

MEMORANDUM

TO: MAYOR & CITY COUNCIL  
FROM: GREGORY J. ORAVEC, CITY MANAGER  
SUBJECT: SPECIAL JOINT MEETING OF JUNE 13, 2012  
ITEM 3B, ROAD RIGHT-OF-WAY SAFETY ORDINANCE  
DATE: JUNE 8, 2012

Enclosed, please find background information which you may find useful in your discussion with St. Lucie County on this subject. As you may recall, at the meeting of October 10, 2011, the City Council considered proposed Ordinance No. 11-65, concerning the subject, and decided not to pursue it, electing to have the Police Chief "monitor the street vendor sales, and bring it back if he thinks it is necessary".

If you have any questions or require additional information, please do not hesitate to contact me.

ADJACENT TO HOGPEN SLOUGH (H-16 CANAL); PROVIDING AN EFFECTIVE DATE

The City Clerk read Resolution 11-R68 aloud by title only. Vice Mayor Bartz **moved** to approve Resolution 11-R68. Councilwoman Martin **seconded** the motion. The City Clerk restated the motion as follows: for approval of Resolution 11-R68. The **motion passed unanimously** by roll call vote.

## 12. UNFINISHED BUSINESS

a) **DISCUSSION OF ORDINANCE 11-65**, PROVIDING FOR THE AMENDMENT OF CHAPTER 71 TO ADD SECTIONS 71.03 THROUGH 71.08, PORT ST. LUCIE CITY CODE; SPECIFICALLY, SECTION 71.03, INTENT; SECTION 71.04, DEFINITIONS; SECTION 71.05, FINDINGS AND DETERMINATIONS; 71.06, PROHIBITIONS; 71.07, SEVERABILITY; 71.08, PENALTIES; PROVIDING FOR AN EFFECTIVE DATE

The City Manager said, "This is the ordinance regarding solicitation on highways. A month ago this was brought before the Council for First Reading, and at that point the Council tabled it and asked it be brought back in one month for further discussion. One month has occurred, and it is back on the Agenda." Mayor Faiella stated, "I went to the County Commissioners' meeting on Tuesday night, and apparently there was a meeting between the County Commissioners and a Committee. We thought a decision was going to be made on Tuesday night, but it wasn't. It is back in Port St. Lucie's court, as the County Commissioners were all over the place with this. I don't want the City to look bad regarding this decision. If the issue is safety, then it should be seven days a week, and not six days a week. They indicated six days instead of seven days was better than nothing. There is no factual proof that the solicitations are causing accidents. There was one accident, and that person was let go. I feel that at the present time we should monitor this for the next six months, and move on. I highly respect the veterans, but there are people out there in camouflage that do not have the veterans' badge. I don't believe that we should be babysitting people, or the government should indicate who to give money to. I don't feel that government should be interfering with that. We should monitor it for the next six or seven months, and see what happens. I don't feel that it warrants a ban at the present time." Councilwoman Berger stated, "I agree with you."

Vice Mayor Bartz said, "I'm willing to go with the six months. I had a nice discussion with Mr. Brunjes about some of my concerns

regarding some of the newspaper sales. I let him know that I have not seen it in a while, but I saw a gentleman with a child that was probably ten or eleven years old sitting in a chair in the median. Mr. Brunjes indicated that it wasn't allowed, and it wouldn't happen again. I have the utmost confidence in our discussion in the fact that these people want to keep their jobs, and they understand what the requirements are. I don't think anybody wants to hurt their employment, but the concern about safety is still going to be a concern. If we want to hold off for six months and review it at that time, my best guess is that everybody will be on their best behavior and we won't have a problem and in six months we won't have to worry about it." Councilwoman Martin said, "I agree with that, and I also agree with when it comes to policing people on the street, that people have to make their own decisions regarding who they are going to give their money to. If we are going to talk about public safety, it would have to be an all or nothing issue with me. I also haven't seen any data to support it. This initiative was put forth by the county, so it will be interesting to see how they move forward with it. They only had one discussion about it and were not in a position to make a decision at that time."

Councilman Kelly said, "If you want to wait six months, that is fine, but it doesn't put it to bed tonight. It is going to come back in six months, and I don't think that putting vehicles with people on the street is a good idea. Maybe there has only been one accident, and I hate to say it, but another one is going to happen. I think the compromise of having no solicitations for six days and just on Sunday is better than nothing. Six days of people off the street is better than nothing. If everybody collected money like the newspaper vendors, it would be safer. They have a requirement where they don't go in the road. Other people don't, they go in between the cars. It isn't just the camouflage guys, but there are dozens of people that are out there all of the time. I'm reluctant to go along with it, but if that is what the Council wants to do, we have bigger fish to fry. I don't think huge trucks and campers are good with people walking in between them all of the time." Mayor Faiella said, "I caution them, as they know what is at stake. I have no facts proving that they are causing accidents, so I can't say it is a safety issue on their part." Councilman Kelly commented, "They are just accidents waiting to happen. If somebody gets hurt, or God forbid there is a death, it will get pinned on us." Councilwoman Berger asked, "Are you looking to put this to bed forever, or until somebody brings it back up again and not put a six-month mark on it? We don't want it to come back every six months and spend time on it." Mayor Faiella advised, "I prefer

Chief Reuther monitor it. If he feels that there is a potential problem, then he should inform the Council or the City Manager. Chief Reuther, has there been a problem except for the one accident?" Chief Reuther replied, "No. I haven't seen any of the newspaper people not comply with the rules that have been set forth. I think they understand what the rules are. It is something that we will continue to monitor. If it becomes a larger issue, obviously, I will bring it forward." Councilman Kelly pointed out, "It is not just about the newspaper people, as they are the ones that comply. It is everyone else and you have seen them; they walk in between the cars for 100 yards." It was the **consensus** of the Council to have Chief Reuther monitor the street vendor sales, and bring it back if he thinks it is necessary.

