



City of Margate

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Meeting Minutes Regular City Commission Meeting

Mayor Joanne Simone
Vice Mayor Tommy Ruzzano
Commissioners:
Joyce W. Bryan, Lesa Peerman, Frank B. Talerico

City Manager Douglas E. Smith
City Attorney Eugene M. Steinfeld
City Clerk Joseph J. Kavanagh

Wednesday, June 17, 2015

7:00 PM

Commission Chambers

CALL TO ORDER

Present: 5 - Commissioner Lesa 'Le' Peerman, Commissioner Joyce W. Bryan, Commissioner Frank B. Talerico, Vice Mayor Tommy Ruzzano and Mayor Joanne Simone

In Attendance:

City Manager Douglas E. Smith
City Attorney Eugene M. Steinfeld
City Clerk Joseph J. Kavanagh

PLEDGE OF ALLEGIANCE

ID 14-1190 PAYTON MOYER, 3RD GRADE, AND ABISUE MOYER, 1ST GRADE,
MARGATE ELEMENTARY

1) PRESENTATION(S)

ATHLETE OF THE MONTH

A. [ID 14-1185](#) SOFTBALL: EMERSYN CLARK, 9 YEARS OLD
(Margate Pony Elite Baseball and Softball, Hurricanes)

EMPLOYEE RECOGNITION FOR YEARS OF SERVICE

MATTHEW WHITESHIELD, Fire Captain, was not present.

B. [ID 14-1186](#) ROBERT KRIPLEAN, POLICE SERGEANT - POLICE DEPARTMENT - 15
YEARS

MATTHEW WHITESHIELD, FIRE CAPTAIN - FIRE DEPARTMENT - 15
YEARS

BRENDA CHARNAY, OFFICE SPECIALIST - POLICE DEPARTMENT - 10
YEARS

MICHAEL A. JONES, DIRECTOR OF PARKS AND RECREATION -

DEPARTMENT OF PARKS AND RECREATION - 10 YEARS

2) COMMISSION COMMENTS

MAYOR PEERMAN thanked everyone for the 60th Birthday Party, which she had a good time at and cannot wait until the November celebration. She noted that the Commission received the information about the Water Project in Tallahassee, but she wanted to say that was why the City had a Lobbyist, who did a great job. She added that Commissioner Bryan did a great job lobbying for the City in Tallahassee. She said she was proud to hear many compliments from the Senators and State Representatives about Commissioner Bryan's work. She wished everyone a good Summer and told everyone to be careful of kids out of school.

COMMISSIONER TALERICO said that Vice Mayor Ruzzano and Commissioner Peerman joined him at the State Ethics class last week. He wanted some input and possible future discussion pertaining to people voting when voting on something when they had a vested interest or a conflict of interest. He asked whether someone with a vested interest in something should be allowed to discuss that in a meeting. He said that other Commissioners were not aware of the vested interest until it came time for the vote. He noted that some Cities did not allow discussion of a vested interest.

CITY ATTORNEY EUGENE STEINFELD stated that was not the Law in Florida. He clarified that the Law for elected officials was that if there was a conflict, they can discuss it and simply abstain. He said that if the Commission wanted to pass some type of ordinance making it more specific that they cannot discuss it as well, it would be up to the City of Margate.

COMMISSIONER TALERICO clarified that the Commission would have to do that and he suggested putting it out for discussion at a future meeting and said that he wanted that added to a future Agenda.

COMMISSIONER BRYAN said that she attended the Brazilian Festival at Saint Vincent's Catholic Church on Sunday and had a good time. She noted that yesterday at Brookdale Assisted Living Facility, she and Commissioner Peerman attended their Birthday Party. She noted that one of the residents was 100 years old and was a former resident of Paradise Gardens III. She congratulated tonight's recipients for their service to the City.

VICE MAYOR RUZZANO wished the City Manager a Happy Anniversary. He said that it was a very exciting time in Margate. He noted that the Master Parks Plan was coming back. He stated that there was a Workshop prior to this meeting about bringing Art into the City. He said that his son played on the Margate Traveling Baseball Team and made the All Star Team. He noted that the team went to two tournaments in two Cities that did not know anything about Margate, but when they left there with the Championship, everybody knew who Margate was. He added that he was excited that in the next few months the Commission would be going over the Budget. He said that he recently asked how the City was financially and was informed that the City was fiscally doing very well. He noted that the City had a total of approximately \$27 million dollars, \$7 of which was unassigned and \$19 million was assigned. He felt that it was now time to start getting the money back to the City. He understood that reserves were needed; however, he felt that some projects should be focused on to make this the City people want to come to.

