- The act is not criminalized;
- The cases are too difficult to prove due to their definitions and extra elements of proof;
- The punishments imposed too lenient and do not fit the crime;
- 4. The prosecutor decides to charge another crime or accept a plea in order to allow a defendant to avoid the negative publicity of public corruption charges.

Under a guote by Thomas Jefferson, "Where a man assumes a public trust, he should consider himself a public property," The Grand Jury listed its recommendations. Jurors viewed the first two items as systemic problems, citing differences in how civil and criminal violations vary for elected officials, bureaucrats, other government employees and "fellow conspirators" in the private sector. Of specific concern were some adverse effects of privatization on former Government Departments.



# reach the 7,000 condos: 26 high-rises on the Galt Mile

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# YELLOW BULB SEASON ON THE GALT MILE

At the onset of the Sea Turtle nesting Season, Galt Mile residents notice a change in how the seaward side of their homes is illuminated at night. Lamps are suddenly fitted with yellow bulbs or turned off altogether. Others fixtures sprout strange shields or screens. While saving electricity is a prominent association budget objective, it doesn't explain this seasonal phenomenon. n.

In April, 2007, the City of Fort Lauderdale sent a violation notice to every beachfront association along the Galt Mile. The blank notice area was footnoted with "6-51 Artificial Lighting Violation." The footnote referred to a little known city ordinance governing turtle-safe lighting requirements for beachfront communities. 14 days were allotted to cure the mysterious infraction. In a nutshell, it required associations to turn off lights illuminating the east side of each building during the eight-month turtle nesting season...

Within 48 hours, confused and irate managers and association officials from 14 Galt Mile Community Association (GMCA) members contacted the neighborhood association with questions about the surprise violation notice. The obscure 2003 ordinance was shelved when the catastrophe-riddled 2004 and 2005 hurricane seasons made enforcement impossible. The notice was a ham-handed attempt to revive the dormant regulation. The ordinance opens with "It is the policy of the City of Fort Lauderdale that no artificial light shall illuminate any area of the incorporated beaches of Fort Lauderdale, Florida." Any light source visible from the beach triggered a violation.

Within 48 hours, confused and irate managers and association officials from fourteen Galt Mile Community Association (GMCA) members contacted the neighborhood association with questions about the surprise violation notice. The obscure 2003 ordinance was shelved when the catastrophe-riddled 2004 and 2005 hurricane seasons made enforcement impossible. The notice was a ham-handed attempt to revive the dormant regulation. The ordinance opens with "It is the policy of the City of Fort Lauderdale that no artificial light shall illuminate any area of the incorporated beaches of Fort Lauderdale, Florida." Any light source visible from the beach triggered a violation.

A few days later, GMCA officials met with Al Lovingshimer, the City of Fort Lauderdale Code Inspector who signed the notices. Addressing the heavy-handed manner in which associations were notified, Lovingshimer said "I regret any confusion caused by the threatening tone of the notices, we simply wanted to improve the survival rates for turtle hatchlings and their nesting mothers. It is unfortunate that half the boilerplate notice was devoted to non-compliance penalties. That was not the message we wanted to get across." He was charged with enforcing an ordi-nance that few residents were familiar with and fewer understood. Lovingshimer said that he simply wanted to explain the ordinance to Galt Mile residents. A few weeks earlier, when he and some Broward officials convened a meeting in Lauderdale-by-the-Sea to inform community residents about that town's version of the ordinance, almost no one showed up. After admitting, "I don't know where to start," he asked for help.

Riparian Road Kill

For millions of years, nesting sea turtles have been laying their eggs on Broward beaches. Their hatchlings were guided to the ocean by an instinct to travel away from the dark silhouettes of dune vegetation and toward the moonlight-illuminated open ocean. In many populated coastal areas, artificial lights near the beach are brighter than the moonlit ocean, reversing the turtles' biological compass. Nesting



females seeking the darkened shore instead head out to sea where they cannot lay their eggs. If they find the shore and successfully deposit their eggs, the disoriented hatchlings travel inland, toward the artificial lights, where they often die from dehydration or predation by fire ants and ghost crabs. They also become "road kill" on local thoroughfares.

Sea turtles are either endangered or threatened (the loggerhead is the only species that has sufficient population to be classified as threatened in Florida). They are protected under the Federal Endangered Species Act of 1973 and Florida's Marine Turtle Protection Act (379.2431, Florida Statutes). Florida Law (F.A.C. Rule 68E-1) also restricts molestation or harassment of marine turtles, nests or eggs as well as the marine turtle habitat. The Florida Department of Environmental Protection (FDEP) and the Florida Fish and Wildlife Conservation Commission (FWC) together review permits for coastal construction under Chapter 62B, F.A.C. (Florida Administrative Code) that affects Marine Turtles. The state of Florida developed a model lighting template (62B-55, F.A.C.) to guide local governments in creating turtle-safe lighting ordinances.

Broward County adopted Chapter 39, Article IX, Sec 39-107 in 1989. Ten years later, Pompano Beach followed their lead (Ords 99-18, 2000-64), Deerfield Beach in 2000 (Chapter 34, Article V, Sec 34-96), Hallandale Beach in 2001 (Ch. 6, Art. I), Lauderdale-by-the-Sea in 2002 and Fort Lauderdale in 2003 (Chapter 6, Article III. Div. 2, Sec. erdale in 2003 (Chapter 6, Article III, Div. 2, Sec. 6-51). Every jurisdiction that passed a local variation of the State template assigned a liaison to the Florida Fish and Wildlife Conservation Commission. Fort Lauderdale's official contact in 2007 was Al Lovingshimer.

Environmental Spooks

Lovingshimer complained that the City was being pressured by Tallahassee to achieve results at the expense of public safety. As the City's liaison officer with Florida Fish & Wildlife's (FWC) Sea Turtle program, he was summoned to Tallahassee for workshops organized to prepare local "representatives" for their duties. While most of the FWC personnel openly advocated diplomacy, restraint, education and good sense when enforcing a turtle-safe



# BERGER BASHES BAD

By Eric Berkowitz

Last year, powerful special interests racked up significant financial losses when lawmakers passed long-awaited relief bills. Highly paid lobbyists, hoping to rehabilitate their credibility, promised angry clients a measure of recovery. Also, after the 2010 session, the Governor vetoed an unusually large number of bills designed to financially soak residents of common interest communities. Given significant changes to the political landscape, pro-association legislative advocates are concerned about the upcoming session in Tallahassee regressing into a forum for payback.

Most association members know that the Sprinkler Associations lost \$billions when Senate Bill 1196 made sprinkler installations optional. Fewer know that the Fire Services Industry also lost a sweetheart deal to install manual fire alarm systems in association buildings that are less than four stories with units serviced by an exterior means of egress (the National Fire Protection Association (NFPA) declared them "unnecessary"). Sprinkler Associations weren't the only trade organizations burned by the Omnibus Association bill.

