

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, IN AND FOR  
LEON COUNTY, FLORIDA**

**CASE NO.:  
DIVISION:**

**FLORIDA CARRY, INC.,  
a Florida Not-For-Profit  
Corporation,  
THE SECOND AMENDMENT  
FOUNDATION, INC., a Foreign Not-For-  
Profit Corporation, and**

Plaintiffs,

vs.

**CITY OF TALLAHASSEE, FLORIDA,  
a Political Subdivision of the State of Florida;  
JOHN MARKS, Mayor of the City of  
Tallahassee; NANCY MILLER, City  
Commissioner of the City of Tallahassee;  
ANDREW GILLUM, City Commissioner  
of the City of Tallahassee; and GIL ZIFFER,  
City Commissioner of the City of Tallahassee,**

Defendants.

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**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

COMES NOW, Plaintiffs, Florida Carry, Inc., a Florida Not-For-Profit Corporation (“Florida Carry”) and The Second Amendment Foundation, Inc., a Washington Not-For-Profit Corporation (“SAF”) and by and through the undersigned Counsel and sues Defendants, City of Tallahassee, a Political Subdivision of the State of Florida (“Tallahassee”); John Marks, Mayor of the City of Tallahassee (“Marks”); Nancy Miller, City Commissioner of the City of Tallahassee (“Miller”); Andrew Gillum, City Commissioner of the City of Tallahassee (“Gillum”); and Gil Ziffer, City Commissioner of the City of Tallahassee (“Ziffer”) and states:

1. This is an action for Declaratory Judgment and for Supplemental legal and equitable relief pursuant to Chapter 86, Florida Statutes.
2. This is an action for injunctive relief.
3. Plaintiff, Florida Carry, is a Florida Not-For-Profit Corporation with a principal place of business located at 1090 Wild Holly Drive, Port Orange, Florida, 32129.
4. Plaintiff, The Second Amendment Foundation, is a Washington Not-For-Profit Corporation with a principal place of business located at 12500 NE 10<sup>th</sup> Place, Bellevue, Washington, 98005. SAF is registered with the Florida Division of Consumer Services as a recognized charity in Florida under Registration Number CH5582.
5. Defendant, City of Tallahassee, is a political subdivision of the State of Florida.
6. Defendant, John Marks, is the Mayor of the City of Tallahassee.
7. Defendant, Nancy Miller, is a City Commissioner of the City of Tallahassee.
8. Defendant, Andrew Gillum, is a City Commissioner of the City of Tallahassee.
9. Defendant, Gil Ziffer, is a City Commissioner of the City of Tallahassee.

### **JURISDICTION AND VENUE**

10. This court has jurisdiction pursuant to Fla. Stat. §26.012 and Fla. Stat. §790.33(3)(f) as well as Article V, Section 5 of the Constitution of the State of Florida.
11. Venue is appropriate in Leon County as all Defendants are located in Leon County, Florida.

**FACTUAL ALLEGATIONS AS TO PLAINTIFFS**

12. Plaintiff Florida Carry is a Not-For-Profit Corporation, chartered under the Laws of the State of Florida.
13. Florida Carry's membership is confidential and consists exclusively of law abiding citizens that choose to exercise their right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution; Article I, Section 8 of the Constitution of the State of Florida; and Chapter 790, Florida Statutes. It is the mission of Florida Carry to protect and advance the fundamental civil rights of all Floridians to keep and bear arms for lawful self-defense and to safeguard the citizens of Florida by, *inter alia*, ensuring Florida's political subdivisions follow State firearm laws.
14. Plaintiff SAF is a Not-For-Profit Corporation, chartered under the Laws of the State of Washington.
15. SAF is registered with the Florida Division of Consumer Services as a recognized charity in Florida under Registration Number CH5582.
16. SAF's membership is confidential and consists exclusively of law abiding citizens that choose to exercise their right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution; Article I, Section 8 of the Constitution of the State of Florida; and Chapter 790, Florida Statutes. It is the mission of SAF to promote a better understanding of the Constitutional right to privately own and possess firearms. SAF carries on many educational and legal action programs designed to inform the public about the gun control debate.
17. Plaintiffs have standing pursuant to §790.33(3)(f), Florida Statutes, as organizations whose memberships are adversely affected by Defendants' ordinances.