**CATHERINE LAVALLE** said, "I'm a veteran and a Port St. Lucie resident. I have seen the problem not just with people who say they are veterans and who are soliciting on the streets, but even with our firefighters who are trying to do a great job dodging in between traffic and knocking on people's windows. People are throwing money out the window, and it has been a problem, so waiting six months is not the answer. Are we waiting for an accident to happen before we take action? It is just like putting a traffic light in after we have already had an accident or a death. Are we waiting for those kinds of things to happen before our City takes action? If we don't take action, the county will take action. They are going to readjust their ordinance to say that they have to abide by the Florida Statute, and one of those is misrepresenting a veteran. I think it should be all or nothing. Otherwise, it will be a free-for-all on Sundays. It will open up the floodgates, in my opinion. I would like to encourage the Council to please consider doing something, or it is going to keep going back and forth from the City to county, and nobody is going to make a decision. Port St. Lucie is the one who actually initially brought it up, and I was thankful for that. The county appeared to be waiting until somebody else made the decision. I'm very happy that the City Attorney's office brought this ordinance up before you. Thank you."

Mayor Faiella stated, "I want to commend staff for doing an excellent job in putting this together and getting the information. I know it took a long time. The county has not made a decision, and they do not know where they want to go with this. They are still negotiating, and they are all over the place. If the issue is safety, then it should be seven days a week and not just six days a week."

**BOB BRUNJES**, President of Scripps Treasure Coast Newspaper, said, "I have gotten to know some of the people that represent us on Sundays. They have relayed to me some of their stories, and how they use this income to pay their bills. There is a little bit of an overreaction to try to regulate this. There is really no hard data to indicate that there is a safety issue. Scripps is concerned about the health, safety, and welfare of all of our citizens. We will be monitoring our program very closely. I can't speak for the others, but we will have a safety program in place. We have been involved in this for 12 years and have a pretty good track record. Thank you."

**THOMAS LADOMIRAK**, resident, said, "One of my concerns is that those people can be a distraction. I have tried to turn a corner and am distracted by someone spinning a sign. If you stop to look at it, it could cause an accident. I suggest that they wear reflective vests and should have a City license, so that you know who they are. I'd like to see a requirement on the charitable contributions of 75% to the agency to help whatever cause that they are funding."

**WENDY ANGIONE**, resident, said, "I want to say what a fabulous job the firemen have done in every county. In this economy, a lot of times people are more apt to give fire fighters money than the Shamrocks. I think just walking in Publix parking lot is dangerous, as people run you over anywhere in this town. I have never had anybody run out in front of me to sell something. I want to speak up for the Muscular Dystrophy Association, because it is a good cause and they have done so many good things for my daughter. A lot of younger people need these jobs, as some of the older people aren't as keen with their reflexes. We have to look out for the younger people, so that they have jobs. Thank you for letting me speak from my heart."

**JOSEPH PATRONIE**, resident, said, "Consider stopping it on Friday, since it is payday. Just about every other day there are 70,000 to 100,000 automobiles passing up and down US 1. Why don't you keep the collectors and all charities stationary at traffic lights? There are a number of automobiles going by, so they should do fine. I would not eliminate the number of collectors, because they need the money and we need the charities."

**b) HILL INTERNATIONAL, INC.**, CONSTRUCTION ENGINEERING INSPECTIONS FOR LOTUS POND REBID, #20110088, TIME AND EXPENSE CONTRACT ESTIMATED AMOUNT OF \$241,012.80, CONTRACT PERIOD IS 300 CALENDAR DAYS, FUND 403-4126-5688, ENGINEERING

*Solicitors*

COUNCIL ITEM: 10A  
DATE: 9/12/11

*12a*

*10/10/11*

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE FLORIDA PROVIDING FOR THE AMENDMENT OF CHAPTER 71 TO ADD SECTIONS 71.03 THROUGH 71.08, PORT ST. LUCIE CITY CODE; SPECIFICALLY, SECTION 71.03, INTENT; SECTION 71.04, DEFINITIONS; SECTION 71.05, FINDINGS AND DETERMINATIONS; 71.06, PROHIBITIONS; 71.07, SEVERABILITY; 71.08, PENALTIES; PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, Section 316.008, Florida Statutes, authorizes the City Council to regulate roads within the City of Port St. Lucie, Florida; and

**WHEREAS**, the City of Port St. Lucie City Council finds that persons displaying advertising in roads, distributing materials or goods to occupants of motorized vehicles in roads, or soliciting business or charitable contributions from the occupants of motorized vehicles in roads is hazardous to public safety and impedes the normal, orderly, and safe flow of traffic; and

**WHEREAS**, the City of Port St. Lucie seeks to provide for the safety of its citizens by prohibiting transactions involving occupants of motorized vehicles on public roads within the City of Port St. Lucie; and

**WHEREAS**, the City Council finds that passage of this Ordinance will further the interest of the health, safety, and general welfare of the public.

**NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:**

**SECTION 1:** Port St. Lucie City Code Chapter 71 is hereby amended to read as follows:

**Section 71.03. Intent**

It is the intent of this Ordinance to protect the health, safety and general welfare of the citizens of the City of Port St. Lucie, to assure the free, orderly, uninterrupted movement of motorized vehicles on public roads within the City of Port St. Lucie. This Ordinance is not intended to control traffic, as that term is defined in Chapter 316, Florida Statutes. This Ordinance is intended to apply evenhandedly to all persons who engage in the activities proscribed herein, regardless of their message. This Ordinance is intended to be narrowly-tailored to serve the significant government interest of public safety, and to leave open ample alternative channels of displaying advertising, distributing goods and materials, and soliciting business and charitable contributions.

**Section 71.04. Definitions**

“Roads” shall include streets, shoulders, roadbeds, medians, and all other ways open to travel by operators of motorized vehicles within the City of Port St. Lucie. This definition excludes private roads and roads that are open to motor vehicle travel.

**Section 71.05. Findings and Determinations**

The City of Port St. Lucie City Council hereby finds and determines that mixing pedestrians and temporarily stopped motor vehicles in the same space at the same time is inherently dangerous, and that the combination of the high volume of motorized vehicles and congested roads in the City of Port St. Lucie and persons engaging in advertising, distribution, or solicitation that is directed at motor vehicle occupants on those roads is hazardous to public safety, both for occupants of motorized vehicles located on public roads and for persons engaging in such advertising, distribution, and solicitation.

The City Council further hereby finds and determines that the prohibitions set forth in this Ordinance are narrowly-tailored to serve the significant interest of promoting and protecting the public health, safety, and welfare of the Citizens of the City of Port St. Lucie, and that said prohibitions leave open ample alternative channels of communication.