MAYOR SIMONE thanked the Police, Fire and other City Departments and employees for the great day to day service they give the residents of the City. She wished everyone a wonderful Summer.

COMMISSIONER PEERMAN added that the Broncos also won their district, as well as the Shetlands; therefore, making three Baseball teams from the Allstars that had won their districts and would be playing in Orlando in the next week or so.

VICE MAYOR RUZZANO noted that if they won in Orlando they would proceed to Louisiana for the National Championships.

MAYOR SIMONE congratulated all of the teams.

THE FOLLOWING IS A VERBATIM TRANSCRIPT OF A PORTION OF COMMISSION COMMENTS – QUASI JUDICIAL DISCUSSION:

CITY ATTORNEY EUGENE STEINFELD: Yes, Um, Madam Mayor. Um, there has been some discussion about the City's procedure in Quasi-Judicial Land Use matters, and I wanted to explain in a bit more detail what the City does and make a recommendation regarding those things. Uh, if uh, the City Clerk is ready we could start uh, it will take just, 15 minutes or so. What I wanted to discuss was, and for those of you who have been through the Margate Community College, you'd know that I'm a bit of a frustrated teacher, so it may take a little bit longer than I normally take. Uh, I wanted to discuss participation in Quasi-Judicial matters. What is a Quasi-Judicial matter? A Quasi-Judicial matter is when the City Commission takes off its legislative hat and puts on its hat as judges where instead of looking at what would generally benefit the City, they have to look at what was before them at the meeting. They have to make a determination after notice and hearing to the property owner as to what's going to happen with their specific parcel in a number of ways. Uh, we go to the next. Alright, in Margate we have re-zonings of particular parcels, variances, special exceptions and conditional uses. Generally variances come only to the City Commission as appeals from the Board of Adjustment, but they are Quasi-Judicial determinations. As far as re-zonings of particular parcels, and I notice that some people are here for uh, the detox use that might be, that might come back, it is not before the Commission tonight. It will not be discussed by the City Commission tonight. That's not to say you, you can't do it by Public Discussion, but if you do, based upon this being a Quasi-Judicial matter, the City Commission can only determine what would happen if it came back at the hearing when the property owner is given notice. At that time, because it's a re-zoning, any member of the public can get up and talk because it's an ordinance. So, on our present situation, all members of the public can get up and discuss when it's being considered. It is not on the Agenda tonight. It may not come back, but it may. My understanding from talking with the City Planner was that he had contacted uh, the property owners and they're still contemplating whether they're going to bring it back or not. So, if anybody on Public Discussion brings it up, the City Commission cannot voice their opinion because if they do that, just like a judge in a case, they cannot pre-judge what's in front what may come before them. So, they're not going to be able to make any comments tonight. But, unlike variances, special exceptions and conditional uses, because re-zonings are done by ordinance the public has an absolute right to talk for three minutes. We're not going to be doing that tonight. The other three are variances, special exceptions and conditional uses. Variances are exactly what it says. It is a way to ameliorate the present Zoning Code. It provides that though a use may be different, though a fence setback may be a certain distance, that in order to build a house, in order to properly use property, the Board of Adjustment can vary from the Code under certain circumstances. Once again, that comes before the City Commission. Why? Because it would be an appeal. It comes

before the Board of Adjustment, and if either the party doesn't get what they want in the variance, the variance is not granted, or the City does not grant the variance, that comes before the City Commission. And again, they have to make a determination based upon the evidence that evening. Special exceptions, those are uses that are in the Code that are only granted under certain conditions, and conditional uses are very much like special exceptions. On Quasi-Judicial determinations, and let's go to the next slide, here is what Florida Law says, and this is Section 286.0114 (2) of the Florida Statutes, "Members of public shall be given a reasonable opportunity to be heard on a proposition before a Board or Commission. The opportunity to be heard is subject to rules or policies adopted by the Board or Commission." However, the requirements in Sub Section 2, and what Sub Section 2 was exactly what I read to you, says, "The requirements in Sub Section 2 do not apply to a meeting during which the Board or Commission is acting in a Quasi-Judicial capacity." So any of, under Law, every member of the public is not given an opportunity to talk on, the way we've been doing it for the last uh, six or so months, how long have you been Mayor now? Madam Mayor?