## **FACTUAL ALLEGATIONS AS TO DEFENDANTS**

18. The City of Tallahassee is located in Leon County, Florida.
19. The mayor and city commission serve as the governing body of the City. They set the policies and rules by which the City is operated.
20. Defendant Marks is the mayor of the City of Tallahassee.
21. Marks' role includes presiding at city commission meetings, serving as the ceremonial head of government, serving as the official head of the City for civil processes, and executing legal documents. He is considered the political leader of the government of Tallahassee. He represents one vote on the city commission. As such, in his official capacity, he is an appropriate party to this action.
22. Defendants Miller, Gillum, and Ziffer are City Commissioners for the City of Tallahassee.
23. As Commissioners, Miller, Gillum, and Ziffer comprise the majority of the governing body of the City. They have the power to set the policies and rules by which the City is operated. As such, in their official capacities, they are appropriate parties to this action.
24. §10 of the Tallahassee City Charter states, "All powers of the city except as otherwise provided by this Charter, or by the Constitution of the state are hereby vested in the city commission; and, except as otherwise provided by this Charter, or by the Constitution of the state, the city commission may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised."
25. §16 of the Tallahassee City Charter states, "The mayor shall preside at all meetings of the commission and perform such other duties consistent with his office as may be imposed

by it and he shall have a voice and a vote in the proceedings of the commission, but no veto power.”

26. §2-32 of the Code of General Ordinances for the City of Tallahassee states, “The affirmative vote of three members shall be necessary to adopt any ordinance or resolution and the passage of all ordinances and resolutions shall be taken by ‘yeas’ and ‘nays’ entered upon the journal.”

### **FACTS IN COMMON**

27. §12-61 of the Code of Ordinances for the City of Tallahassee criminalizes the discharge of firearms except in areas larger than five acres zoned agricultural. The sections states: “Sec. 12-61. Discharge of Firearms.

(a) No person shall discharge any firearms except in areas five acres or larger zoned for agricultural uses.

(b) Any person convicted of violating any of the terms of this section shall upon conviction be punished by a fine of \$100.00 for the first conviction, \$250.00 for the second conviction, and \$500.00 for the third or subsequent conviction.”

28. §13-34(b)(5) of the Code of Ordinances for the City of Tallahassee states, “It shall be unlawful for any person to do one or more of the following in a park or recreational facility owned or controlled by the city... Discharge a firearm, air rifle, air gun, sling shot, bow and arrow, spear gun, or instrument of any kind that discharges or is capable of discharging a projectile by explosive means unless such instrument or device is required for participation in an activity which is organized or sponsored by the department of parks and recreation.”

29. There is no provision in either section carving out an exception for the lawful use of a firearm as a means of self-defense.
30. The Florida Legislature has occupied the whole field of regulation of firearms and ammunition.
31. Florida Statute §790.33 is clear that unless the Florida Constitution or the general laws of Florida expressly provide an exception, Florida firearms regulation is the exclusive domain of the Florida Legislature to the exclusion of all existing and future county, city, town, or municipal ordinances adopted by local governments relating thereto and any such existing ordinances, rules, or regulations are hereby declared null and void.
32. §12-61 of the Code of Ordinances of the City of Tallahassee, *supra*, violates the Florida Legislature's occupation of the whole field of regulation of firearms and ammunition by enacting or causing to be enforced any local ordinance or regulation. See Florida Statutes §790.33(3)(a).
33. §13.34(b)(5) of the Code of Ordinances of the City of Tallahassee, *supra*, violates the Florida Legislature's occupation of the whole field of regulation of firearms and ammunition by enacting or causing to be enforced any local ordinance or regulation. See Florida Statutes §790.33(3)(a).
34. §12-61 of the Code of Ordinances of the City of Tallahassee, *supra*, infringes upon and disregards the intent of the Florida Legislature to provide for uniform firearms laws throughout the State of Florida. The Florida Legislature has declared its intent to deter and prevent the violation of rights protected under the Constitution and the Laws of the State of Florida related to firearms by the abuse of official authority that occurs when

enactments are passed in violation of State Law or under color of local authority. See Florida Statutes §790.33(2)(b).