**Section 71.06. Prohibitions**

1. No person shall be upon or go upon any road for the purpose of displaying advertising of any kind or distributing materials or goods or soliciting business or charitable contributions of any kind from the occupant of any motorized vehicle located on public roads of the City of Port St. Lucie

2. No person shall be within four (4) feet of the edge of the road for the purpose of distributing materials or goods or soliciting business or charitable contributions of any kind from the occupant of any motorized vehicle located on public roads of the City of Port St. Lucie.

3. The language in this Section is intended to prohibit the activities described above only when they are directed by pedestrians toward occupants of motor vehicles that are on the traveled portion of public roads that are open to traffic – the term “traveled portion” includes travel lanes, turn lanes, and other portions of the road that

ORDINANCE 11-65

are generally used for motor vehicle travel. This Ordinance is not intended to prohibit activities such as advertising, distribution of goods or materials, or business or charitable solicitation that is directed toward pedestrians on sidewalks.

**Section 71.07. Severability and Applicability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 71.08. Penalties**

1. Pursuant to Section 162.22, Florida Statutes, any person convicted of violating the provisions of this Ordinance shall be punished by a fine not to exceed \$500, by imprisonment not to exceed 60 days, or by both such fine and imprisonment.

2. In addition to the penalties provided by subsection (1) of this Section, any violation of this Ordinance shall be subject to appropriate civil action in a court of appropriate jurisdiction, pursuant to Section 162.30, Florida Statutes.

**SECTION 2.** This ordinance shall become effective ten (10) days after its final adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

BY: \_\_\_\_\_  
Joann M. Faiella, Mayor

ATTEST:

\_\_\_\_\_  
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Roger G. Orr, City Attorney

## 10. FIRST READING OF ORDINANCES

a) **ORDINANCE 11-65**, PROVIDING FOR THE AMENDMENT OF CHAPTER 71 TO ADD SECTIONS 71.03 THROUGH 71.08, PORT ST. LUCIE CITY CODE; SPECIFICALLY, SECTION 71.03, INTENT; SECTION 71.04, DEFINITIONS; SECTION 71.05, FINDINGS AND DETERMINATIONS; 71.06, PROHIBITIONS; 71.07, SEVERABILITY; 71.08, PENALTIES; PROVIDING FOR AN EFFECTIVE DATE

**RICK CRARY**, Attorney for Scripps Media said, "I represent Scripps media, and Don Hornbeck is the Circulation Manager. We object to the form of this ordinance, because it is an 'all or nothing' ordinance that we feel would needlessly put 16 street vendors out of work. The ordinance is based largely on the position that was taken in St. Petersburg in a case that was upheld where they took a very radical 'all or nothing approach,' but other communities, such as Jacksonville and Pasco, have not taken that approach. If the City has a genuine safety concerns about how street vendors operate, then those could be specially tailored to an ordinance to address that rather than simply banning all street vendors. I have had a fair amount of experience myself purchasing from street vendors. I was concerned the first time I bought a paper at an intersection whether the light would change, but I found that the people that I bought from are very professional. They look constantly at whether the light is going to change and I've never had a problem with holding up traffic. The gentleman I generally purchase from had time to tell me a joke. He is a regular standup comedian, which makes it an enjoyable experience. If you pass this ordinance, that gentleman could stand in the median and tell me a joke, but could not sell me a paper. It is important to remember that we are talking about first amendment rights of the press. Freedom of the press is one of our most essential rights and included within that is the right of distribution. Cases have been upheld where if newspapers don't have the right to distribute it doesn't make much difference if you publish. There are many other ways for papers to sell, but this has been a time-honored tradition of street vending. In the St. Petersburg case, it looks like the court just closed its eyes to the evidence of whether or not there was really a problem or a safety concern. They just said it makes common sense that there is a safety concern. If you have someone who could be killed or injured in a bar, you don't close all of the bars, you police better. There are certain things that can be done here. You can limit the street vendors where they can't walk across to another lane. They can just step a couple of feet over and make sales when there is a red light, so there are

things that you can do to police this without infringing on the first amendment. If you pass this ordinance, someone could stand out there with a sign protesting the loss of a job, but he couldn't hand you a newspaper. They can do standup comedy or have a cross and preach that the world is about to end, because the local government is infringing on the first amendment, but they couldn't raise up a paper and show it to you, much less sell it to you, because under this ordinance that might be advertising. There are important messages and jobs. Do not infringe upon this activity. I'm implying that our rights and freedoms under the first amendment and the bill of rights is a messy business and sometimes we have to put up with some inconveniences, but it is worth it. If it is 'all or nothing,' then I say, 'nothing.' However, I think we could come to some accommodations."

**DON HORNBECK** said, "I'm a resident of Port St. Lucie and I'm the Director of Circulation and Sales for the Scripps Company in Florida. I'm here to urge you not to ban the sale of the Sunday newspapers from the City's rights-of-way. Currently, it has been permitted on Sundays during daylight hours as long as it is done in a safe way. There are 16 people, many of whom are here tonight, that get their income from this program. It helps them pay their mortgages, car payments, and groceries. With unemployment in St. Lucie County at 13.8%, I strongly urge you not to take away their much needed income. These folks sell almost 2,000 Sunday papers to Port St. Lucie residents who enjoy the convenience of picking up their Sunday newspaper in this fashion. With the challenging local economy, we need to be creating more opportunities for folks to make a living, not taking opportunities away. These folks have weathered the storm so far in our economy and they are doing the best that they can to earn that income. Our Sunday newspaper hawking program started in the year 2000 and it has gone through 607 Sundays, which is over 36,000 hours of selling the newspaper. Those hours would equate to me working my full-time 40 hour-a-week job for almost 19 years. During that 12 year period, there has been one safety accident involving a street hawker. When those of us at the newspaper found out that the hawker disregarded a required safety condition we immediately terminated that contract. I called Mr. Oravec the next day to let him know. Our emphasis has always been on safety and we are proud of the record the program has shown during the past 12 years. On September 3, 2011, an article in the St. Lucie News Tribune stated that according to Allstate, Port St. Lucie ranks as one of the safest driving cities in the nation. Local newspapers perform a vital everyday service to the communities that they serve. After the hurricanes

in 2004, when folks were without power and in need, the street hawkers handed out free newspapers on the street corners so that our City, county, and state governments could communicate where supplies were and what services were available. I urge you to allow this long established program to continue and not eliminate the much needed income that these folks earn."