Doubling the assessment outlay from 6 to 12 months for foreclosing lenders left the Banking Industry with an expensive scar. The hefty list of insurance fixes contained in the bill lost a bundle for the Insurance Industry (The bill relieved associations of the responsibility to force-place HO-6 policies for every unit owner). The elevator industry took a double hit. Not only did the bill spoil plans to install tens of thousands of elevator back-up generators (in buildings that al-ready had back-up generators), it postponed a mandate to retrofit condo elevators with special access keys (as required for Phase II Firefighters' Service) until the elevators needed modernization (and access key installation costs nearly disappear). All told, the \$billions that the Omnibus Association bill saved unit owners were lost to some of Tallahassee's most powerful players.

On November 1, 2010, Community Advocacy Network (CAN) Executive Director Donna Berger - an activist Association Attorney and Managing Partner at Katzman Garfinkel and Berger (ironically burdened with the double-edged acronym "KGB") - addressed about 70 association officials attending a Presidents Council meeting at the Fountainhead. After reviewing how laws enacted during the 2010 legislative session impacted associations, Berger fielded questions; primarily about the sprinkler retrofit relief provisions in Senate Bill 1196. When asked for an opinion about when associations should hold the full membership vote to forego the cash-intensive retrofit, Berger said "Now that the relief bill has been signed into law, I think that associations should conduct the opt-out vote as soon as possible." She explained that two factors prompted her to passionately recommend quick action.

Berger warned "There's just too much money at stake for Fire Services industry lobbyists to quietly walk away." With a virtually bot-

tomless war chest continually replenished by corporate fire services giants such as Motorola, Allied Signal-Honeywell, Fireman's Fund Insurance Company and Tyco, industry lobbyists plan to pressure law-makers at the 2011 legislative session to rescind the opt-out provision. Introducing her second cause for concern, Berger said "In 2011, the political environment in Tallahassee will become significantly less sympathetic to association concerns." Former Statehouse legislative gatekeeper (and relief bill sponsor) Ellyn Bogdanoff is now a first-term District 25 Florida Senator and former Senate President (and Galt Mile association supporter) Jeffrey Atwater is now the Florida CFO (Chief Financial Officer) and State Fire Marshal. These two staunch association proponents no longer occupy the key legislative leadership positions that helped unit owners prevail last year. Moreover, the Governor's mansion is occupied by Rick Scott, whose moral compass even provided his supporters with comic relief.

Berger asserted that once the major races were decided; constituent concerns in Tallahassee would drop like a rock. She anticipated resubmission of several screwball insurance bills ghosted by industry lobbyists, a banking bill that would replace foreclosure courts with lender-appointed puppet committees, a Chinese menu of regressive construction legislation and other damaging bills either outlined or wholly drafted by lobbyists. Of particular concern to Berger were some of last year's exploitive bills that would have become law without the Governor's veto pen. She warned that they are likely to resurface this year.

Berger's exhortation proved prophetic. Some of the bills she described have already been pre-filed by their sponsors. On December 17, 2010, Senator Joe Negron (Palm City - R) filed Senate Bill 288, which navigated last year's session as Senate Bill 1964. The bill enigmatically deifies Design Professionals, immunizing architects, interior designers, landscape architects, engineers, & surveyors to legal redress. It contains an intriguing Catch-22 provision specifically designed to eliminate both liability and the cost of malpractice insurance for these professions.

The legislation allows recovery of economic damages up to the amount of the design professional's existing liability insurance coverage. Since current Florida law doesn't actually require this insurance and the bill would otherwise render them judgment-proof, Design professionals will have little incentive to purchase malpractice insurance. In effect, by cancelling their insurance, they also cancel their exposure. Unless an association's engineer, interior designer and/or architect feels morally compelled to pay premiums for a malpractice policy, the association cannot recover damage costs for negligence, defective designs and/or other professional foul-ups. If an engineer designs, oversees construction for and signs off on a structurally defective roof that collapses later that day or a landscape architect turns the entire association grounds into crispy brown mulch overnight, the association would not even be legally entitled to an apology.



lighting ordinance, a few program officials attempted to enlist code offi-cers to an agenda that deliberately inflamed controversy with coastal res-idents. When they confided in Lovingshimer that the State's coastal environment could only be salvaged by purging beachfront residents, he realized that they were more interested in provoking a high visibility environmental litigation than saving hatchlings.

When Lovingshimer asked why he should follow their advice and risk a reprimand or suspension, they told him that this was a war, requiring "whatever it takes" to win. Lovingshimer described an incident wherein he was approached by two FWC officials who asked if he would be willing to order the shuttering of all windows overlooking the beach for the turtle nesting season (a mitigation strategy described in the ordinance). Another asked if he could disable (vandalize) lamps on private property (not part of the ordinance). He characterized them as a small but vocal clique of "dangerous CIA wannabes" who promote a radical agenda from within the State's environmental bureaucracy. Emphasizing that they do not reflect official FWC policy, Lovingshimer commented, "It's too bad, Dr. Trindell (FWC Marine Turtle Program Biological Administrator Dr. Robbin Trindell) has done so much to rescue these species from extinction while these losse cannons are undermising her official." He are tinction while these loose cannons are undermining her efforts." He assured GMCA officials that their efforts to recruit local compliance personnel were unsuccessful, explaining, "Professional code compliance officers are dedicated to resident safety, not declaring war on the residents they are supposed to protect."

GMCA officials were initially concerned that Lovingshimer's anecdote verged on paranoia. However, when the City later turned off street lights along A1A before installing turtle-safe replacement lighting - virtually blackening the entire downtown beach area for months – it became evident that Lovingshimer was not only lucid, but dead on target.

The City got another dose of the State's environmental schizophrenia when huge sections of the abandoned 50-foot fishing vessel "Seas a Lady" washed up on the Galt Mile beach on September 28, 2008. Despite complaints by hundreds of residents, City Commissioners and Broward officials, the Florida Department of Environmental Protection (FDEP) refused to authorize cleanup of the admittedly hazardous wreck site, citing the proximity of turtle nests – some hundreds of feet away.

When the City Manager contacted FDEP weeks after Broward Beach officials inspected the nest sites and approved a cleanup, he was stonewalled by the agency. When municipal and county health officials declared a health alert, former Commissioner Christine Teel and former City Manager George Gretsas breached jurisdictional protocols and personally managed the cleanup. Fearing a threatened class action lawsuit by beachfront residents, the State backed off.

Ironically, the coastal Armageddon planned by Lovingshimer's "CIA wannabes" has seen a modicum of local traction. Repeatedly chaffed by the State's callous treatment of Galt Mile residents, some of our irate neighbors began crusading against environmental issues they historically supported. Local blogs became filled with anti- and pro-Sea Turtle rantings. Emails sent to newspapers and the GMCA by otherwise environ-mentally conscientious people suddenly expressed a level of hate for turtles that is usually reserved for mass murderers. At the height of last year's nesting season, when scores of residents sent admiring pictures of nest sites and hatchlings to the neighborhood association web site, less affable correspondences suggested opening seasonal "turtle bars" specializing in fried hatchlings or fresh turtle soup.