35. §13.34(b)(5) of the Code of Ordinances of the City of Tallahassee, *supra*, infringes upon and disregards the intent of the Florida Legislature to provide for uniform firearms laws throughout the State of Florida. The Florida Legislature has declared its intent to deter and prevent the violation of rights protected under the Constitution and the Laws of the State of Florida related to firearms by the abuse of official authority that occurs when enactments are passed in violation of State Law or under color of local authority. See Florida Statutes §790.33(2)(b).
36. Florida Statutes §790.33(3)(a) provides for penalties should any person, municipality, or other entity violate the Florida Legislature's occupation of the whole field of regulation of firearms.
37. Florida Statutes §790.33(3)(b) states, in part, that if any city violates this section, the court shall declare the improper ordinance invalid and issue a permanent injunction prohibiting it from enforcing such ordinance.
38. Florida Statutes §790.33(3)(c) states that if the court determines that a violation was "knowing and willful," the court shall assess a civil fine of up to \$5,000.00 against the elected or appointed local government official or officials under whose jurisdiction the violation occurred.

**COUNT I**  
**ACTION FOR DECLARATORY RELIEF**

39. Paragraphs 1-38 are re-alleged and reincorporated herein by reference.
40. This is an action for Declaratory Relief and for supplemental legal and equitable relief pursuant to Chapters 86 and 790, Florida Statutes.
41. Florida Carry is an interested party whose legal rights and privileges are affected by §12-61 and §13-34((b)(5) of the Code of Ordinances of the City of Tallahassee. Florida Carry is in doubt as to whether these sections of the Code of Ordinances of the City of Tallahassee are legally enforceable or are “null and void” as declared by the Florida Legislature per §790 of the Florida Statutes.
42. SAF is an interested party whose legal rights and privileges are affected by §12-61 and §13-34((b)(5) of the Code of Ordinances of the City of Tallahassee. SAF is in doubt as to whether these sections of the Code of Ordinances of the City of Tallahassee are legally enforceable or are “null and void” as declared by the Florida Legislature per §790 of the Florida Statutes.
43. The adverse legal interests of the parties are of sufficient immediacy and materiality to warrant a Declaratory Judgment.
44. The requested relief is not advisory in nature.
45. By perpetuating §12-61 and §13-34(b)(5) of the Code of Ordinances of the City of Tallahassee, Tallahassee has frustrated and deterred the Plaintiffs in their exercise of their members’ constitutional and statutory rights and privileges.
46. Plaintiffs seek a declaration on the validity and enforceability of §12-61 and §13-34(b)(5).

47. Pursuant to §790.33(3)(b) of the Florida Statutes, Tallahassee shall have no defense that it was acting in good faith or upon advice of counsel.
48. If the Court determines that a violation was knowing and willful, the Court shall assess a civil fine of up to \$5,000.00 against each of the elected or appointed city officials under whose jurisdiction the violation(s) occurred.
49. At no time may public funds be used to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated the pertinent sections of §790, Florida Statutes.
50. Florida Carry and SAF are entitled to reasonable attorney's fees and costs in accordance with the laws of this state, including a contingency fee multiplier, as authorized by law.
51. Florida Carry and SAF ask this Court to enter an order, a declaration, in negative form, stating that §12-61 and §13-34(b)(5) are invalid as they violate §790.33, Florida Statutes.
52. Florida Carry and SAF ask this Court to enter an order, in negative form, stating that §12-61 and §13-34(b)(5) are invalid as the Florida Constitution prohibits governments from passing laws that conflict with State laws.
53. Florida Carry and SAF seek an order requiring the City of Tallahassee to repeal its ordinances which violate the terms of Sec. 790.33, Fla. Stat.
54. Florida Carry and SAF ask this Court to reserve jurisdiction to provide further relief as the Court deems necessary and proper.
55. Florida Carry and SAF have retained the law firms of McKinney, Wilkes, & Mee, PLLC, 13400 Sutton Park Drive S, Suite 1204, Jacksonville, Florida 32224 and Fletcher & Phillips, 541 E. Monroe Street, Suite 1, Jacksonville, Florida 32203, and agreed to pay a fee for their professional services.

