



# City of Margate

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## Meeting Minutes City Commission Workshop

*Mayor Anthony N. Caggiano*

*Vice Mayor Tommy Ruzzano*

*Commissioners:*

*Antonio V. Arserio, Arlene R. Schwartz, Joanne Simone*

*City Manager Cale Curtis*

*Interim City Attorney Weiss Serota Helfman Cole & Bierman*

*City Clerk Jennifer M. Johnson*

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Thursday, September 14, 2023

10:00

Commission Chambers

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### CALL TO ORDER

### ROLL CALL

**Present:** 4 - Vice Mayor Tommy Ruzzano, Mayor Anthony N. Caggiano, Commissioner Arlene R. Schwartz and Commissioner Joanne Simone

**Absent:** 1 - Commissioner Antonio V. Arserio

### MOMENT OF SILENCE - INVOCATION

### PLEDGE OF ALLEGIANCE

### 1) PRESENTATION(S)

**A. [ID 2023-295](#) PHASE II OF THE CODE UPDATE PROJECT**

THE CITY CONTRACTED WITH CALVIN, GIORDANO & ASSOCIATES, INC. TO UPDATE THE CITY CODE. THE PURPOSE OF THIS WORKSHOP IS TO REVIEW PHASE 2 OF THE CODE UPDATE. PHASE 2 CONSISTS OF:

- APPENDIX A- ZONING CODE WHICH INCLUDES THE ZONING REGULATIONS FOR THE CITY. THE UPDATE INCLUDES THE ENTIRE APPENDIX WITH THE EXCEPTION OF REGULATIONS RELATED TO SIGNAGE AND WIRELESS COMMUNICATION FACILITIES.
- CHAPTER 23 - LANDSCAPING WHICH ENTAILS GENERAL LANDSCAPING REGULATIONS, TREE PRESERVATION AND PROTECTION, AND DRIVEWAY LANDSCAPING AND LIMITATIONS.
- REVIEW OF APPENDIX C - LAND DEVELOPMENT CODE- WHICH WAS ADOPTED BY ORDINANCE BY THE CITY THROUGH ORDINANCE 90-2 BUT NEVER CODIFIED BY THE CITY.

- REVIEW OF CRA BUILDING DESIGN REGULATIONS - TO DETERMINE IF CHANGES ARE NEEDED TO THE DOCUMENTS BASED ON PROPOSED CHANGES TO REGULATIONS.

INTERIM CITY ATTORNEY DAVID N. TOLCES explained that the purpose of this workshop was to review Phase II of the City's Code Update Project.

CITY MANAGER CALE CURTIS introduced and thanked Jim Hickey from Calvin, Giordano & Associates (CG&A) Inc. and explained that he had been working on the City's code which had been a long and detailed process. He emphasized that this was a Workshop where they would exchange ideas and thoughts about code changes and that they were not looking for any approvals. He explained that once all the information had been collated, they would revert back at the end of November/December 2023 with changes and direction from the City Commission for adoption.

MAYOR ANTHONY N. CAGGIANO thanked everyone who participated in this project and expressed that it was a long process.

CG&A, INC., DIRECTOR OF PLANNING, JIM HICKEY echoed the sentiments of the City Manager Curtis. He informed that the City's code was 40 – 50 years old that this was not uncommon in Broward County (BC) but changes were required. He indicated that it was going to be a high level presentation and that in some areas, they did require some policy direction from the City Commission. He spoke about Phase II and the timeline for completion followed by questions and answers. He discussed his completion of Phase II and said that many of the changes were going to be incorporated into the newly created Chapter 40. He informed that the objective was to have one document which visitors could peruse or it could be accessed online. He advised that there had been a number of track and editorial changes between CG&A and City staff. He walked through the Administrative and General uses and structures and explained that issues pertaining to non-conforming were difficult and took a while to change out over time. He referenced page 18 of 74 and sought input from the City Commission on the language on variances for use and permitted uses. He said that they recommended that the City did not allow the distance separations as the whole idea of having this was to limit the number of uses to what they had in the community.

MAYOR CAGGIANO sought clarity on these restrictions.

Discussion ensued on restricting uses.

CITY MANAGER CURTIS clarified that the distance separation was there but questioned whether the City Commission required it processed for somebody to apply for a variance or if there was no process to appeal to the City Commission.

VICE MAYOR TOMMY RUZZANO responded and informed that they should be able to as every situation was unique.

COMMISSIONER ARLENE R. SCHWARTZ highlighted past problems with saying no to a variance.