MAYOR JOANNE SIMONE: Since November.

CITY ATTORNEY STEINFELD: Since November. Uh, we have only allowed individuals who are affected and I will get to that in a second. However, there's another Statute, 286.0115. It says, "Not with-standing the provisions of Sub Section 1", and that has nothing to do with this, oh I'm sorry, let's go to 115. Alright, it's on. Yeah, you can hardly see it, but the underlines, "a municipality may adopt an ordinance or resolution", and the key word here is may, "establishing the procedures and provisions of this Sub Section for Quasi-Judicial proceedings on local government Land Use matters. The ordinance or resolution shall provide procedures and provisions identical to this Sub Section; however, the Sub Section does not require a municipality to adopt such an ordinance or resolution." And what it goes on to say in B is that, "In a Quasi-Judicial proceeding, local government Land Use matters who appear before the decision making body who are not parties or interveners shall be allowed to testify for the decision making body subject to control by the decision making body." The City of Margate and as it goes on further, "Those individuals", members of the public is who they're talking about, "need not be sworn and would not be cross examined." The City of Margate has never adopted that ordinance. In fact, even on Zonings where we allow the public to speak, we ask people to stand up and be sworn. Alright, the next thing I'd like to talk about is the rules of the City and this has to do, and if you can go to the next slide, discussion on specific items. After the City Commission has discussed a specific item on the Agenda, other than an item on the Consent Agenda, the presiding officer will inquire as to whether any citizen wishes to be heard on the matter. The proceeding sections need not apply. At the discretion of the presiding officer to the following, a meeting during which the Commission is acting in a Quasi-Judicial capacity. So this dove tails exactly with the State Statute that says that, the City Commission does not need to have every member of the public testify or speak at a Quasi-Judicial matter. That is not a re-zoning. That's not what would happen with the detox. This has to do with variances, conditional uses and special exceptions, because the public would get the right to speak on a re-zoning, because that's done by ordinance. However, going back to these Quasi-Judicial determinations, it's not what the majority of the people in the audience want, it's,

MAYOR SIMONE: (Inaudible)

CITY ATTORNEY STEINFELD: Yes, exactly, what is, what type of evidence has to be considered is competent substantial evidence. Okay. As our Supreme Court, oh, excuse me as I um, Supreme Court has said, I'm sorry, this is the First District Court of Appeal, competent substantial evidence is evidence that is sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached and this is regarding, in our situation, the property owner's use of his own property. So, the decision unlike the enacting of an ordinance regarding creating an art program or the manner in which City Commissioners would vote or how many uh, what