**WHEREFORE**, the Plaintiffs ask this Honorable Court for a declaration pursuant to Chapters 86 and 790, Florida Statutes, that §12-61 and §13-34(b)(5) are invalid, null and void, and otherwise unenforceable, along with reasonable attorney fees, including a contingency fee multiplier, and court costs along with such other relief this Court deems appropriate and necessary.

**COUNT II**  
**PETITION FOR INJUNCTIVE RELIEF PURSUANT TO §790.33(3)(b)**

56. Paragraphs 1-38 are re-alleged and reincorporated herein by reference.
57. This is an action for permanent injunction against Tallahassee to enjoin the City, its Mayor, and its City Commission prohibiting it from enforcing, promulgating, and requiring the repeal of §12-61 and §13-34(b)(5).
58. Plaintiffs' members will suffer if Tallahassee is permitted to enforce and continuing to promulgate §12-61 and §13-34(b)(5).
59. Plaintiffs have a reasonable fear that their members can be cited or arrested for violations of §12-61 and §13-34(b)(5).
60. Plaintiffs have a substantial likelihood of success on the merits.
61. A permanent injunction serves the public interest.
62. Plaintiffs are entitled to a clear legal right to the relief sought.
63. In accordance with §790, Florida Statutes, Plaintiffs do not need to post a bond to acquire an injunction.
64. If an injunction is granted, Defendants will suffer no hardships.
65. Florida Carry and SAF have retained the law firms of McKinney, Wilkes, & Mee, PLLC, 13400 Sutton Park Drive S, Suite 1204, Jacksonville, Florida 32224 and Fletcher &

Phillips, 541 E. Monroe Street, Suite 1, Jacksonville, Florida 32203, and agreed to pay a fee for their professional services.

**WHEREFORE**, the Plaintiffs ask this Honorable Court for a declaration pursuant to Chapters 86 and 790, Florida Statutes, that §12-61 and §13-34(b)(5) are invalid, null and void, and otherwise unenforceable, along with reasonable attorney fees, including a contingency fee multiplier, and court costs along with such other relief this Court deems appropriate and necessary.

**COUNT III**  
**COMPLAINT FOR DECLARATORY RELIEF AND PETITION FOR INJUNCTIVE**  
**RELIEF PURSUANT TO §790.33(3)(f)**

66. Paragraphs 1-38 are re-alleged and reincorporated herein by reference.

67. This is an action for Declaratory and Injunctive Relief pursuant to §790.33(3)(f), Florida Statutes.

68. The Defendants have promulgated an ordinance, caused an ordinance to be promulgated, or caused an ordinance to be enforced in violation of §790.33(3)(f), Florida Statutes, that adversely affects the members of the Plaintiffs.

69. Defendants Tallahassee, Marks, Miller, Gillum, and Ziffer, one and/or all, have taken this action and refused, upon receiving actual notice of violation of §790.33, to repeal §12-61 and §13-34(b)(5).

70. At the Regular City Commission Meeting for the City of Tallahassee, held on February 26, 2014, agenda item 15.01 was a public hearing on Ordinance Number 14-O-11 which would repeal and amend the provisions of the Code of Ordinances thereby bringing Tallahassee into compliance with §790, Florida Statutes.