Responding to GMCA safety concerns about suddenly darkening the beach side of every association, Lovingshimer stressed the importance of finding a viable balance between residents' safety and survival prospects for the endangered species. He said that using motion detectors, screens, shields, downlights and fixtures incorporating light-management techniques could expedite compliance while minimizing many of the adverse safety impacts. Lovingshimer remarked "Since the ordinance was first passed, research has provided inexpensive new lighting options to address the problems for both people and turtles." Lovingshimer incidentally confided that he would consider his efforts successful if he could deliver a 50% improvement within two years.

Continued on page 8

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Months earlier, academicians from Nova Southeast University patrolled the entire Fort Lauderdale coast to evaluate light sources illuminating the beach. As they passed each building, a camera operator videotaped the structure's ocean-facing east side while a colleague scripted relevant observations. They documented the placement and intensity of every light visible from the beach. Their report formed the basis for the violation notices later received by Galt Mile associations.

Negotiating Ingredients

Using data recorded by the Nova team, Lovingshimer met with GMCA officials to outline a resolution to the problem. with GMCA officials to outline a resolution to the problem. Lighting violations were first graded by their degree of impact on Sea Turtle behavior. The factors included color, brightness, proximity to the beach, and broadcast characteristics. The brightest lights that were closest to the beach were assigned an "A" rating while ambient or indirect light sources (much dimmer reflected light) were assigned "D" ratings. With the help of a lighting contractor, infractions were also sorted by mitigation cost.

There are minor variations in how the 5 local species (Loggerhead, Green, Leatherback, Kemp's Ridley, Hawksbill) of Sea Turtles react to the differing colors (wavelengths) of light, although they are all sensitive to colors with short wavelengths. Ranging into the ultraviolet, their color perception is strangest for short wavelength spectral violets, purples, blues and greens. The relatively high sensitivity of turtles to short

wavelengths is not surprising considering that they live in a medium the ocean – which selectively filters out long wavelength colors (to see brightly colored – long-wavelength – red, yellow or orange marine life, you'd better sign up for a shallow dive).

As such, replacing standard white light sources (which include the entire visible spectrum) with monochromatic yellow, orange or red lights is one visible spectrum) with monochromatic yellow, orange or red lights is one acceptable compliance option. The average commercially available "yellow bulb" is actually a full spectrum white light source encased in a glass bulb with a yellow coating. Unless the coating filters out other wavelengths (like some "bug lamps"), this is functionally identical to an ordinary white light source. Ideally, the light source within the bulb should emit monochromatic (single wavelength) yellow light. While monochromatic and polychromatic yellow bulbs appear the same to us, turles react differently to the two light sources!

After reviewing the data, GMCA officials determined that a vast majority of the violations could be easily resolved by in-house maintenance staffers inserting aluminum/composite shields or screens into or next to existing fixtures. When properly applied, these devices blocked light that would otherwise illuminate the beach without severely darkening deck surfaces. Unfortunately, roughly 10% of the violations could only be addressed by completely replacing heavy duty deck lamps costing \$thousands. This was a problem.

Associations were still reeling from the huge fiscal battering suffered from storm damage repairs, skyrocketing windstorm insurance rates and installation costs of impact rated hurricane windows and/or shutters. The recession was already taking a toll on properly values and assessment obligations were inflated by non-contributing units frozen in foreclosure Elderly residents on fixed incomes were often forced to decide between filling a prescription and eating dinner. Any lighting adaptation plan would have to be accomplished on a shoestring. Given that most deck lamps last about ten years, when an offending lamp reached the end of its serviceable life, the association could install a turtle-safe replacement without placing an early burden on the budget.

In a proposal to Lovingshimer, we offered to guarantee voluntary mitigation for 90% of the violations within two to three months if the City would allow associations with deck lamp violations to postpone any action until the need for replacement was imminent.



No other class of professional has ever been so completely financially insulated from damages stemming from negligence or professional mistakes. As doctors, lawyers, and accountants cannot limit exposure for their own negligence, extending this all-encompassing immunity to engineers, architects and Interior Designers conjures a universe shaped by the conceptual progeny of Lewis Carroll and Ayn Rand.

Last year's companion legislation in the Statehouse - House Bill 701 - was filed by Orlando Representative Stephen Precourt, a professional Transportation Engineer. The legislation was approved in both legislative bodies and presented to the Governor on May 17, 2010. When Florida residents raised hell about the ludicrous protections it provided to Design Professionals, Governor Crist responded with a veto on June 1, 2010.

In a comment posted on the Florida Construction Law Authority blog, Board Certified Construction attorney Lee Weintraub of Becker & Poliakoff explained that, at best, a claimant would be limited to suing for breach of contract. Weintraub added "most design contracts limit the design professional's liability to some paltry amount that pales in comparison to the harm that comes from defective design." In summary, the few bucks awarded for a contract breach will barely cover the postage costs of the recovery action, much less the actual damage costs.

Another fiasco approved by last year's Legislature was Senate Bill 2044, filed by Banking and Insurance Chair Senator Garrett S. Richter (Florida Insurance Council 2009 Legislator of the Year). If the Governor hadn't vetoed the bill, insurance carriers could bypass current Office of Insurance Regulation (OIR) petition procedures when raising their rates by more than 10%. The bill would have permitted an insurance carrier to imperceptibly yet radically change the terms of any policy upon renewal by slipping in the language "Notice of Change in Policy Terms" anywhere in the renewal agreement. Since a subsequent payment of the renewal premium would have constituted acceptance of the new terms, this stealth "bait and switch" tactic would have allowed carriers to covertly lace policies with a host of unreasonable preconditions and unacceptable benefit exemptions without the knowledge of the policyholder.

Of greatest importance to associations, the bill would have removed the prompt payment requirements for carriers. A carrier would have only been required to pay "actual cash value" less the deductible, regardless of whether or not the policyholder purchased "replacement cost" coverage. The balance would not be paid until AFTER the homeowner somehow financed the reconstruction and/or replacement of personal property WITHOUT insurance proceeds (along with all the non-insured items). The 110-page "manifesto" contained dozens of other customer-funded cash piñatas for carriers. While associations were concentrating on supporting their relief bill, this and a dozen other special interest scams came within a hair of enactment.

This year's incarnation is Senate Bill 408 by – you guessed it – Garrett Richter. The 113-page carrier's dream bill allows insurers to hike rates to off-set discounts to homeowners for hurricane mitigation measures such as impact windows and hurricane shutters. The bill reduces the notice required for cancellation or non-renewal of a customer's policy from 6 to 3 months and allows carriers to spontaneously change amounts paid to policyholders for damages. Like last year's bill, SB 408 is chock full of other "goodies" that will appeal to shareholders, not policyholders.

Berger concluded that unless associations frustrate industry attempts to take back last year's gains, unit owners could soon find themselves fighting the same battles they won in 2010. To insure that association officials statewide were provided with an opportunity to familiarize themselves with 2011's legislative objectives and obstacles, Berger organized training sessions themed like a military-style Boot Camp. Her "Tallahassee" strategy emulated General George S. Patton, who described the rationale for his rescue campaign during the Battle of the Bulge, "I don't like paying for the same real estate twice."