**STEPHANIE GLAVIN** said, "I'm with the local Muscular Dystrophy Association, and I want to thank all of you for your continued support. We are here tonight to address our concerns with the total ban ordinance that is proposed and is going to be up for a vote. As you know, the St. Lucie County Fire District and IAFF Local 1377 participates in the 'Fill the Boot Campaign' every year to benefit the association. If the ordinance and total ban is passed as is, it would be absolutely devastating to our mission and the services that we provide to our local families in Port St. Lucie. The Fire District and Local 1377 raised \$39,000 last year, and within the last five years they have raised \$282,000. Those numbers obviously show the community's support as well. The 'Fill the Boot Campaign' is our single largest fund raising program on the Treasure Coast, and firefighters nationwide are our number one sponsor to the tune of \$27.2 million this year alone. These funds that we raise provide research service to our local families, and all of the money raised does stay here locally. We understand why the proposed ordinance has come about, and we are hopeful that we can work together on a solution to allow us to continue raising these lifesaving funds for our families."

**BRANDY MILLER** said, "I'm also with the local Muscular Dystrophy Association, and the Director of Business Development. I wanted to share with you exactly what it would mean to lose these funds. Last year alone the St. Lucie County firefighters raised \$39,000, and in the last five years, they raised \$282,000. The highest year was over \$60,000 in one year. In an economy that has not been doing well in the past, they have raised \$39,000, and we have 375 firefighters. If you break that down per firefighter, they have raised about \$104. If we were take the firefighters off of the street corner, we would move them to the big box locations such as Publix, Lowes, Home Depot, the mall, etc. We have had this partnership with the International Association of Firefighters for 57 year. The 'Fill the Boot Program' is done all across the country. We have done a number of studies. This isn't the first time a proposed ban on street solicitation has come about. We are familiar with a number of different ordinances that have been adopted to continue to allow firefighters to collect funds. If you were to take them off the

streets that would be \$20 per firefighter. Therefore, they would raise about \$7,500, which means we would have a loss of \$31,500, and that is substantial. We were doing some quick calculations to give you an idea. The \$31,500 loss would be 15 repairs to wheelchairs, leg braces, and communication devices; nine children that we would send to MDA summer camp; 11 clinic visits to meet with neurologists; 14 physical respiratory and speech therapy consultations; 18 support groups; 122 minutes of life saving research; and 20 flu shots. That's would be the services we could not give to families who live in Port St. Lucie. That's just from the \$39,000 that was raised last year, which was raised in a time when the economy is hurting. If you take away the opportunity for the firefighters to collect, you're taking away thousands and thousands of dollars in future years."

Ms. Glavin noted, "One of the solutions we would like to propose for discussion is an ordinance. We have worked with other counties and cities. There's one that's been used in Alachua county for the past three years. It's a total ban for most of the year where no one can collect, but for a designated four-day weekend everyone can collect. That way it is content neutral where it doesn't exclude anyone. As far as public safety is concerned, this proposed solution. . . ." Mayor Faiella pointed out, "I'm sorry, but your time is up. I have to allow other people to speak."

**BOB BRUNJES**, President and Publisher of Scripps Treasure Coast Newspapers, stated, "The contractors we have out on the streets hawking our papers actually have business licenses. There's sales tax that is paid on the papers sold. I have been very involved in the business development on the Treasure Coast in St. Lucie County and the other two counties that we serve. I'm really big on creating sustainable jobs for our community. I think that's what we need going forward. At this time to take this type of action, take these 16 people off the street, and as a result take food off the table. . . . Hopefully, there can be some kind of accommodation made here to. . . . If it's all or nothing, we vote nothing. In talking to some folks, I understand that safety is really the issue that brought this to the forefront. Port St. Lucie has the safest roads in the state as it is. At a time where unemployment has double digits, we have safe roads. We need to preserve jobs. I'm hoping there's some kind of accommodation that can be made."

**GARY MICHALOWSKI**, Scripps Newspaper, Circulation and Sales Department, stated, "The ordinance as I understand is all about safety. The Newspaper Street Sales Program is all about safety."

They are all wearing a yellow shirt tonight, and on the back of that shirt is a safety message. Before they sell a newspaper they have to agree to certain safety rules in order to be able to participate in the program. They are not allowed to sell to motor vehicles when the light is green. Under no circumstances are headphones or any type of ear device is to be worn that impairs their ability to hear any oncoming traffic that they can't see. Safety shirts identifying the product that they are selling are required to be worn at all times. If they don't have a safety shirt they are not permitted to sell. They should never sell to a moving vehicle, and they are to stay on the median or side of the road. If they enter the paved roadway they are subjected to being ticketed or fined. They are to remain at the location that they are assigned and are not to wander off to another location, because every time that they cross the street, it increases their chances of injury. When they are done selling they are to use the crosswalk to get to the side of the road. They are to be alert to their surroundings at all times. They are not to impede the flow of traffic to solicit a sale, and they are to keep their newspapers secure, as blowing newspapers will cause littering and a safety hazard. Harassment of motorists will not be tolerated. They agree to all of these points before we allow them to sell a newspaper. Their whole program is designed around this, because they understand that there are safety issues."

In an effort to complete this request prior to 2:00 p.m., the below speakers have not been transcribed.

Bob Brunjes  
William Dolaw  
Robert Hall  
Rick Szumski

Mayor Faiella said, "I need more information, so I'm not ready to vote on this tonight. If we could table it, then we can decide on the pros and cons of it. I'd be willing to do that." Councilwoman Berger asked, "When are the County Commissioners expected to look at this?" Mr. Mowery replied, "It will be held in October. The first ordinance is set for first reading on October 6, 2011. The City of Fort Pierce is hoping to do it soon thereafter. The basic premise is that if something was adopted that it would be in a time frame so that we didn't have one community doing it now and another doing it six months from now. It is to all be done in a fairly similar time frame. This really hasn't been discussed by the County Commission at this point, so

it is not as though we have been actively developing and discussing it. It will be coming up, and there will be a lot of discussion. We will be meeting with the same groups that you have, and Bob Brunjes is a friend of mine. I appreciate his position, and love hearing his comments. I appreciate having Scripps within our community, and love the aspect that they have provided. There is one issue that we are working on." Councilman Kelly pointed out, "It was one that was generated by the public, and not by you or me. We will table it to November, and let you guys take the heat for the next couple of weeks." Councilwoman Martin asked, "How long are we tabling it for?" The Assistant City Attorney replied, "There is a meeting Wednesday with Scripps, and it will be attended by the Sheriff's Office and the county. The City of Fort Pierce and Chief Baldwin send their regrets, but their thoughts are basically the same as ours." Councilman Kelly clarified, "Fort Pierce doesn't have to do anything, because they already have that ordinance." The Assistant City Attorney advised, "Their position was that the statute already prohibits commerce of any kind with moving vehicles. It is a little bit of a broad reading of the statute, but it arguably fits with their position." Councilman Kelly said, "I'd like to table it for at least 30 days. That will give the Legal Department a way to try to accommodate some people or not."