71. Defendants Marks, Miller, Gillum, and Ziffer, participated in advisory discussions with the City Attorney, public comment, debate, and a vote to determine the status of §12-61 and §13-34 in light of the prohibitions of §790.33, Florida Statutes, and the merits of 14-O-11.
72. Defendants Marks, Gillum, and Ziffer each voiced understanding of the provisions and requirements of §790.33, Florida Statutes, as advised by the City Attorney, but vigorously opposed adopting 14-O-11 which would bring Tallahassee into compliance.
73. Upon each Defendant's knowing and willful opposition to complying with the provisions §790.33, Florida Statutes, the Defendants determined that they may be able to avoid the punitive sections of §790.33, Florida Statutes, by continuing the public hearing but not re-scheduling it on the City Commission's agenda, thereby effectively tabling the matter indefinitely.
74. Upon Defendant Miller's motion and Defendant Gillum's second, Defendants Marks, Miller, Gillum, and Ziffer voted in the affirmative to indefinitely tabling the discussion of 14-O-11, resulting in the knowing and willful continuation of the provisions, promulgation, and enforcement of §12-61 and §13-34(b)(5). See the Official Summary of the February 26, 2014 City Commission Meeting attached hereto as Exhibit "A."
75. As of the date of filing of this action, Defendants have yet to place the matter of 14-O-11 back on the Commission's agenda.
76. Plaintiffs ask for Declaratory and Injunctive Relief pursuant to §790.33(3)(f).
77. Plaintiffs believe that compensatory damages will be impossible to prove and therefore seek nominal damages. "[N]ominal damages can be awarded when a legal wrong has been proven, but the aggrieved party has suffered no damages... or where... recoverable

damages were not proven.” *Continuum Condo. Ass’n v. Continuum VI, Inc.*, 549 So.2d 1125, 1127 (Fla. 3d DCA 1989).

78. Plaintiffs ask this Court to reserve jurisdiction to provide further relief as the Court deems necessary and proper.

79. Florida Carry and SAF have retained the law firms of McKinney, Wilkes, & Mee, PLLC, 13400 Sutton Park Drive S, Suite 1204, Jacksonville, Florida 32224 and Fletcher & Phillips, 541 E. Monroe Street, Suite 1, Jacksonville, Florida 32203, and agreed to pay a fee for their professional services.

**WHEREFORE**, the Plaintiffs ask this Honorable Court for declaratory and injunctive relief and for actual or, alternatively, nominal damages caused by the violations and ask this Court to award the prevailing Plaintiffs reasonable attorney’s fees and costs in accordance with the laws of this state, including a contingency fee multiplier, as authorized by law; along with such other relief this Court deems appropriate and necessary.

**COUNT IV**  
**INJUNCTION AND WRIT OF MANDAMUS**

80. Paragraphs 1-38 are re-alleged and reincorporated herein by reference.

81. The Florida Legislature has declared all regulation of firearms to be preempted by the Legislature and has enacted a through body of law to provide for uniform regulation throughout the State. There is no need or authorization for additional regulation of firearms by the Defendants.

82. The Constitution and the laws of the State of Florida protect the rights of the people to keep and bear arms.

83. Defendants' continued regulation of firearms in the face of express preemption is a continuous and ongoing harm to the members of the Plaintiffs.
84. The risks of legal action upon the exercising of a Constitutional right in addition to the risks of assault/physical force against members of the Plaintiffs and the lack of any duty by the Defendants to protect the members is a harm which cannot be compensated solely by an award of money damages.
85. Other than voiced personal positions, Defendants have no reasonable basis for their actions in derogation of the requirements of §790, Florida Statutes, and are unlikely to prevail on the merits.
86. The continued validity of §12-61 and §13-34(b)(5) in violation of state law leaves law abiding citizens with "gap" in the state that may subject them to legal risk despite the Florida Legislature's intent to the contrary, merely for adhering to statewide law while being physically located in the City of Tallahassee.
87. The Charter Laws of the City of Tallahassee §27(a) states that the City Manager *shall* "see that the laws and ordinances are enforced." Therefore, a repeal of the offending ordinances by the City Commission is the only remedy that will bring Tallahassee into compliance with both state law and city charter while protecting the citizenry and Plaintiffs' members.

**WHEREFORE**, the Plaintiffs ask this Honorable Court for an injunction prohibiting the continued promulgation and enforcement of §12-61 and §13-34(b)(5) and a Writ of Mandamus ordering the Defendants to repeal/amend the provisions of §12-61 and §13-34(b)(5) by enacting Ordinance Number 14-O-11 and ask this Court to award the prevailing Plaintiffs reasonable attorney's fees and costs in accordance with the laws of this state, including a contingency fee

multiplier, as authorized by law; along with such other relief this Court deems appropriate and necessary.