Although associations lost irreplaceable legislative assets when Bogdanoff and Atwater moved up the political food chain, Berger's Community Advocacy Network (CAN) and Becker & Poliakoff's Community Association Leadership Lobby (CALL) effectively streamlined the communication networks available to associations and their members during the legislative session. This new vehicle played a critical role in the last session's productivity by allowing associations to react quickly and in force when confronted by political pitfalls.

If association members use this new tool to thwart the upcoming session's bad bills, it will go a long way to control future maintenance costs. If not, these bills could wind up being escorted into Rick Scott's office by their authoring lobbyists. Six days before announcing his gubernatorial candidacy, the Governor was deposed in a case investigated by FDLE wherein his new company, Solantic, defrauded Medicare and Scott lied to regulators.

After curing the violations with his checkbook, the citizens of Florida decided to reward his "integrity" with guardianship of the public trust, remanding the defendant to the Governor's mansion.

Given his history of hammering the public to benefit shareholders, no one craves learning what Governor Scott will do while courted by lobbyists armed with numbered Cayman Island accounts and marching orders to "do whatever it takes!" The Galt Mile Community Association will closely monitor the session and pass on progress updates as necessary. By the session's end, curious Florida residents will know whether their new rainmaker views them as "shareholders" or "the public." Stay tuned...•

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Moreover, since most high intensity deck lamps were installed on association parking decks - a substantial distance from the beach - none of them fell into the "A" (most threatening) category. After consulting with former Inspections Manager Cate McCaffrey, Lovingshimer agreed. Going forward, code inspectors would work with associations to insure that compliance didn't sacrifice resident safety or blast holes in the association budget.

The Meeting

Following approval of the arrangement by the Galt Mile Advisory Board a few weeks later, former Code Compliance chief McCaff rey off e red to address association concers by participating in a joint presentation by City and County environmental officials. At the May 7, 2007 Presidents Council meeting in Playa del Mar, after Lovingshimer summarized the general agreement, Natural Resource Specialist Lou Fisher from the Beach and Marine Section of Broward County's Natural Resources Planning and Management Division described how various types of lighting affect Sea Turtle nesting habits and hatchling behavior – the scientific rationale for the ordinance. Fisher works with retiring Broward Beach Administrator Stephen Higgins, a primary engineer of the Broward County Beach Renourishment Project.

After Fisher congratulated Galt Mile Associations for voluntarily creating a vehicle that balanced resident safety with Sea Turtle survival, questions were fielded by Lovingshimer, Fisher, McCaffrey, Public Works Facilities Manager Tom Terrell and Environmental Services' Kris McFadden.

Within the next three months, every association kept its commitment, addressing more than 90% of the lighting violations along the Galt Mile beach. Shortly after Loving-shimer declared the project a success, the Galt Mile suddenly lost a good friend in Code Compliance – Al Lovingshimer passed away. On November 20, 2007, Lovingshimer was posthumously named "2007 Code Enforcement Officer of the Year" by Building Department chief Valerie Bohlander.

#### What Now?

Soon after Lovingshimer's untimely demise, Cate McCaff rey was promoted to Director of Business Enterprises and Michael Maloney was named Manager of the Code Compliance Division. GMCA officials met with Mr. Maloney at the Regency Tower to confirm our understanding with the City. By 2010, Lovingshimer's "turtle-safe lighting" hat was passed to Code Compliance officer Mario Sotolongo. Not only is Sotolongo familiar with the neighborhood and experienced with helping

member associations explore frugal compliance optionslike Lovingshimer - he assigns a higher priority to resident safety than racking up support statistics for depopulation spooks in Tallahassee.

When beachfront buildings first adapted seaward fixtures with shields and screens to quickly and inexpensively comply with City Law, the oceanfront evening environments of many associations noticeably dimmed. As lamps that were hastily jury-rigged with blocking devices a few years ago gave up the ghost, many associations replaced them with high intensity bollards, fixtures with monochromatic yellow bulbs or high intensity directional fixtures – preferably as part of a professional lighting plan – that brightened the deck without illuminating the adjacent beach. Several of the high intensity deck lamps have also been replaced with compliant fixtures.

A Heads Up

During the past three years, several associations reported receiving telephone threats from people or organizations claiming enforcement authority for the City lighting ordinance. When the neighborhood association contacted Fort Lauderdale's Code Compliance Division, they confirmed that the claims were fraudulent.

The only authority empowered to enforce the City's lighting ordinance is the Code Compliance Division of the Fort Lauderdale Building Department. To avoid headaches and save money, associations planning to alter or upgrade their lighting should contact Mario Sotolongo at 954-828-6326. While keeping the neighborhood association up to speed about compliance issues, Mario spent the past few years working directly with member associations to remedy legitimate violations and dismiss baseless or unreasonable complaints. In November, 2010, while assisting four Galt Mile associations upgrade or modify beachfront lighting, Sotolongo said "In this neighborhood, most people and their associations want to do the right thing. However, they want lighting solutions that are right for both people and turtles." Wo rds of wisdom!•



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One non-profit organization whose functions were formerly performed by a Government agency created to channel Federal Funds to needy citizens was nailed for bid rigging, kickbacks, and bribery. The Company habitually spent money on excessive program costs including clothes, laptops, field trips, and elaborate graduation ceremonies with champagne toasts. Although they were doing Government business using taxpayer dollars, the jurors found it "frustrating and absurd" that the employees or recipients of this government funded contract couldn't be charged under Chapter 838 (a statute that governs the behavior of Public Officials) since they technically weren't "public servants."

Other instances included a suspect who was paid cash to falsify the number of community service hours completed by a probationer for the Department of Corrections; another took cash from undercover law enforcement officers to dodge reporting and other requirements of a pre-trial release program. Home inspectors paid with taxpayer dollars religiously falsified records about conducting home visits. The State Attorney's Office concluded that since these employees failed to meet the definition of "public servant", no charges could be filed under Chapter 838.

Privatization proponents extol the fiscal virtues of replacing lumbering Governmental bureaucracies with profit-oriented corporate machinery. The report surmised that the taxpayer-funded corporate waste, fraud and abuse that replaced Government waste, fraud and abuse wasn't subject to oversight or prosecution. When an agency is privatized, taxpayers continue to fund program deficits. The Grand Jury noted the impact this portends for Florida's prisons, many of which are or will be privatized. The bribes paid to guards and prison officials increase the costs of incarceration, which are then paid by taxpayers. The jurors submit "The time has come for the Legislature to close this appalling loophole."

To differentiate between criminal consequences for an action under Chapter 838 and civil penalties for the same action in the State's Code of Ethics, the Legislature used the words "corruptly" or "with corrupt intent" throughout Chapter 838. The panel points out that legally there is no distinction and the language was used solely to create a prosecutorial burden that is nearly impossible to meet. The Grand Jury concluded, "We find that the standard criminal burden of 'intentionally' or 'knowingly' is sufficient to establish a public servant has acted with scienter (guilty knowledge) as to separate these offenses from an unintentional violation which may be civil."