INTERIM CITY ATTORNEY TOLCES informed that variances were individual and fact specific which would need to be analyzed separately. He forewarned that the City could end up in Court either way whether they improved it or denied it and referenced the Bert J.

Harris Jr. Act.

Discussion ensued on distance separation.

VICE MAYOR RUZZANO suggested simplifying the City's Code, being flexible and referenced the long process for a sign for Broward Meat and Fish.

MAYOR CAGGIANO agreed theoretically with Vice Mayor Ruzzano but said that the City should have standards. He had no problems with people going to the Board of Adjustment and if they were denied, going to the City Commission.

Discussion ensued.

CG&A, INC., DIRECTOR OF PLANNING HICKEY advised that staff would revert back with sign regulations as they were unique and needed more input from attorneys.

COMMISSIONER SCHWARTZ did not believe in a 'less is more' approach and thought there should be certain amount of controls. She said that aesthetically, they had a difference of opinion.

COMMISSIONER JOANNE SIMONE concurred with Commissioner Schwartz's comments and did not believe that less was better. She said that they were here to update their code and make it better so that issues of the past did not reoccur. She was for keeping the 'no variances' as she outlined that it was cleaner when there were rules and there were not many exceptions to the rules.

CITY MANAGER CURTIS said that they were at a bit of a stalemate but indicated that there was some agreement to wanting to keep distant limitations in place for certain uses. He informed that they would have to return to get some decision making or possibly, a vote in the near future as to whether they want to allow the variance process for that. He referenced that the final criteria would be if it would be in the best interest of the City.

Discussion ensued.

CG&A, INC., DIRECTOR OF PLANNING HICKEY said that when they return with the Ordinance and as the City Commission was at a 2/2 decision, he suggested that they could also demonstrate what uses require a distance and then they could get an understanding of what those were. He suggested that the restriction on the variance of the use should be retained and he advised that they would revert back with a list of distance requirements.

Discussion ensued including distance requirements and signs.

CITY MANAGER CURTIS explained that they were aware of the limitations of the sign code which he advised was going to be updated. He said that the intent behind creating those distance limitations was to encourage a variety of different uses in the respective areas and not provide an avenue to have an entire strip-mall full of check-cashing stores or dollar stores.

VICE MAYOR RUZZANO questioned whether they had any code that restricts a pre-school for going into any certain areas in the City and referenced developing the downtown area.

Discussion ensued.

DEVELOPMENT SERVICES SENIOR PLANNER, CHRIS GRATZ advised that the alcohol distant separation and regulations were removed from the Code a few years ago.

Discussion ensued.

CG&A, INC., DIRECTOR OF PLANNING HICKEY advised that they put some standards pertaining to fuel stations including a 1,000 feet distance separation. He referenced page 26 of 74 pertaining to fences where language was added. He highlighted concerns with single family lots that were not in Homeowners Associations (HOA) and that were adjacent to the right of way and that they were looking at ways of coming up with a strategy of trying to make those areas consistent and sought recommendations and direction on the same. He explained that they were considering a requirement that anyone that faced the right of way either side would need to install a white polyvinyl chloride (PVC) fence and they were looking for some sort of consistent palate for those properties.

Discussion ensued.

CITY MANAGER CURTIS explained that the requirement a white permitted PVC fixture would only apply and be permitted if a fence was replaced.

COMMISSIONER SIMONE disagreed with this recommendation as she did not believe they had a right to tell people how to spend their money. She said that PVC fences were very expensive and indicated that they were not sustainable. She said that after the last hurricane on the West Coast of Florida, almost every PVC fence came down. She also said that there was no way for the PVC fences to breathe and referenced a shadowbox.

CG&A, INC., DIRECTOR OF PLANNING HICKEY explained that some cities required a shadowbox and informed that they were available in PVC which allowed for airflow.

VICE MAYOR RUZZANO said that he loved the uniformity with the white fencing on Royal Palm Boulevard opposite the church and surrounding areas and questioned which type of fence they would utilize to adhere to the same style.

CITY MANAGER CURTIS advised that the code would provide that clarity which would be the only fence permitted on the right of way.

Discussion ensued on fencing.

COMMISSIONER SCHWARTZ said that the PVC would look good on the right of way and advised that it could also be pressure washed. She believed that it was a good idea as long as it was en vogue, i.e., meaning that it should all be updated in 10 years time.

Discussion ensued including PVC fencing being covered under the Property Improvement Grant Program (PIP) and that the fencing was aesthetically pleasing.

COMMISSIONER SIMONE advised that some homebuyers may not like fencing and indicated that they may prefer to look out without any restricted views.