**DEMAND FOR A JURY TRIAL**

88. Plaintiffs demand trial by jury on all issues.

Dated this 2nd day of May, 2014.

*/s/ Lesley McKinney*

By: \_\_\_\_\_  
Lesley McKinney, Esq.  
Florida Bar No.: 67976

MCKINNEY, WILKES, & MEE, PLLC  
13400 Sutton Park Dr. S  
Suite 1204  
Jacksonville, Florida 32224  
(904) 620-9545 Phone  
(904) 404-8321 Fax  
lesley@mwmfl.com

*/s/ Eric J. Friday*

By: \_\_\_\_\_  
Eric J. Friday, Esq.  
Florida Bar No.: 797901

FLETCHER & PHILLIPS  
541 E. Monroe  
Suite 1  
Jacksonville, Florida 32202  
(904) 353-7733 Phone  
(904) 353-8255 Fax  
efriday@fletcherandphillips.com

Attorneys for Plaintiffs

# **Exhibit “A”**

## SUMMARY

Tallahassee, Florida  
February 26, 2014

The City Commission met in regular session on February 26, 2014 in the Commission Chambers in City Hall with Commissioners Marks, Ziffer, and Maddox present. Also present were City Manager Thompson, City Attorney Shelley, and City Treasurer-Clerk Cooke. Mayor Marks called the meeting to order at 4:04 p.m. Commissioner Miller arrived at 4:05 p.m.

**Item 8.01** - Mayor Marks inquired if anyone desired to address the Commission relative to any items on the published agenda, and no one appeared. There were no speakers.

**Voted 4-0** (Commissioner Gillum absent) **to approve the staff's recommendation presented in Items 9.01 & 9.02 on the Consent Agenda**, taking the following action:

### RESOLUTION NO. 14-R-06

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF TALLAHASSEE DETERMINING THAT THE TEMPORARY CLOSURE OF STATE ROADS IS NECESSARY AND AUTHORIZING THE APPROPRIATE ADMINISTRATIVE OFFICIALS TO APPLY FOR APPROVAL FOR TEMPORARY ROAD CLOSURES TO THE DEPARTMENT OF TRANSPORTATION.

**Item 9.01** – Adopted Resolution No. 14-R-06, determining the necessity of closing streets for events and authorizing the appropriate administrative officials to apply to FDOT for the appropriate permits. (*Recommended by the City Attorney*)

**Item 9.02** – Approved the amendment to the Medicaid Non-Emergency Transportation Contract for Leon County to allow StarMetro to continue participating in the non-emergency transportation program through June 2014 and authorize the City Manager to finalize said agreement with the Florida Commission for the Transportation Disadvantaged. Although this is half the amount per month of the original contract, the services StarMetro provides through contracted providers will also decrease considerably. (*Recommended by StarMetro*)

Commissioner Gillum arrived at 4:06 p.m.

**Item 13.01 - Voted 5-0** to approve and authorize the City Manager to execute the Public Facilities Program contracts for public facility improvements totaling \$150,000 with Legal Services of North Florida, Inc., Lutheran Social Services of North Florida, Inc., and Big Bend Homeless Coalition, Inc. Public Facilities grant funding is currently available in COT Project No. 1400237. (RFP No. 0018-14-RWT-RC) (*Recommended by Economic and Community Development*)

The Public Facilities Program contracts are described as follows:

- Legal Services: \$19,965 will be used to replace the existing roof of the agency's office building that serves low- and moderate-income households.

- Lutheran Social Services: \$55,035 will be used to rehabilitate three single-family residences that serve as transitional shelter for families.
- Big Bend Homeless Coalition: \$75,000 will be used to renovate the existing men's dormitory to accommodate homeless families with children.

**Item 13.02 - Voted 5-0** to approve Amendment No. 2 to the Talquin Territorial Agreement and authorize the City Manager to execute the amendment once the exhibits are finalized, and authorized the acquisition of the 1993/1994/2002 transfer units, in an amount not to exceed \$2.5 million, following execution of the contract amendment. Funding is available in COT Project No. E04038 – Purchase of Talquin Electric Facilities. (*Option 1 as recommended by Electrical Utility*)

This amendment will redefine the City's service territories and allow for the potential acquisition of customers previously serviced by Talquin.