Having demonstrated that the poorly drafted laws regulating Florida's government procurement process invite corruption, the jurors want the legislature to enact a realistic "Bid tampering or bid rigging" statute - using Federal regulations as a template. They identify Bid Suppression, Complementary Bidding, Bid Rotation and Customer or Market Allocation as the four major schemes widely used by conspiring contractors. Even when perpetrators are caught red-handed, the current Florida statute is so limited that most jurisdictions refuse to waste resources prosecuting these offenses. Contractors can split bids with impunity, use shills and middlemen, maintain no records, perform shoddy or no work and still get paid.

Bribes have become a statewide way of life since the Florida Supreme Court held that Florida's commercial bribe receiving law under F.S. 838.15 was unconstitutionally vague. About half of the bottom line for dealerships selling big ticket items like automobiles, boats or construction equipment is generated by associated finance and insurance (F&I) subsidiaries. Employed as an inde-pendent contractor for Miami-based Kelly Tractor Company, Mark Smith received commissions for lining up loan candidates. Predatory Credit Manager Robert Roque hammered Smith for 33 -

40% kickbacks on deals Smith negotiated from October 1, 1990, to June 30, 1991, when Smith finally refused to continue being covertly victimized. When Roque was charged with 35 counts of "Commercial Bribe Receiving," the Court granted his motion to dismiss the charges, finding the poorly drafted statute unconstitutionally vague and susceptible to arbitrary application. Although reversed on appeal, the Florida Supreme Court quashed, agreeing with the lower court's invalidation of F.S. 838.15

Since Roque v. State was adjudicated more than 15 years ago, the legislature has done nothing to reconstruct the judicially neutered statute. After describing a litary of outrageous payoffs by contractors, mortgage brokers, etc the Grand Jury asserts "As it stands now, commercial bribery is not unlawful under Florida law and it will remain this way until the Legislature is forced to address these statutory flaws. In our opinion, it would take little effort and have no budgetary impact to redraft these statutes so that they address the constitutional concerns outlined by the courts." Don't hold your breath - the jurors certainly aren't.

A Palm Beach County grand jury proposal to prevent pleading down to a lesser charge by public officials who misuse their office was adopted by the Grand Jury. Called "Under the Color of Law", crimes committed by public servants would be increased by one degree of classification and one level of severity, not knocked down to a parking ticket.

The panel identifies several ethics violations that should be criminalized, including soliciting or accepting a gift, unauthorized compen-sation, or misuse of public position. Instead of the customary slap on the wrist, categorizing these violations as third degree felonies would guarantee that they leave a scar - in the form of a criminal

Voting conflicts of interest should be criminally punished as well. Other conflicts recommended for criminalization include doing business with one's agency, entering into conflicting employment or contractual relationships, using the office to secure a special privilege, benefit, or exemption for the officeholder, or others. Since the punishment should be commensurate with the size of the rip-off, the Grand Jury recommends linking it to a sliding scale of monetary thresholds.

To "hold government officials accountable for efficient, cost-effective government operations and to prevent, detect, identify, expose and eliminate fraud, waste, corruption, illegal acts and abuse," the jurors would like to see independent inspectors general riding herd from within government agencies. These watchdogs would be administratively answerable to a new and independent Office of State Inspector General. Although responsible to the heads of their respective agencies, the local IGs are exempt from reporting to them about investigations. To close a potential statutory source of leaks, the jurors also exempted them from compliance with the public records law in (in F.S. Chapter 119) until the investigation is complete.

They want to enhance Florida's Whistle-blower's Act with a rewards program for the conviction or discharge of violators while expanding their range of targets to include "any entity, business, corpora-tion, or non-profit organization which receives government funding to perform a governmental function or service.

The Grand Jury approved a series of housekeeping clarifications impacting public officials who are subject to multiple regulatory codes. The resulting conflicts are often contradictory, such as one that prohibits lawmakers from voting on issues from which they derive a financial benefit and another that requires them to report such a conflict within 15 days of the vote. The jurors want lawmakers to reconcile how the corruption Statute treats disclosure of potential conflicts of interest and abstention from voting with the more rigorous standards in the House and Senate rules.



They would also remove compliance discrepancies between elected and appointed officials performing the same function. For instance, unlike elected County Commissioners, those appointed by the Governor aren't subject to State Ethics Code constraints against voting conflicts. They also suggest raising the maximum fines that can be imposed by the State Commission on Ethics from \$10,000 to \$100,000, significantly beefing up the deterrent.

Similar to the prosecutorial anathema created when lawmakers applied the language "corruptly" or "with corrupt intent" to create a false legal distinction between actions based on motive, the Grand Jury sought to supplant the ill-defined "special private gain" in the corruption statute with "any gain.

A Sun-Sentinel survey revealed that only 600 out of an expected 30,000 financial disclosure forms were filed by Florida public officials. The jurors explained that filing a false report is a criminal violation while filing no report would only evoke civil charges - if caught. They recommended applying the same criminal penalties for both actions.

While satisfied with the efforts of the State Ethics Commission, the Grand Jury is leery of its dependence upon the Legislature the Grand Jury is leery of its dependence upon the Legislature for budget appropriations. They are also fans of the Miami-Dade and Palm Beach models for patterning local Ethics Commissions, which they recommend for every Florida County. Not Surprisingly, the report states "when Broward County initiated its Commission on Ethics, many on the Broward County Commission opposed giving the ethics commission the authority needed to investigate and enforce the local code of ethics." Jurors were referring to the "Ritter Amendment," a poison pill created by Broward Commissioner Stacy Ritter which threatened to change the independent County Inspector General conceived by the Broward Ethics Commission into an impotent lackey. Inby the Broward Ethics Commission into an impotent lackey. Incredibly, it precluded the I.G. from using evidence of wrongdo-ing developed by the media and actually punished whistle

Following a week-long blistering county-wide public outcry, Ritter backed off, telling reporters that when she read her amendment several times at the County Commission meeting – specifically convened to consider the new Broward Code of Ethics – she hadn't notice that a section of her amendment was mysteriously missing. The press was understandably confused, given her earlier claim that she developed the amendment's language over many months. At a special meeting called a week later, the missing language magically reappeared, vesting the Inspector General with the right to follow any viable leads, whether or not they were acceptable to Ritter or the other Commissioners.