Councilwoman Martin **moved** to table Ordinance 11-65 for 30 days to the meeting of October 10, 2011, and bring it back as a discussion item. Councilman Kelly **seconded** the motion. The City Attorney inquired, "Do you want to put it on as a first reading item, or do you want it back on for discussion?" Councilwoman Berger stated, "I agree. I need more information too, so I'd like to have more discussion or at least get with staff to see what Alachua and Jacksonville are doing." The Assistant City Attorney clarified, "The other one is the four-day Labor Day thing." Councilwoman Berger said, "Alachua does the four-day Labor Day, and basically it is a free for all. Generally, the bad apples are not going to come out on Labor Day and challenge the firefighters on the corner to try to get a couple of dollars. I thought this started because we had some bad apples out there, and it was less about safety. I guess that is the route we need to take. I wish that we could come up with something else." Councilman Kelly questioned, "How do you determine which are the good ones and which are the bad ones?" The Assistant City Attorney explained, "The problem lies in your trying to make that determination. When there is an attempt to make that determination, that is when we find ourselves in a constitutional violation position." Councilwoman Berger said, "I

would remind the Council that is what the calls were that were coming in, and they were pointing at certain groups and saying here is why they think this. We are dealing with an issue that was started as a result of listening to those concerns. If we believe that they are real, then it needs to be followed up on, and not finding other reasons to make this happen." Mayor Faiella clarified, "You said another county is doing it for four days." The Assistant City Attorney responded in the affirmative and said, "Labor Day weekend, and I believe it is Alachua." Mayor Faiella asked, "How does that constitute . . . ? If it is a safety issue, it is safety all year round. It is not only for four days." The Assistant City Attorney commented, "I see an issue with that. I agree." Councilwoman Martin remarked, "They are saying that the road is safe for four days and not for the rest of the year." The Assistant City Attorney explained, "If you have that many people selling stuff in the road, there is no vehicle traffic moving." Mayor Faiella said, "If we are dealing with safety, then it is 365 days a year." The Assistant City Attorney pointed out, "The one weekend doesn't help the newspaper vendors at all." Mayor Faiella stated, "I have a problem with punishing everyone for a selective group. I just can't do it." Councilman Kelly clarified, "We are tabling it for discussion."

The City Clerk restated the motion as follows: for approval to table Ordinance 11-65 for 30 days to the meeting of October 10, 2011, and to bring it back as a discussion item. The **motion passed unanimously** by roll call vote.

Select Year:  

## The 2011 Florida Statutes

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Title XXIII  
MOTOR VEHICLES

Chapter 316  
STATE UNIFORM TRAFFIC CONTROL

[View Entire Chapter](#)

### **316.2045 Obstruction of public streets, highways, and roads.—**

(1) It is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon, by standing or approaching motor vehicles thereon, or by endangering the safe movement of vehicles or pedestrians traveling thereon; and any person or persons who violate the provisions of this subsection, upon conviction, shall be cited for a pedestrian violation, punishable as provided in chapter 318.

(2) It is unlawful, without proper authorization or a lawful permit, for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by any of the means specified in subsection (1) in order to solicit. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#). Organizations qualified under s. 501(c)(3) of the Internal Revenue Code and registered pursuant to chapter 496, or persons or organizations acting on their behalf are exempted from the provisions of this subsection for activities on streets or roads not maintained by the state. Permits for the use of any portion of a state-maintained road or right-of-way shall be required only for those purposes and in the manner set out in s. [337.406](#).

(3) Permits for the use of any street, road, or right-of-way not maintained by the state may be issued by the appropriate local government. An organization that is qualified under s. 501(c)(3) of the Internal Revenue Code and registered under chapter 496, or a person or organization acting on behalf of that organization, is exempt from local requirements for a permit issued under this subsection for charitable solicitation activities on or along streets or roads that are not maintained by the state under the following conditions:

(a) The organization, or the person or organization acting on behalf of the organization, must provide all of the following to the local government:

1. No fewer than 14 calendar days prior to the proposed solicitation, the name and address of the person or organization that will perform the solicitation and the name and address of the organization that will receive funds from the solicitation.

2. For review and comment, a plan for the safety of all persons participating in the solicitation, as well as the motoring public, at the locations where the solicitation will take place.

3. Specific details of the location or locations of the proposed solicitation and the hours during which the solicitation activities will occur.

4. Proof of commercial general liability insurance against claims for bodily injury and property damage occurring on streets, roads, or rights-of-way or arising from the solicitor's activities or use of the streets, roads, or rights-of-way by the solicitor or the solicitor's agents, contractors, or employees. The insurance shall have a limit of not less than \$1 million per occurrence for the general aggregate.

The certificate of insurance shall name the local government as an additional insured and shall be filed with the local government no later than 72 hours before the date of the solicitation.

5. Proof of registration with the Department of Agriculture and Consumer Services pursuant to s. [496.405](#) or proof that the soliciting organization is exempt from the registration requirement.

(b) Organizations or persons meeting the requirements of subparagraphs (a)1.-5. may solicit for a period not to exceed 10 cumulative days within 1 calendar year.

(c) All solicitation shall occur during daylight hours only.

(d) Solicitation activities shall not interfere with the safe and efficient movement of traffic and shall not cause danger to the participants or the public.

(e) No person engaging in solicitation activities shall persist after solicitation has been denied, act in a demanding or harassing manner, or use any sound or voice-amplifying apparatus or device.