**Item 13.03 – Voted 5-0** to award \$200,000 in a Brownfields Revolving Loan Fund subgrant to the City of St. Marks to be used toward the cleanup of the former St. Marks Refinery property in accordance with the terms and conditions of the federal Brownfields program. Funds are currently available through the \$1 million U.S. EPA Brownfields Revolving Loan Fund Grant awarded to the City in 2011; therefore, there is no direct fiscal impact to the City. (*Option 1 recommended by Environmental Policy & Energy Resources*)

The Commission acknowledged The Honorable Charles Shields, Mayor of the City of St. Marks, and City Manager Zoe Mansfield, also of the City of St. Marks, and thanked both for their history of cooperation with the City of Tallahassee and the Purdom power plant.

Commissioner Maddox recognized members of the *Leadership Tallahassee Class 31* who were present in the Chambers.

**Item 15.01** was the public hearing regarding Ordinance No. 14-O-11, proposed repeal of section 12-61 and amending section 13-34 of the City Code, relating to firearms. (*Recommended by the City Attorney*)

Mr. Roy Blandeau, 6712 Buck Lake Road, appeared before the Commission to express his concern regarding the repeal of the ordinance prohibiting the discharge of firearms in public parks, and Mr. Blandeau asked that the public hearing be delayed to allow for additional public input prior to the Commission taking further action.

Mayor Marks inquired if the recent change in Florida Statute was constitutionally defensible, and Mr. Blandeau responded that Palm Beach County filed a lawsuit to challenge the law (Ch. 790.33, F.S.), and specifically challenges the penalties specified by the recent statute amendment, including removal of officials from office and personal fines levied against officials who knowingly and willfully violate said statute.

City Attorney Shelley stated, as counsel to the Commission, it was appropriate to adopt Ordinance No. 14-O-11. City Attorney Shelley further advised that the Commission could continue the hearing to permit further discussion of the matter.

A lengthy discussion ensued, with input being offered by Police Chief DeLeo. Commissioner Gillum offered stern opposition to the actions of the Legislature. Commissioner Marks, Ziffer, and Miller expressed hesitancy to repealing the ordinances in question and offered support for joining the lawsuit initiated by Palm Beach County.

Commissioner Maddox expressed his belief that the Legislature had lawful and constitutional power to preempt municipalities from regulating firearms. Commissioner Maddox expressed that although he did not agree with the Legislature on this matter, he nonetheless had little choice than to vote to repeal the sections of the City Code that conflict with Florida Statutes.

After additional discussion and upon motion of Commissioner Miller, seconded by Commissioner Gillum, the Commission **Voted 4-1** (Commissioner Maddox opposed) to indefinitely continue the public hearing regarding Ordinance No. 14-O-11, and that the City Attorney be instructed to investigate the possibility of joining the Palm Beach County lawsuit challenging the state statute or the possibility of submitting a friend of the court brief in relation thereto, and to request the City Attorney to fully brief each Commissioner relative to this matter.

Commissioner Maddox expressed his opposition to continuing the hearing indefinitely.

**Item 15.02 - Voted 4-0** (Commissioner Maddox absent) to adopt Ordinance No. 14-O-12, repealing Section 2-92 of the City Code relating to preference in purchasing and contracting for local charitable contributions. *(Recommended by the City Attorney)*

City Attorney Shelley reminded the Commission this action was a recommendation of the Ethics Advisory Panel.

There were no speakers.

**Item 15.03 - Voted 4-1** (Commissioner Maddox opposed) to adopt Ordinance No. 14-O-13, authorizing towing of vehicles from reserved parking spaces; and **Voted 5-0** to adopt City Commission Policy No. 403 (403CP) establishing the reserved parking program for historic properties. *(Recommended by the City Attorney)*

The following person addressed the Commission:

Mr. Dennis Murphy, 317 East Park Avenue, owner of the historic “Murphy House”, appeared before the Commission to issue a request for three reserved spaces and a waiver of the \$250 annual fee per space. Mr. Murphy expressed the City’s ordinance and policy, which was initiated per his request, had “missed the mark.” Mr. Murphy submitted his analysis of parking meter revenues collected from a typical meter located in front of a historic property. Per his calculations, Mr. Murphy deemed the \$250 annual fee per meter as too high. Mr. Murphy requested the Commission amend the policy to allow up to three parking spaces at no fee.