The Grand Jury identified loopholes in the State Election Laws that need to be plugged. For example, campaign contributions are prohibited in Government-owned buildings but permissible in space leased by the Government. They support striking the two-year statute of limitations for investigating a first degree misdemeanor and other violations. By prohibiting 3-pack advertising they hope to eliminate a loophole that allows three colluding candidates to pay for advertising with party or committee funds instead of their individual campaign funds. They also ask the Legislature to define the term "residency" to adequately enforce the requirement that a candidate actually live in the district when running for or elected to office. Finally, the Grand Jury asked for greater latitude for the Election Commission to initiate investigations, adding "willful" criminal violations and "willful and non-willful" civil violations to their jurisdiction and

Continued on page 22



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2nd on 2nd Thursdays Block Porty 200 Block SW 2nd Street 5 to 9 p.m. Info.: 954-468-1541	Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m.	12 37th Annual S Florida Depression Glass Show (Through 1/13) Emma Lou Olsozzn Civic Center, Pompano Info.: 305-884-0335
BINGO Southpoint's North Lounge (3400 Galt Ocean Dr) 7 p.m. S5/person for 3 boards		Florida Renaissance Festival (Through 3/13) Quiet Waters Park 10 a.m. to Sunset, Weekends only Info.: 954-776-1642
An Evening with Lucille Ball (Through 2/20) Broward Center Tix.: 954-462-0222 GMCA Advisory Board Meeting Nick's Italian Restaurant, 11 a.m.	Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m. Info.: 954-776-5092	19 Ruckler's 20th Annual Craft Fair (Through 2/20) South Florida Fairgrounds Info.: 386-860-0092
BINGO Southpoint's North Lounge 7 p.m. \$5/person for 3 boards	For Art's Sake (Through 2/20) The Collide Factory (541 NW 1st Ave) Info.: 954-235-8396	Newlife Yoga/Expo & Raw Food Expo (Through 2/20) Broward County Convention Center 10 a.m7 p.m.
Turnodot Broward Center 8 p.m. Tix.: 954-462-0222	Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m.	Orange Blossom Festival Parade and Rodeo The Bergeron Rodeo 9 a.m. to 5 p.m. Info.: 954-797-1166
BINGO Southpoint's North Lounge (3400 Galt Ocean Dr) 7 p.m. S5/person for 3 boards	Big Cypress Shootout (Through 2/27) Billie Swamp Safari 10 a.m. to 5 p.m.	Secret Garden Tour of Ft Lauderdale Church-by-the-Sea (2700 Mayan Dr) 9 a.m. to 3 p.m. Tix.: 954-561-8475
3	Jazz on the Square The Village Grille Commercial Blvd. & A1A 7 p.m.	5
BINGO Southpoint's North Lounge (3400 Galt Ocean Dr) 7 p.m. S5/person for 3 boards	Lynyrd Skynyrd Hard Rock Live 8 p.m. Info.: 800-745-3000	Las Olas Art Fair (Through 3/6) Las Olas Blvd. 10 a.m. to 5 p.m. Info.: 954-472-3755
10	Jazz on the Square The Village Grille Commercial Blvd. 8 ATA 7 p.m.	12
BINGO Southpoint's North Lounge (3400 Galt Ocean Dr) 7 p.m. \$5/person for 3 boards	9th Annual International Orchid Festival (Through 3/13) Fairchild Tropical Gardens 9:30 a.m. to 4:30 p.m. Info.: fairchildgarden.org	Lauderdole-By-The Sea Craft Festival (Through 3/13) Lauderdole-by-the-Sea 10 a.m. to 5 p.m. Info.: 954-472-3755

## UPCOMING EVENTS IN OUR AREA

St. Patrick's Day Parade and Festival Downtown Hollywood Info.: 954-921-3404

March 14 - 21 BMW Tennis Championship Sunrise Info.: 877-877-7677

March 16 Winter Concert Series Emma Lou Olson Center, Pompano, 7:30 p.m Info.: 954-786-4111

March 18 - 20 Broward Quilt Expo War Memorial Auditorium Info.: 954-828-5380

March 19 - 20 2011 lazz in the Gardens Sun Life Stadium Info.: 305-622-8043

March 24 - 27 Unleash the Power Within: Tony Robbins Broward County Convention Center

March 25 Cystic Fibrosis Gold Coast Guild Presents: 22nd Anniversary Spring luncheon, "Masques & Mimes" Regency Hyatt Pier 66

Info.: 954-563-3034 or 954-232-7117 (Margie Nagle)

March 30 - April 24 Wicked, Broadway Broward Center for the Performing Arts Tix.: 954-462-0222

#### **ADDITIONAL EVENTS**

FEBRUARY 14: Valentine's Concert at Fairchild, Fairchild Tropical Gardens, 7 p.m., Tix.: fairchildgarden.org

FEBRUARY 15 - 27: Dancin' & Romancin', Broward Center for the Performing Arts, 8 p.m., Tix.: 954-462-0222

FEBRUARY 22: Opera Int'l with the Russian National Symphony: Turnadot, Miramar Cultural Center, Tix.: 954-602-4500

FEBRUARY 25: George Lopez, Hard Rock Live, 8 p.m., Tix.: ticketmaster.com

FEBRUARY 26: Green Day! Environmental Expo, Liberty Tree Park (7421 NW 5th St, Plantation), 9 a.m. to 3 p.m.

FEBRUARY 26 - 27: Gun & Knife Show, War Memorial Auditorium, Info.: 954-828-5380

FEBRUARY 28: Itzhak Perlman, Broward Center for the Performing Arts, 8 p.m., Info.: 954-462-0222

# **COMMISSIONER BRUCE** ROBERTS' NEWSLETTER

FROM THE DESK OF COMMISSIONER BRUCE G. ROBERTS

Happy New Year! I hope everyone enjoyed the Holiday Season The Downtown Countdown 2010, which was held New Year's Eve, was a huge success and ushered in our Centennial. Thousands of residents and visitors packed downtown Fort Lauderdale on New Year's Eve to ring in 2011 at the City of Fort Lauderdale Orange Bowl Downtown Countdown. Presented by Ford Motor Company, this year's event was bigger and better than ever! The free, 12-hour street festival kicked off with an array of family activities at Esplanade Park that included bounce houses, face painting, inflatables, and a DJ with music, games and contests. At 7:00 p.m., families gathered around the main stage to enjoy a special kids countdown and ball lighting. As midnight approached, the Mayor and City Commissioners took to the stage to begin the official countdown to 2011. When the clock struck midnight, thousands cheered as the "Downtown Countdown" ball, illuminated with more than 10,000 LED lights illuminated with more than 10,000 LED lights, dropped from the sky to officially kick off 2011. The ball drop was immediately followed by a five-minute fireworks display that brilliantly illuminated the sky above Downtown Fort Lauderdale with bursts of colorful pyrotechnics. In addition to the Ford Motor Company, the City would like to thank the Orange Bowl, Corona Light, Downtown Development Authority, Florida Power & Light, Sun-Sentinel and Tarpon Bend for their generous sponsorship of Downtown Countdown, and for helping the City provide a free, fun and family friendly event.

