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Reply to: Tampa

January 20, 2014

VIA EMAIL to douglasthomas@lakelandgov.net

Mr. Douglas B. Thomas, City Manager
City of Lakeland
228 S. Massachusetts Ave.
Lakeland, Florida 33801

Re: Lakeland City Commission Meeting on January 21, 2014

Dear Mr. Thomas:

We write on behalf of the First Amendment Foundation to express concerns about a City Commission meeting scheduled for tomorrow. The First Amendment Foundation is a non-profit organization dedicated to promoting the public's constitutional right to oversee and participate in the government process. The Foundation supports Mr. Kevin Kayden's desire to speak prior to a City Commission vote concerning the Lakeland Police Department Chief.

We understand that Mr. Kayden wants to speak to the Commission before the Commission votes on an issue of concern to him. He stated that, although he followed the protocol in order to be allowed to speak during the "Request to Appear from the General Public" portion of the meeting, he has instead been relegated to the "Audience Participation" portion. That portion of the meeting will be after the Commission has concluded every other item on its agenda. Mr. Kayden is particularly concerned that he will not be able to speak to the Commission before its vote on the Lakeland Police Department Chief, if he is permitted to speak only during the Audience Participation portion of the meeting.

Under Florida Statutes Section 286.0114(2), members of the public must be given reasonable opportunity to be heard on a proposition within reasonable proximity in time **before** the meeting at

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which the board or commission takes the official action. This means that Mr. Kayden should be allowed to speak to the Commission before the relevant vote. Mr. Kayden's right to speak is protected, even if there are City officials who disagree with the anticipated content of his public comments. In addition, if Mr. Kayden's speaking time assignment is related to the anticipated content of Mr. Kayden's speech, that action could constitute a violation of Mr. Kayden's First Amendment rights as well.

Under Section 286.0114(6), Florida circuit courts may enjoin violations of this section, and "shall assess reasonable attorney fees against" a commission if the court determines that the defendant to such action violated this section. The Foundation strongly urges you to ensure that public comments at the City Commission meeting are handled in accordance with Section 286.0114, and in particular, that you make sure that Mr. Kayden and other members of the public are given the opportunity to speak before a vote on the LPD Chief.

Thank you for your prompt attention to this matter.

Very truly yours,

THOMAS & LoCICERO PL

/s/ Sadie R. Craig for

Gregg D. Thomas

GDT/src

cc: Tim McCausland
Lakeland City Attorney
Barbara Peterson
First Amendment Foundation
Kevin Kayden