CG&A, INC., DIRECTOR OF PLANNING HICKEY clarified that erecting a fence was not a requirement, only if you wanted to install it along the right of way which would need to have to be PVC. He questioned whether they should retain the language on the fencing

but advised that they would highlight the same when the draft was reviewed by the City Commission.

Discussion ensued on different styles of PVC fencing.

CG&A, INC., DIRECTOR OF PLANNING HICKEY referenced notable changes and discussed removing the Transit Oriented Corridor (TOC) jargon in the code and change it to 'activity center'. He discussed vehicle fueling pertaining to brewers and distilleries and referenced pages 19 - 153 regarding minimum separation. He recommended providing the City Commission with a list so that they could determine where they want them to be.

COMMISSIONER SCHWARTZ referenced page 19 of 153, and questioned the vehicle fueling and the removal of the 1,000 feet.

CG&A, INC., DIRECTOR OF PLANNING HICKEY explained that you would need to go to page 33 or 74 to the vehicle fueling section to look at those.

Discussion ensued.

MAYOR CAGGIANO referenced page 19 of 153 and pointed out an incomplete sentence.

CG&A, INC., DIRECTOR OF PLANNING HICKEY responded to Mayor Caggiano's question. He referenced the Supplemental Uses Section on page 148 – 153 and said that it would make sense when the document was finalized.

MAYOR CAGGIANO questioned the term RLUIPA.

Discussion ensued on the changes to Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) pertaining to the current code.

CG&A, INC., DIRECTOR OF PLANNING HICKEY discussed the additions made to Municode and suggested having separate districts and requirements and then to grandfather those in which would not allow for more. He referenced page 133 of 153 and advised that they were looking at doing some supplemental residential development standards which would pertain to any applications received in the future and that they met the necessary standards.

COMMISSIONER SCHWARTZ questioned height restrictions on developments within a mile.

CG&A, INC., DIRECTOR OF PLANNING HICKEY advised Commissioner Schwartz that it was specific to Senate bill 102 which he explained tied the hands of the City making a decision.

Discussion ensued.

CG&A, INC., DIRECTOR OF PLANNING HICKEY explained that they had added in the drive-thru and escape lanes and referenced page 21 and 22. He advised that the City had a number of inbound spaces but they did not have outbound and said that some, of which, were dependent on the use. He referenced page 39 and alcoholic beverage establishments as part of the special exceptions and questioned that if they did not want to have it, whether it could be removed.

Discussion ensued on suitable locations.

CITY MANAGER CURTIS questioned the City Commission if they wanted to review the prohibition on medical marijuana treatment dispensing facilities in Margate.

COMMISSIONER SCHWARTZ said that she had no appetite for medical marijuana treatment dispensaries in Margate.

CG&A, INC., DIRECTOR OF PLANNING HICKEY informed that the State requirement was that if you allowed for the dispensary, it would have to be anywhere where you would allow a pharmacy.

Discussion ensued.

G&A, INC., DIRECTOR OF PLANNING HICKEY walked through the changes of the last Section they had made to landscaping and explained that they were trying to modify the Code which were specific with current State requirements, for example, Florida-Friendly. He suggested that they should review the swales and identified that one of the big issues with landscaping was coming up with a set standard where you meet one tree every 30 feet or one tree on each property and he stated that it did not always work depending on what was underground such as drains or overhead power lines.

Discussion ensued on synthetic turf and landscaping development.

CITY MANAGER CURTIS indicated that as some of the neighborhoods did not have large front yards, the City Commission may consider allowing them to install either all or portioned synthetic turf.

G&A, INC., DIRECTOR OF PLANNING HICKEY said that they could look at that idea but he would have to consult with Department of Environmental and Engineering Services (DEES) as they were usually dead set against this being on the swale.

Discussion ensued on the permeability of artificial turf as opposed to concrete.

VICE MAYOR RUZZANO questioned if there was a code for trees that were impeding on power lines.

Discussion ensued.

G&A, INC., DIRECTOR OF PLANNING HICKEY referenced right tree, right place and if a property owner had to plant a shade tree and there were power lines above it, it would make no sense for that requirement. He repeated that the City's regulations would have to be consistent with BC as they had some pretty stringent requirements on removal and placement of trees.

Discussion ensued.

BUILDING DEPARTMENT CODE COMPLIANCE SUPERVISOR, JOSEPH H. SCIMECA, explained that they received many complaints about overgrown trees onto power lines but homeowners were not permitted to trim the same which he informed was the responsibility of Florida Power & Light Company (FPL). He referenced the artificial turf and said that there were vehicles that parked on front lawns in the City. He said that in terms of compaction, once the turf got soaked, it would leave ruts.