As we begin our Centennial in 2011, I believe it is a good time to pause and reflect on some of our achievements over the past year:

- 364 Calls for service were logged into our office by concerned citizens of District 1 in 2010: 90 are still open and seeking action - 18 of which are awaiting input by City or County staff (road closures, traffic studies, code violations, etc.), and while completed, another 72 still remain open for additional action by City staff, or for future consideration by the City Commission. 274 calls have been completed.
- Once again, no increase in the current operating millage rate of 4.1193; we now have the 7th lowest operating millage rate of 31 municipalities in Broward County. This also equates to the 3rd lowest rate among Florida's fourteen largest cities.
- Also, for the second straight year, no increase in the fire assessment
- In 2010, serious crime declined citywide by approximately 4% when compared to 2009. (Final official figures are not yet available.) Initiated Police/Fire pension reform in finalizing contract negotia-
- Our reserve fund stands at 19% of the General Fund Budget; this exceeds the nationally recommended range of 7% to 15%.
- In the past two years, 145 vacant funded personnel positions were
- 13 parks have been outfitted with lightning warning systems, and 2 new parks are scheduled to open within the next few weeks.
- We hosted approximately 200 special events, which were produced by other organizations.
- Decisions on major projects, which have lingered for years, are now being moved forward, e. g. Sistrunk Corridor, Bahia Mar and South Andrews Avenue Business District.
- Strong economic development support through partnerships such as the Chamber of Commerce's "Business First" initiative; the TMA's (Sun Trolley) plan to expand routes which will cater to hundreds of thousands of cruise ship passengers and bring them to our business and entertainment venues. (In the future, I will provide more details.)
- We have had meetings and public workshops with many of our advi-

sory boards and committees, e.g. Budget Advisory Board, Centennial Committee, Sustainability Committee (now a board), Visioning Committee and Beach Redevelopment Board. Follow-up meetings are scheduled.

These are just a sampling of what your Commission has been working with you to accomplish in these tough economic times. It also demonstrates my focused commitment towards my previous promise

- Bring back citizen participation in government decisions
- Bring back effective and efficient public safety
- Bring back collegial leadership to the City Commission
- Bring back balanced development that will protect our neighborhoods and green space

want to thank City staff for their constant dedication in addressing all of the concerns, issues and ideas that come through the Commission Office – not only for District 1, but also for the City as a whole. We still have much more that we can do. I am looking forward to another year of working for you.

City Manager Search Our consultant has met with the Mayor and all of the Commissioners as well as with the Commission-appointed City Manager Search Committee to obtain input related to the qualities, experience and leadership skills deemed necessary for this position. The City Manager Search Committee has also met to develop their guidelines to proceed with their task of narrowing down finalists for Commission deliberations. In the future, I will keep you informed of public meetings to discuss the selection of the City Manager.

Pain Clinics A few months ago, I mentioned that this problem continues to spread and disrupt the integrity of our community. Florida's crackdown on unscrupulous pain clinics has stalled again in Tallahassee, pending a review by the newly elected governor. Strict new rules for these pain clinics and their doctors were to take effect November 28. The rules have been in the works for 14 months. The delay appears to undercut State Department of Health plans to start detailed inspections of the approximately 1,000 pain clinics in Florida – especially ones in Broward and Palm Beach counties that have become a major source of millions of narcotic pills for drug dealers and addicts throughout the Southeast. To date, we have closed two clinics by Holy Cross, one by the Executive Airport, one on Oakland Park Boulevard, and "raided" the clinic near Broward General Hospital. I know there are several others in the City, but please be assured that this Commission is aggressively pursuing the elimination of ALL illegal pain clinic operations within our City. Our Police Department and Code Enforcement are actively involved in this undertaking along with federal agencies and the Florida Department of Health. At the 1/4/11 Commission Meeting, we requested our City Attorney to extend our moratorium prohibiting the licensing of new pain clinics. I will also be in contact with our lobbyists to make sure that this issue continues to move forward at the state level. Please contact our State legislators and the new Governor to make our voices heard on this important issue.

#### Centennial Celebration (Feb and March Events)

- February 10 "My Soul is a Witness" Centennial Celebration of the 10th anniversary of this book, which is a history of Black Fort Lauderdale - Old Dillard Museum at 6 p.m.
- February 19 Mixed Doubles Tennis Tournament at the Jimmy Evert Tennis Center



 February 25 - Pineapple Jazz Jam Centennial Celebration at the Stranahan House

February 25 - Dixie Zone/18th Annual Masters Challenge featuring a Centennial tribute at the Fort Laud-

erdale Aquatic Complex

 February 26 - Sistrunk Centennial Parade and Street Festival hosted by Sistrunk Historical Festival cultural organization to celebrate the accomplishments of people of African descent, on the Sistrunk Corridor from 11 a.m. until 6 p.m.

 March 3 - Centennial Sue, a friend of Ivy (Stranahan) and Julia (Tuttle), shares memories 11:15 a.m. - 12:15 p.m. at the almost 100-year-old First Presbyterian

Church of Fort Lauderdale

March 4 - School Board of Broward County Centen-

nial History Fair

 March 5 - Too Hot to Hide one-hour walking tour starting at 2 p.m. at the Fort Lauderdale Woman's Club, featuring history of Annie Jumper, Katherine Rawls, Ivy Stranahan and Frankee Lewis

 March 10 - Riverwalk Trust Centennial Tribute to the Seminole Tribe of Florida at Timpano Chophouse and

Martini Bar

March 12 - Centennial Parade and Festival celebrating St. Patrick's Day

March 14 - Centennial Life in Fort Lauderdale 1911-

1920 lecture at the Bonnet House

March 17 - The Centennial and 49th Annual Mayor's

Prayer Breakfast

 March 20 - Grand re-opening of the 1922 Southside School, located at 701 South Andrews Avenue, with a Centennial tribute to one of the first elementary schools in Broward County; it has been listed on the U.S. National Register of Historic Places since 2006

 March 22, 23, 24 - Business Fair demonstrating the economic development links between Fort Lauderdale and Medellin, Columbia, sponsored by Greater Fort

Lauderdale Sister Cities International

- March 25 Tropical Symphonic concert at the Broward Center for the Performing Arts commemorating the 50th anniversary of the Sister City relationship between Fort Lauderdale and Medellin, Columbia, sponsored by Greater Fort Lauderdale Sister Cities International. -This musical sound fusion is a tribute to our cultural similarities
- March 26 Centennial Bonnet House Tour by Dr.
   George
- March 27 Centennial Birthday Party! 100th Anniversary of the incorporation of Fort Lauderdale on the Riverwalk
- March 27 9 a.m. and again at 11:30 a.m. Dr. Paul George will host a Walking Tour of Historic Downtown Fort Lauderdale
- March 28 Keith Hendee says the Gateway Theatre once was a zoo! These and other historic facts discussed with the Broward House Alliance lunch at the Bimini Boatyard, call (954) 772-9647

Don't Forget If you have any photos of landmarks, people, events or otherwise from the past 100 years that you would like to share with the City (so that they can be used as part of the slideshow that will be shown throughout the City during our Centennial Celebration), let us know as soon as possible. We have only a few so far and we would really like to have District 1 represented! Thank you in advance.

Office Contact Robbi Uptegrove – 954-828-5033 or ruptegrove@fortlauderdale.gov. In addition to hosting

two pre-agenda meetings twice a month, I am also available to attend your HOA meetings to update your neighborhood on what is going on in the City as well as answer any questions/concerns you may have. Please contact Robbi to schedule.

#### COMMENT

Commissioner Roberts rightfully expressed concern about the new Governor's interference with local efforts to close pill mills. Immediately following his swearing in ceremony, Scott's first Executive Order (11-01) froze all new regulations. The Governor also ordered the Florida Department of Health (DOH) to submit new rules for monitoring prescription drugs and pain clinics, as mandated in the "Pill Mill Bill" (Senator Mike Fasano's Senate Bill 2272) passed last year. On January 7th, when the DOH delivered their regulations to Scott, agency officials stressed their urgency and requested implementation within 7 days. When Scott ignored the long awaited rules for two more weeks, newly elected Attorney General Pam Bondi told reporters "we'll talk to him about it" if the delay persisted.