franchise the City would provide, all of which are open to the public. All of which the City has to hear the public, a Quasi-Judicial matter, not a re-zoning Quasi-Judicial matter because the public gets to speak on that, but all Quasi-Judicial matters have to be determined based upon evidence. Not just what the majority of the people want, but based upon what is, a reasonable mind would accept as adequate to support the conclusion whether they should deny or not deny a variance, a special exception. In other words, based upon the rules of the City and based upon the evidence before the City, whether that property owner should use the property, his own property in the manner in which he wants to, or whether the City has a good reason, based upon evidence that would sway a reasonable person, as to whether that person should use the property or not. Go on to the next. The Case Law. Alright, and this talks about what an aggrieved or affected person would um, would have to show in order to be a person affected. An aggrieved or adversely affected person is a person who has a legally recognizable interest which is or will be affected by the action of the Zoning authority in question. As the Supreme Court of our State has said, "not every resident and property owner of a municipality can, as a general rule, claim such an interest. An individual having standing must have a definite interest, exceeding the general interest in the community good shared in common with all citizens." So what that means is based upon what our rules say, that in order to be an affected party it would have to affect a neighboring property or the surrounding neighborhood, but not everyone in the City because that's not what standing is. Madam Mayor, the first thing I'd like to say is I want to commend you on what has happened since you've become Mayor. The meetings have gotten uh, much more business-like. Uh, they have been more sustentative. They've been more expeditious, and I think by providing for the rules that you have provided, that the meetings are no longer, quite frankly, the, the type of situation where we have people um, talking out of turn, speaking from seats, yelling from the back of the room, because I believe that people realize that if they're not recognized uh, and they continue to do these things, that they will be ejected. Not withstanding that, and what I would like to say is I've discussed this matter with a number of attorneys. We have some very, very important matters that are going to come before the City. Some of them are going to be re-zonings and that's not going to be a problem because the public gets to speak when we hear these matters, but for variances, conditional uses and special exceptions, where we have not allowed the public to speak, the rules provide that you have the discretion to allow the public or not. I would ask you to utilize your discretion. Um, we do not need individuals at special exceptions, at conditional uses and at variances unfortunately they have been raucous getting up and saying, "We have the right to speak, we don't have the right to speak", and people saying from the Commission they don't. We have too many important things to get done and I don't want to see the City have the impediments that could be placed before this Commission on making tough decisions for variances, special exceptions and conditional uses, um, telegraphed to a disgruntled party, whether the City approves a special exception or variance, or conditional use or not, I would ask that you exercise your discretion uh, to allow every member of the public to speak. Once again, what the City has done is clearly within the Law, but in talking with a number of my compatriots, City Attorneys, some have agreed with me and some have not, uh, but all of them have stated that the, the bottom line is it just is not worth the controversy that can be brought up in front of a disgruntled property owner when the City either approves or disagrees and the City disapproves of one of these variances, special exceptions or conditional uses. So that we, we change our procedure for conditional uses, variances, special exceptions, that we go back to the manner in which we did prior to you becoming Mayor, and that we simply allow every member of the public to speak. Once again, do I think that the Law that the City has, as I've demonstrated, is clearly grounded in this situation. That we are absolutely right in what we do, but what I'm simply saying is I don't want, it's not worth uh, making specific decisions, even where the public gets up and for the, unfortunately, for most of the time, the individuals who get up are not competent

substantial evidence and should not necessarily be considered in making these Quasi-Judicial determinations, but once again, I would rather listen to the comments, many of which are not competent evidence, rather than telegraphing to a property owner who's been turned down, that they may have some type of an argument in these type situations. So that's, that's my recommendation. Uh, if this becomes uh, to raucous, if it becomes uh, if it affects the way that we uh handled these variances, special exceptions and conditional uses, we can always go back, but at this time, I'd like you to do it, because, and I'm not, again, I'm not talking about re-zonings, because that is done by ordinance, we always allow the public to speak at re-zonings, because it is an ordinance. And, that's my recommendation. That is the Case Law, the Statutes and that's my recommendation.

MAYOR SIMONE: Thank you. Commissioner Peerman?

COMMISSIONER LESA PEERMAN: Sad day in Margate I tell you. Um, I don't know if Mayor, if you're going to ask for our opinions or our vote on this; however, I will defer my vote to you as the Mayor. Uh, the Mayor is the one that makes the rules for the meeting, not the audience. The Mayor makes the rules for running the meeting. In November, if Vice Mayor Ruzzano wants to let the residents speak for 10 minutes I will sit here and I will listen to the residents speak for 10 minutes, because he is the Mayor and he made those rules. Okay? If he wants to have us stand on our heads during the meetings, I'll stand on my head because he is the Mayor. I firmly believe that since you've been Mayor and you've instituted rules for you being able to run the meeting, you have been called Hitler, you have been called Communist, you have been compared to the person who shot a journalist in Paris, because you installed, you took the right as the Mayor to make the rules. You did this, well actually I did it with Quasi but it got thrown out at that time when I was Mayor, but you instituted the rules for the Quasi-Judicial hearings, so I am going to give you my vote. Whatever you decide that you want to do, you have my full support. If you do decide that you are going to go from your rules of making, then I am going to ask for a resolution that we make for the City so that no other Mayor gets the opportunity after you're not Mayor, to make the rules for Quasi-Judicial. If the public or whoever it is, is allowing, is forcing this issue, in my opinion, where you're completely under the Law, then no other Mayor after you should have that opportunity, which right now Robert's Rules gives you, the Florida Law gives you and everyone else gives you. So, if you decide to follow the City Attorney's direction, and Gene, I do understand where you're coming from. We have a lot of things coming up. It's not worth playing the game. I get it; however, I learned this, I watched this, the Mayor is the one that makes the rules for our meetings, and so whatever you decide Mayor, I will, I will, I don't think there's anything you need to say really. I will, Mayor, stand behind whatever decision you make, because you make the rules for the meeting.