(f) All persons participating in the solicitation shall be at least 18 years of age and shall possess picture identification.

(g) Signage providing notice of the solicitation shall be posted at least 500 feet before the site of the solicitation.

(h) The local government may stop solicitation activities if any conditions or requirements of this subsection are not met.

(4) Nothing in this section shall be construed to inhibit political campaigning on the public right-of-way or to require a permit for such activity.

(5) Notwithstanding the provisions of subsection (1), any commercial vehicle used solely for the purpose of collecting solid waste or recyclable or recovered materials may stop or stand on any public street, highway, or road for the sole purpose of collecting solid waste or recyclable or recovered materials. However, such solid waste or recyclable or recovered materials collection vehicle shall show or display amber flashing hazard lights at all times that it is engaged in stopping or standing for the purpose of collecting solid waste or recyclable or recovered materials. Local governments may establish reasonable regulations governing the standing and stopping of such commercial vehicles, provided that such regulations are applied uniformly and without regard to the ownership of the vehicles.

**History.**—s. 1, ch. 71-135; ss. 1, 13, ch. 76-31; s. 1, ch. 87-378; s. 61, ch. 93-207; s. 29, ch. 96-350; s. 2, ch. 2007-43.

**Note.**—Former s. 316.103.

Gregory J. Oravec  
Assistant City Manager  
121 SW Port St. Lucie Boulevard  
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**From:** Gabrielle Taylor  
**Sent:** Thursday, October 13, 2011 3:19 PM  
**To:** Greg Oravec; Roger Orr  
**Cc:** 'Katherine Barbieri'; 'Kemerson.CFP@city-ftpierce.com'  
**Subject:**

See below Att. Gen opinion that casts doubt on whether the Fla. Legislature has sufficiently cured the constitutional deficiencies of the earlier s.316.2045, but resists issuing a definitive opinion thereon. Rather, the opinion is limited to a determination of whether there has been state preemption.

Gaby

## Florida Attorney General Advisory Legal Opinion

**Number:** AGO 2007-50  
**Date:** November 7, 2007  
**Subject:** Municipalities, solicitation on public highways

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Ms. Pamela K. Akin  
Attorney, City of Clearwater  
Post Office Box 4748  
Clearwater, Florida 33758-4748

RE: MUNICIPALITIES - SOLICITATION - ORDINANCES - PERMITS - ROADS AND STREETS -  
operation of statutory amendment on local ordinance prohibiting solicitation on  
public roadways. s. 316.2045, Fla. Stat.

Dear Ms. Akin:

As attorney for the City of Clearwater, Florida, you have asked for my opinion on  
substantially the following question:

Does section 316.2045(3), Florida Statutes, as amended by Chapter 2007-43, Laws of  
Florida, preempt a City of Clearwater ordinance prohibiting the solicitation of  
donations for charitable, religious, educational, benevolent, or any other  
purposes?

The City of Clearwater prohibits, by ordinance, anyone from approaching a motor

10/14/2011

vehicle being operated on a publicly-owned street for the purpose of soliciting or attempting to solicit from the occupant of the motor vehicle donations of money or of property of any kind for charitable, religious, educational, benevolent, or any other purposes. The city does not issue permits or any other exemption from the prohibition. [1] You have asked whether amendments to section 316.2045(3), Florida Statutes, that were adopted during the 2007 legislative session, apply to the City of Clearwater which absolutely prohibits solicitation, or whether the statute applies to municipalities and counties where soliciting is currently authorized by permit.

Initially, it is important to note that the regulation of the right to solicit contributions on public roads raises First Amendment considerations. The right to solicit contributions to a charitable or political cause is protected by the First Amendment. [2] In a public forum, such as the streets, time, place, and manner restrictions on the exercise of First Amendment rights will be permitted if they "are justified without reference to the content of the regulated speech, . . . are narrowly tailored to serve a significant governmental interest, and . . . they leave open ample alternative channels for communication of the information." [3]

Section 316.2045, Florida Statutes, has been challenged on First Amendment grounds and found to be unconstitutional. In *Bischoff v. Florida*, [4] the federal district court adopted the report and recommendation of a United States Magistrate holding section 316.2045, Florida Statutes, facially invalid under the First Amendment. The court said that the statute preferred the viewpoints expressed by registered charities and political campaigners by allowing ubiquitous and free dissemination of their views, but restricted discussion of all other issues and subjects. My review of the legislative history surrounding the most recent amendments to section 316.2045, Florida Statutes, does not indicate that the Legislature recognized the court's holding in *Bischoff* or sought to address the infirmities in the statute. However, this office has no authority to either declare a statute unconstitutional or advise noncompliance with a legislative direction or mandate. [5] Thus, my comments are limited to a consideration of the questions you have asked, i.e., whether amendments to section 316.2045(3), Florida Statutes, that were adopted during the 2007 legislative session, apply to the City of Clearwater which currently enforces a policy that absolutely prohibits solicitation on local roadways.

Section 316.2045, Florida Statutes, makes it unlawful for any person to willfully obstruct "the free, convenient, and normal use of any public street, highway, or road" by approaching motor vehicles traveling thereon. [6] Pursuant to subsection (2) of the statute, it is unlawful, without proper authorization or a lawful permit, for any person to obstruct traffic in order to solicit. [7] The state has authorized local governments to issue permits for solicitation activities on local streets, roads, or rights-of-way. [8] The statute recognizes certain exceptions from the provisions of section 316.2045 for solicitation by organizations qualified under section 501(c)(3) of the Internal Revenue Code or registered pursuant to Chapter 496, Florida Statutes.