She'll have to. The primary agency behind the anti-pain clinic effort, the Florida Office of Drug Control, was dissolved by Scott before he was sworn in. Intimating that Scott's pro-pill mill maneuvers aren't unintentional missteps, Palm Beach County State Attorney Michael McAuliffe commented "I hope and expect that the new governor's office, when they say they want the most favorable climate in the world for business, that they're talking about legitimate businesses. These aren't legitimate businesses, and that's the heart of the matter. They haven't been regulated, and they've mushroomed in our communities."

Bondi raised eyebrows when she volunteered an enigmatic legal opinion. She said that since the Board of Medicine, which formulated the new rules, operates under the auspices of the Department of Health - not the Governor - she believes they are exempt from the Governor's Executive Order. While the Board of Medicine is able to draft regulations, only the Department of Health is equipped to implement them. Since the Department of Health is directly answerable to the Governor, it's difficult to ascertain whether Bondi's strange interpretation was a product of sarcasm or naivety. Moreover, Section 2 of Executive Order 11-01 states "State agencies not under direction of the Governor are requested to likewise suspend rulemaking procedures pending a review by the Office (a nonexistent Office of Fiscal Accountability and Regulatory Reform)." Notwithstanding your political affiliation, if you sense that some scary people are running our State, you are not alone.

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vesting them with the authority and tools to investigate residency violations by candidates. They stated that the Governor, Lieutenant Governor and Cabinet members should be required to temporarily place their financial interests and assets into blind trusts.

The Grand Jury offered 6 recommendations to address the Department of Management Services' failure to effectively manage lists of convicted and suspended vendors. They seek to replace arbitrary penalty periods with fixed terms to prevent personal relationships from impacting the process. They also recommend that "Any vendor or person convicted of a crime involving theft or procurement related crime with the State of Florida should be barred from entering into any contracts with the State of Florida for life."

The jurors recommended that "elected or appointed officials subject to the Code of Ethics undergo ethics training prior to or within sixty (60) days of holding office" and update that training annually. For both local and State agencies, they support the appointment of a chief ethics officer to oversee this training. The Grand Jury specifically stated that candidates for state, county, and municipal office receive education and training regarding election and campaign finance laws.

Intermittently, the jurors would squeeze out a series of twisted assumptions and equally skewed conclusions. Assuming that thieving employees working for Florida Fish and Wildlife stole flat screen televisions from the office because they were emulating management and supervisory personnel who abused spending policies and fixed bids, the jurors concluded that educating the crooked managers would "trickle down" and cure the light-fingered worker bees. Stranger still, instead of recommending a deuce in County (jail), they suggested that posting copies of the ethics rules about the office would convince the management crooks to lead the thieving employees "by example." After listening to eleven months of systemic rip-offs, an occasional mental "slip and fall" is to be expected.

Finally, the jurors noted that only Miami-Dade, Broward, and West Palm Beach State Attorney's Offices have been able to afford dedicated resources for a public corruption prosecutor or unit. They assume that other counties may be hampered by a lack of resources, political will, size of the office, or perceived size of the problem. The jurors recommended that Law Enforcement and prosecutors receive funding to pursue public corruption cases.

The report provides a blueprint for confirming Florida's status as an ethics cesspool. The laws created to enforce appropriate behavior by public officials are ninety percent window dressing. For several decades, when similar recommendations were sent to the Legislature, they were given some lip service and forwarded to the dog house. With Crist a memory, the only chance these recommendations have of seeing daylight is a boost from the new Governor when negotiating with the legislative leadership.

First informed about the Grand Jury report during a preinaugural tour in north Florida, Governor Rick Scott commented "Clearly I believe in accountability so I'm going to do everything I can to make sure that the citizens of the state feel comfortable that the things the state's involved in are done fairly, honestly and with transparency." He neglected to mention whether or not he would extend the Grand Jury.

Since Scott was at the helm of Columbia/HCA when it was fined \$1.7 billion by the Justice Department for fraud, discrimination and kickbacks during the largest case of healthcare fraud in U.S. history, expectations for his support of the Grand Jury findings were muted. Scott surprised skeptics when one of the four Executive Orders he issued shortly after his inauguration directed his staff to see how it might implement some of the Grand Jury's

Florida's rookie Attorney General Pam Bondi, who campaigned on cleaning up the State's rampant corruption, said "I will do everything in my power as attorney general to put a stop to it. I talked about it in the campaign and that will be a priority." Unfortunately, Florida Attorneys General from Butterworth to McCollum have complained bitterly about the State's Swiss cheese ethics statutes, which are largely useless for addressing corruption on any level.

Former State Senator Dan Gelber from Miami Beach summarized the State's dilemma "The problem has not been the ideas. It's been the unwillingness of the Legislature to really reform itself and public offices around the state. The Legislature refuses to seriously address public corruption. I commend the grand jury for cataloging a lot of the ideas. At the end of the day, unless there's the political will to implement them, it will be meaningless."

On Page 38, the report applauds two of last year's bills that would have criminalized certain ethical violations, including soliciting or accepting a gift, unauthorized compensation, or misuse of public position. Senate Bill 1546 by Jacksonville Senator Stephen R. Wise [R] and its companion bill in the Statehouse, House Bill 347 by former Representative Carl Domino [R], proposed to add the following lan-guage to the Code of Ethics: "In addition to being subject to penalties under s. 112.317, a person who violates this subsection commits a misdemeanor of the first degree..." Both bills never made it past their first committee stops. SB 1546 was frozen in the Senate Rules Subcommittee on Ethics and Elections and HB 347 died - unread - in the House Governmental Affairs Policy Committee.

At least two lawmakers will respond to the Grand Jury's plea for reform in the upcoming 2011 session. Lakeland Senator Paula Dockery, a dark horse Republican Gubernatorial candidate from Queens, New York, filed Senate Bill 86 on November 23, 2010, prohibiting voting conflicts for State legislators. When the report was released on December 30th, New Port Richey Republican Senator Mike Fasano promised to file legislation addressing several of the Grand Jury's major complaints. His bill would require Scott and the other Florida Cabinet members to place their assets into a blind trust, empower the Ethics Commission to initiate investigations, define "public servants" to include private contractors performing Government work with taxpayer dollars and put teeth into bid tampering prohibi-

When the Broward Legislative Delegation was commiserating in the State Capitol about legislation to create a Broward County Inspector General – as requested by the Broward Ethics Commission – a Statehouse member was asked about the two Ethics bills filed during the session. He remarked "They have about the same chance as a snowball in Hell." Despite the annual anti-corruption gestures that habitually die in committee, Florida lawmakers will only enact effective Ethics laws when the FBI is convinced that Tallahassee would provide as fertile a stomping ground as South Florida. Until then, the 127-page report will have consumed a lot of trees for nothing.

The report provides a blueprint for confirming Florida's status as an ethics cesspool.

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