MAYOR SIMONE: Thank you. Any other Commissioners like to make a comment? Wow. Um, go ahead Vice Mayor.

VICE MAYOR TOMMY RUZZANO: Alright. The only thing I'm going to say is you run your meetings fine. People coming up here and voicing their opinion, I don't think is wrong. You're gonna get the people that come up here, say what they want to say, do what they wanna do, you're not gonna stop them. You're gonna get people that might come from another City, don't live here, are going through the situation of what we're voting on and might give us some great facts. So, to limit it to just a certain amount of people, I really feel that the more input we have the better our decisions will be. That's the only way I'm looking at it. I, I understand the point that people come up here making comments to us, heckling, it's part of our job. Trust me, I've never had somebody hate me until I got this job. You know, I'm a nice guy. I never hurt anybody, but when I got this job, you know you gotta have tough skin, and if we're trying to promote people from not talking, I really don't think that's the answer. That's all I'm gonna say.

MAYOR SIMONE: I don't think we're promoting people from not talking. I think you're getting two issues confused. Um, anybody who would like to talk under

Public Discussion, as long as they fill out a card, can do so for their three minutes. It can be 10 people, it can be 50 people. We are not stopping anybody from voicing their opinion. Uh, people coming from other Cities, we were strictly talking about Quasi-Judicial, so people coming from other Cities probably would not be affected by our Quasi-Judicial, because they would not be mostly likely an affected party, because it's not in their City, it's in the City of Margate. So, I think two things are getting misconstrued with what is being said tonight. Um, I know that at the 60th Birthday, a resident that is now in our Community College came up to me and she said, "I have been to many Cities and I've gone to many Commission meetings in many Cities and I just want to thank you for the way that you are running the City, the meetings in the City of Margate." I have tried to bring decorum to these Commission meetings. We are in a business meeting and to have somebody in the audience give any person up here the finger, is not tolerable, and will not be tolerated. That is unprofessional and that's not what we are trying to do in this City. That is not how a City needs to be run. We are supposed to be acting as professionals and up here to do what is in the best interest of our residents. That is our job.

COMMISSIONER PEERMAN: Mayor I'm sorry. I'm being distracted. Could you wait a couple of minutes, somebody's having problems in the audience and I'm distracted from what you're saying. You done?

RICH POPOVIC: You talking to me? She's not ...

MAYOR SIMONE: Okay. Excuse me.

MR. POPOVIC: She's on

MAYOR SIMONE: Excuse me.

MR. POPOVIC:She's not supposed to ...

MAYOR SIMONE: Please do not call out. If you call out, Mr. Popovic, we go through this every meeting, you know, please, do not call out. If you call out again I'm going to rule out of order and ask you to leave. Please don't do it. Um ...

COMMISSIONER PEERMAN: I'm sorry, Mayor, he called names, which was distracting to me.

MR. POPOVIC: I didn't call nobody no names.

MAYOR SIMONE: Please don't do it again. Okay? Even under your breath.

MR. POPOVIC: What ... (Inaudible)

MAYOR SIMONE: I've heard what you've said, what you just said.

MR. POPOVIC: (Inaudible)

MAYOR SIMONE: Okay. Please stop. I don't want to rule you out of order. Just please stop. I'm asking you to please stop.

MR. POPOVIC: How the hell do you know...

MAYOR SIMONE: Okay. I'm asking you now to leave.

MR. POPOVIC: I'll go.

MAYOR SIMONE: Thank you.

MR. POPOVIC: I don't mind. (Whistling) All of yous. Assholes. Jesus Christ.

COMMISSIONER PEERMAN: And that was the word.

MAYOR SIMONE: Yes. I heard him.

RICH POPOVIC LEFT THE MEETING ON HIS OWN – END OF VERBATIM TRANSCRIPT

A motion was made Commissioner Lesa 'Le' Peerman, seconded by Commissioner Lesa 'Le' Peerman, that a resolution be made clarifying Quasi-Judicial and who can and cannot speak and stating that no future Mayor could have the option to change who could or could not speak:

COMMISSIONER RUZZANO stated that Mayor Simone did have the right to run the meeting anyway she wanted, but was taking the advice of the City Attorney.