Commissioner Gillum acknowledged that some historic properties are used for private enterprises and he inquired as to what justified the fee exemption request by Mr. Murphy, given that other private businesses’ patrons pay the parking meters.

Mr. Murphy responded that there is a very high vacancy rate on downtown office space today, and that three dedicated on-street parking spaces could be an

attractive incentive to encourage a business to lease space within the Murphy House.

Commissioners Ziffer and Marks engaged in a brief discussion with Mr. Murphy, and it was determined that Mr. Murphy owned the parcel immediately behind the Murphy House, for which Mr. Murphy rented parking spaces at a rate of \$75 per month. It was further stressed that participation in the new parking program was voluntary and that Mr. Murphy was not required to participate.

Commissioner Miller inquired as to the annual revenue generated by meters located at historic buildings, and City Attorney Shelley responded that recent data verified that the average downtown meter collected \$250 annually.

Commissioner Ziffer expressed that he was opposed to the concept of offering a special advantage due solely to a structure's historical designation.

**Item 16.01 – Unagendaed Speakers:**

Mayor Marks inquired if anyone desired to address the Commission and the following persons appeared:

Mr. Curtis Baynes, 1323 East Tennessee Street, appeared before the Commission to voice his reservations in reference to supporting the Sales Tax Committee's recommendations due to a concern that economic development (Imagine Tallahassee) was being given too much weight and consideration by the Committee - to the detriment of tangible infrastructure projects. Mr. Baynes expressed dissatisfaction that up until the time the Imagine Tallahassee was created, any member of the public was permitted to submit recommendations directly to the Sales Tax Committee, but that this practice was halted after Imagine Tallahassee became involved.

Upon inquiry by Mayor Marks as to Mr. Baynes' statements regarding public input, it was determined that the Committee ceased accepting any additional project recommendations, and that the Committee had done so in order to begin the vetting process of the lengthy list of projects submitted to-date. It was also clarified that the public was permitted to address the Committee at each meeting during a public comment period.

Mr. Harry Brown, 5431 Crump Road, appeared before the Commission to remind the Commission of a prior proclamation presented to Mr. Brown, and to restate his previous complaints and grievances concerning his previous employment with the City.

Mr. Erwin Jackson, 5002 Glenrose Court, appeared before the Commission to urge the Commission to appoint an outside ethics officer, and listed reasons that he felt warranted the need for such an official.

**Item 17.01 – Sharing of Ideas**

Commissioner Miller suggested the City should validate parking for citizens who park in the Kleman Plaza garage for purposes of attending City Commission meetings.

Commissioner Ziffer encouraged the public to spay or neuter their pets.

Mayor Marks reminded the public of the grand opening of Cascades Park, to be held on March 14, 2014.

Commissioner Ziffer congratulated the Ms. Alison Faris, of the Communications Department, for winning the recent Oxygen Ball ballroom dance competition, a fundraiser for the American Lung Association, held at the Goodwood Museum carriage house the preceding Saturday.

Commissioner Maddox noted that the Commission recently discussed Senate Bill 50, with regards to public participation at governmental meetings, and he reminded the Commission as to the provisions of City Commission Policy 108 requiring speakers' adherence to a standard of decorum. Commissioner Maddox requested that, prior to the next meeting, staff propose a process by which compliance with said policy could be attained. Mayor Marks concurred.

Commissioner Maddox showcased an adoptable pet from the Animal Services Center (ASC), a mixed-breed Pit Bull Terrier. Commissioner Maddox announced his understanding that the adoption fee had been waived, but, if not, he would pay the fee on behalf of the new owner.

There being no further business to discuss, the meeting adjourned at 7:03 p.m.