VICE MAYOR RUZZANO responded to Building Code Supervisor Scimeca pertaining to the responsibility of tree trimming with FPL and parking on the turf.

Discussion ensued.

G&A, INC., DIRECTOR OF PLANNING HICKEY referenced landscaping and discussed options and standards on canopy replacement and that they had updated the plant list to current standards.

Discussion ensued on tree removal.

COMMISSIONER SIMONE had an issue with this section and believed that residents should be allowed to remove a tree. She also did not agree that if a tree with a large base was removed, that it had to be replaced with a like for like or several other trees.

MAYOR CAGGIANO agreed with Commissioner Simone's comments.

G&A, INC., DIRECTOR OF PLANNING HICKEY indicated that there had been some back and forth and that the legislator had been interested in this topic for a number of years but currently, the City had to follow and enforce whatever BC's requirements were. He advised that if the City failed to adhere to those requirements, then BC would regulate them.

Discussion ensued.

VICE MAYOR RUZZANO concurred with Commissioner Simone. He said that he did not like the ratio and believed it was up to the residents to make a determination of whether they wanted to have trees. He suggested that the City could write to BC requesting that they need their quota on trees and green space.

Discussion ensued on replacing trees.

COMMISSIONER SIMONE received many emails from residents on trees encroaching on their neighbor's property and she explained the problems that occurred therein. She believed this was an issue which needed to be addressed.

Discussion ensued.

INTERIM CITY ATTORNEY TOLCES said that to his knowledge, there was nothing that would allow the City to require the owner of the property where the tree was located to have to go onto the neighbor's property to trim that tree. He also said that they would not be citing the property owner who had the encroaching tree on the property because they had no control other than to trim the branches that were on that property. He said that depending upon the nuisance that was being created, there could be a situation where the City did site the property owner whose tree was growing out of control onto a neighbor's property.

Discussion ensued.

G&A, INC., DIRECTOR OF PLANNING HICKEY referenced the Community Redevelopment Agency's (CRA) guidelines and said that they were considering compiling a memorandum of their suggestions. He recommended that when this had been established, they could have it as a separate document or have a notation in their code that said the 'CRA Guidelines are adopted by reference'. He advised that as the City

were the policy makers, they could go back and make those changes over time provided that they were needed.

CITY MANAGER CURTIS' interpretation was that this was not a 'one size fits all' for the City. He suggested that the City Commission may want to focus the CRA design guidelines in their activity center areas and pull some of that back and referenced design guidelines in traditional single family home areas.

Discussion ensued.

INTERIM CITY ATTORNEY TOLCES said that the CRA board discussed this when they adopted the guidelines and currently, there was really no ability for the City to 'enforce' the same. He said if they included some provisions in the Code that said 'development within this area shall comply with the CRA guidelines', then they would have the connections as Mr. Hickey was saying and if the CRA wanted to change those guidelines at some point in time, they could be changed but there would still be the reference in the code and an amendment would not be necessary through an Ordinance.

Discussion ensued.

MAYOR CAGGIANO questioned the City Commission if they were in favor of this initiative; 4 – 0.

INTERIM CITY ATTORNEY TOLCES advised that they could add appropriate language to the same.

Discussion ensued.

COMMISSIONER SCHWARTZ questioned whether they were going to address parking regulations in the City.

G&A, INC., DIRECTOR OF PLANNING HICKEY informed that the off-street parking regulations were in Section 3 which started with page 1 of 38.

MAYOR CAGGIANO repeated his thanks to Mr. Hickey for providing his update and for the City staff who participated in this project.

Discussion ensued.

## ADJOURNMENT

There being no further business, the meeting adjourned at 12:24pm.

Respectfully submitted,

Transcribed by Salene E. Edwards

  
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Jennifer M. Johnson, City Clerk

Date: 10/20/2023

PLEASE NOTE:



If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, the person will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Anyone desiring a verbatim transcript shall have the responsibility, at his/her own expense, to arrange for the transcript.

[Appendix A – Zoning – Section 3.3] Any representation made before any City Board, any Administrative Board, or the City Commission in the application for a variance, special exception, conditional use or request for any other permit shall be deemed a condition of the granting of the permit. Should any representation be false or should said representation not be continued as represented, same shall be deemed a violation of the permit and a violation of this section.

Any person with a disability requiring auxiliary aids and services for this meeting may call the City Clerk's office at (954) 972-6454 with their request at least two business days prior to the meeting date.

One or more members of the City of Margate Boards may be in attendance and may participate at the meeting.