Section 316.2045(3), Florida Statutes, was amended by Chapter 2007-43, Laws of Florida, to provide:

"Permits for the use of any street, road, or right-of-way not maintained by the state may be issued by the appropriate local government. An organization that is qualified under s. 501(c)(3) of the Internal Revenue Code and registered under chapter 496, or a person or organization acting on behalf of that organization, is exempt from local requirements for a permit issued under this subsection for charitable solicitation activities on or along streets or roads that are not maintained by the state under the following conditions:

(a) The organization, or the person or organization acting on behalf of the organization, must provide all of the following to the local government:

1. No fewer than 14 calendar days prior to the proposed solicitation, the name and address of the person or organization that will perform the solicitation and the name and address of the organization that will receive funds from the solicitation.
2. For review and comment, a plan for the safety of all persons participating in the solicitation, as well as the motoring public, at the locations where the solicitation will take place.
3. Specific details of the location or locations of the proposed solicitation and the hours during which the solicitation activities will occur.
4. Proof of commercial general liability insurance against claims for bodily injury and property damage occurring on streets, roads, or rights-of-way or arising from the solicitor's activities or use of the streets, roads, or rights-of-way by the solicitor or the solicitor's agents, contractors, or employees. The insurance shall have a limit of not less than \$1 million per occurrence for the general aggregate. The certificate of insurance shall name the local government as an additional insured and shall be filed with the local government no later than 72 hours before the date of the solicitation.
5. Proof of registration with the Department of Agriculture and Consumer Services pursuant to s. 496.405 or proof that the soliciting organization is exempt from the registration requirement.
  - (b) Organizations or persons meeting the requirements of subparagraphs (a)1.-5. may solicit for a period not to exceed 10 cumulative days within 1 calendar year.
  - (c) All solicitation shall occur during daylight hours only.
  - (d) Solicitation activities shall not interfere with the safe and efficient movement of traffic and shall not cause danger to the participants or the public.
  - (e) No person engaging in solicitation activities shall persist after solicitation has been denied, act in a demanding or harassing manner, or use any sound or voice-amplifying apparatus or device.
  - (f) All persons participating in the solicitation shall be at least 18 years of age and shall possess picture identification.
  - (g) Signage providing notice of the solicitation shall be posted at least 500 feet before the site of the solicitation.
  - (h) The local government may stop solicitation activities if any conditions or requirements of this subsection are not met."

Chapter 2007-43, the "Iris Roberts Act" (underlined above) is intended to exempt certain nonprofit organizations from permit requirements related to obstructing streets or roads for solicitation purposes; to establish conditions that certain nonprofit organizations must meet in order to solicit charitable donations on or along certain streets, roads, and rights-of-way; and to authorize local governments to halt solicitation activities if these conditions are not met. [9]

By using the word "may" in the first sentence of the statute, the Legislature has granted local governments the discretionary authority to issue permits for solicitation activities on streets and roads not maintained by the state. [10] The "Iris Roberts Act" then preempts those local governments that have adopted a permit requirement for the solicitation of charitable contributions. Nothing in the act or in the legislative history surrounding adoption of this amendment reflects a legislative intent that local governments having no permit program and currently prohibiting all solicitation must allow solicitation. To read the amended statutory language to allow only charities and political campaigners to solicit could, arguably, subject the statute to federal constitutional challenge as violating First Amendment free speech rights and Fourteenth Amendment equal protection rights. [11] As the court held in the *Bischoff* case, "[f]acially the Florida statute prefers speech by s. 501(c)(3) charities and those who are engaged in political speech." This problem would continue to be reflected in a city policy prohibiting solicitation except, as required by section 316.2045(3), Florida Statutes, by charitable, religious, educational, or benevolent organizations.

In sum, it is my opinion that section 316.2045(3), Florida Statutes, as amended by Chapter 2007-43, Laws of Florida, does not preempt a City of Clearwater ordinance

prohibiting the solicitation of donations for charitable, religious, educational, benevolent or any other purposes on publicly-owned streets. Rather, the statute is addressed to local governments that have adopted a permit system for solicitation activities on non-state maintained roadways. I would strongly suggest that the Florida Legislature revisit this statute to consider the First Amendment problems raised by the *Bischoff* case.

Sincerely,

Bill McCollum  
Attorney General

BM/tgh

[1] This office must presume the validity of duly enacted local legislation. See Ops. Att'y Gen. Fla. 02-79 (2002) and 95-32 (1995); Cf. *Pickerill v. Schott*, 55 So. 2d 716, 719 (Fla. 1951) (duty of beverage director to observe the law as he found it until in a proper proceeding its constitutionality is judicially passed upon). No comment is expressed herein regarding the validity of the City of Clearwater's ordinance.

[2] See, e.g., *Village of Schaumburg v. Citizens for Better Environment*, 444 U.S. 620, at 632, 100 S. Ct. 826 at 834, 63 L. Ed. 2d 73 (1980), rehearing denied, 445 U.S. 972, 100 S. Ct. 1668, 64 L. Ed. 2d 250 (1980), in which the Court stated that:

"Charitable appeals for funds, on the street or door-to-door, involve a variety of speech interests . . . that are within the protection of the First Amendment. Soliciting financial support is undoubtedly subject to reasonable regulation but the latter must be undertaken with due regard for the reality that solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political, or social issues, and for the reality that without solicitation the flow of such information and advocacy would likely cease."

[3] See *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293, 104 S. Ct. 3065, 3069, 82 L. Ed. 2d 221 (1984); *Association of Community Organizations for Reform Now v. St. Louis County*, 930 F.2d 591 (8th Cir. 1991).

[4] 242 F. Supp. 2d 1226 (M.D. Fla. 2003).

[5] Cf. Ops. Att'y Gen. Fla. 03-32 (2003), 78-64 (1978), and 77-99 (1977); see generally *Deltona Corporation v. Bailey*, 336 So. 2d 1163 (Fla. 1976).

[6] Section 316.2045(1), Fla. Stat.

[7] Section 316.2045(2), Fla. Stat.

[8] Section 316.2045(3), Fla. Stat., states that "[p]ermits for the use of any street, road, or right-of-way not maintained by the state may be issued by the appropriate local government." Permits for the use of state-maintained roads or rights-of-way are controlled in s. 337.406, Fla. Stat.

[9] See Bill Details, HB 99 - Charitable Public Solicitations, General Bill, "Charitable Public Solicitations."

[10] See *City of Miami v. Save Brickell Avenue, Inc.*, 426 So. 2d 1100 (Fla. 3d DCA 1983), and *Fixel v. Clevenger*, 285 So. 2d 687 (Fla. 3d DCA 1973) (the word "may"

when given its ordinary meaning denotes permissive term rather than mandatory connotation of the word "shall"). And see Summary Analysis, HB 99, House of Representatives Staff Analysis, dated January 23, 2007 ("Local governments have the authority to issue permits for solicitation activities on non-state maintained roadways.").

[11] See *Bischoff v. Florida*, 242 F. Supp. 2d 1226 (M.D. Fla. 2003) (Florida statute prohibiting obstruction of public streets, highways, and roads [s. 316.2045, Fla. Stat.] was content-based and vague, and therefore violated First Amendment free speech rights; statute facially preferred the viewpoints expressed by registered charities and political campaigners by allowing ubiquitous and free dissemination of their views, but restricted discussion of all other issues and subjects).

# PSL tables ban on vendors in street

Proposed ordinance will prohibit sales or roadside solicitations from charities

by Alexi Howk  
alex.howk@scripps.com  
72-409-1339

PORT ST. LUCIE — City officials decided Monday night they need to explore ways some segments of the community will not be penalized if a proposed ordinance goes into effect that would ban vendors from making roadside

solicitations.

The City Council tabled the issue for further discussion to its Oct. 10 meeting so city officials can look into ways to accommodate various groups. Vice Mayor Linda Bartz was absent.

The proposal prohibits vendors from using the medians and public roads within the city to sell goods or collect charitable contributions

from occupants of vehicles.

City officials have said roadside solicitations are hazardous to public safety and impede the safe flow of traffic.

But the ordinance is not intended to prohibit activities such as advertising, distribution of goods or business or charitable solicitation directed toward pedestrians on sidewalks.

St. Lucie County and Fort Pierce are considering similar ordinances. The county ordinance is scheduled for a first reading on Oct. 6, County Commissioner Tom Mowery told the council.

Stephanie Glavin, a fundraising coordinator at the Muscular Dystrophy Association, said the

See ROADSIDE, 5A

## LOCAL

### ROADSIDE from 1A

ordinance would prohibit firefighters from collecting donations for the "Fill the Boot" campaign. The Muscular Dystrophy Association has had a long partnership with the International Association of Firefighters. The firefighters association is the charity's largest sponsor.

Last year, local firefighters raised \$39,000 for the Muscular Dystrophy Association through the "Fill the Boot" campaign where firefighters stand in busy intersections or at shopping centers holding rubber boots and ask people to throw money in. The donations fund research, medical equipment and activities for the Muscular Dystrophy Association.

"It would be devastating to our mission, and the services we provide to the residents of Port St. Lucie," Glavin said if the city bans roadside solicitations.

Several employees of Scripps Treasure Coast Newspapers, including the company's president and publisher, Bob Brunjes, said an all-inclusive ban would put 16 street vendors out of work. They said the ordinance would prohibit Sunday sales of almost 2,000 newspapers to motorists.

Discussion of the ban began after individuals dressed in military uniforms started appearing on Treasure Coast roads collecting for veterans' causes. A lengthy investigation by Scripps Treasure Coast Newspapers of the groups — and others — showed that in some cases only a portion of the money collected actually benefited veterans or their families.

City Councilman Jack Kelly said Monday the proposed ban came about from public complaints received through phone calls and emails.

But Councilwoman Michelle Berger said she be-

lieved the ordinance was being proposed because of the individuals who were posing as veterans.

Mayor JoAnn Faiella said she didn't want to punish everybody because of one group.

Assistant City Attorney Gabrielle Taylor said there are some areas, including Alachua County and Jacksonville, that have similar ordinances, but allow for accommodations. She said Alachua County allows solicitations or a "free for all" during four days of the Labor Day weekend. However, she said that does nothing to help the newspaper hawkers.

"It's an all-or-nothing situation in my opinion," she said.

City officials said there have been instances of solicitors getting hit by cars.

"This is under public safety, and I don't know how we do for one and not the other," City Councilwoman Shannon Martin said.



# No justification for outright ban

■ Find a way to address public concerns without ending roadside solicitations

A proposed ban on all roadside solicitations in St. Lucie County is pure overreaction, overregulating an activity that has caused few problems — and none of the magnitude suggested by some local officials.

The proposal to ban vendors from using the medians and public roads to sell goods or collect charitable donations is being considered by St. Lucie County, Fort Pierce and Port St. Lucie.

The Port St. Lucie City Council will discuss the issue Monday night. Last week, St. Lucie County commissioners proposed a compromise in which roadside solicitations would be banned throughout

the unincorporated areas of the county except during daylight hours on Sundays.”

City Manager Jerry Bentratt said the issue is on the agenda to discuss possible changes that might be made before the ordinance is placed on a council agenda for a public hearing and first reading at a meeting later this month.

This newspaper has a vested interest in the council's actions. Scripps Treasure Coast Newspapers employs 16 vendors to sell newspapers from medians in Port St. Lucie. Those employees could lose their income if an outright ban is approved. Thus, if government's No. 1 mission is jobs, it would be failing on this count.

But there are many others who could be negatively impacted by a ban. Among them is the Muscular Dystrophy Association, which teams with local firefighters for the “Fill the Boot” campaign. The campaign raises money to fund research, medical equipment and activities for the association. Last year, local firefighters working from medians and the roadway collected \$39,000 for the association.

devastating to our mission and the services we provide to the residents of Port St. Lucie,” Stephanie Glavin, a fundraising coordinator for the MDA, told the council at its September meeting.

Public attention to the roadside solicitations was raised as a result of a lengthy investigation by Scripps Treasure Coast Newspapers into funds collected by veterans groups found that some organizations were not assisting veterans as they claimed or were not veterans themselves as their uniforms implied.

The public should be aware of those unscrupulous groups and be wary of giving to any group with which they are unfamiliar.

If officials believe that is insufficient protection for the public, a permitting system could be established to control groups that use medians. Still, at a time when less bureaucracy is better, the permit option is not ideal.

Advocates of a ban, who originally were worried about fraudulent fundraising, have added another reason for the ban: to keep people safe and from impeding traffic. If there is factual rather than anecdotal evidence of safety problems, it has not been presented to validate such a claim.

“There are some people doing some pretty stupid things (along roadways),” Bentratt said. “Our problem is we can't just pick and choose (which activities to ban).”

However, there should be some reasonable room for compromises that would serve the goals of government while protecting the abilities of organizations to continue their activities in a responsible, public-service manner.

Better yet, government should focus on priorities — job retention and creation — and a ban on vendors would do just the opposite.

## ATTEND THE MEETING

The Port St. Lucie City Council will discuss potential revisions to a proposed outright ban on all roadside solicitations at 7 p.m. Monday at Port St. Lucie City Hall, 121 S.W. Port St. Lucie Blvd.