COMMISSIONER PEERMAN disagreed and felt that the Mayor was not being given a choice. She said that it was a bully attempt and people were screaming about their freedom of speech and rights as residents to be not heard. She did not feel the Mayor was being allowed to make a decision, because she was being backed into a corner and her right as Mayor was taken away from her on the advice of the City Attorney. She felt that if Mayor Simone was giving up that right, she wanted the resolution so no future Mayor could have an option that this Mayor was not given.

VICE MAYOR RUZZANO said that she was given an option. She did not have to go by the City Attorney's recommendation. He felt it was bullying to make the resolution for future Mayors.

CITY ATTORNEY STEINFELD explained that the rules and procedures of the Mayor were adopted by the full Commission; however, it was the Chair's right to determine how the rules would be enforced. He said that the specific rule being discussed gave discretion to the Chair to determine whether only affected individuals or all individuals would be heard. He clarified that Commissioner Peerman was suggesting that a resolution be passed amending the rules so that conditional uses, variances and special exceptions can be heard for three minutes whether by an affected party or not. He agreed that it ended discretion of the Chair, but it also allowed every member of the public to speak, unless the Commission changed it back. He noted that if the Mayor in November wanted it changed back and the rule be appealed, he would need three Commissioner's vote and it would be changed back.

MAYOR SIMONE explained that it made it a little more difficult for the Commission during Quasi-Judicial determinations. She said that it would be up to the Commission to determine whether someone speaking actually had competent substantial evidence.

COMMISSIONER TALERICO stated that the Commission's job was to listen to them and make the decision. He said that this would provide that the Mayor would not be able to make a unilateral decision stating that people could not speak; therefore, insuring the people's right to speak. He did not want anybody in the public to say that a freedom was taken from them.

COMMISSIONER PEERMAN reiterated that the Mayor was being bullied. She felt that the City Attorney was giving advice where the Law backed what the Mayor wanted to do. She felt that Quasi-Judicial determinations would now become very political with people on the north side of town talking about what people want done in the south side of town. She said that the side that had the most people in the audience would be listened to for re-election. She stated that her belief was to leave the decision to the Mayor.

MAYOR SIMONE asked whether giving the public the right to speak got out of hand, could it be changed.

CITY ATTORNEY STEINFELD said that it could be changed back by the full Commission. He noted that the Chair could ask that people not be repetitive or call out and could specify that in the resolution.

The motion carried by the following vote:

- Yes:** 4 - Commissioner Peerman, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone
- No:** 1 - Commissioner Bryan

3) PUBLIC DISCUSSION

MITCH PELLECCCHIA, 6890 NW 9th Street, said that he was an avid runner and bicyclist who lived off of Margate Boulevard. He thanked the Police Department for pulling cars over this past week on Margate Boulevard. He stated that people coming from the west were speeding over the canal bridge. He added that there were a lot of problems with school buses speeding as well. He was thankful that the Police Department was now pulling cars over as a matter of public safety.

ANTHONY CAGGIANO, 7856 NW 1st Street, hoped that everyone was looking forward to a phenomenal Fourth of July celebration. He hoped that it was an extra special event, because the City was celebrating its 60th Birthday. He also hoped for great weather. He wished everyone a happy and safe Fourth of July.

CLAUDIA SCOTT, 600 NW 66 Avenue, said that she moved to Margate in 2011. She stated that she purchased her home here because Margate was a quiet, family oriented neighborhood, and also because it was one of the safest Cities in Florida and was rated in the top 20 two times out of 282 Cities. She noted that her daughter just turned three and attended Time to Care Academy located at 6101 Atlantic Boulevard. She said that the Detox Center was across the street from the Daycare, which had children from eight weeks to five years old. She noted that children walked to and from school under the age of 14 in front of both buildings. She explained that no background checks would be run on the people in both Detox Center facilities. She said that 85 percent of large companies and private employees conduct pre-employment drug testing. She said that this was not a matter of discrimination. She stated that Myriam Jiminez lied when she assured that these buildings would not be converted to a Detox facility. She stated that these would be an Assisted Living Facility for the elderly. She said that one consequence of locating drug and alcohol Detox Centers in residential areas was that patients in Substance Abuse Treatment Programs frequently leave or are administratively discharged before successful completion. Exports say that at some point, relapse was almost unavoidable and those who relapse and leave treatment prior to completion often had limited job skills and perhaps even had criminal records. She said that those factors made employment a challenge. She noted that these were valid concerns that a treatment center would be accompanied by additional unemployed or even homeless addicts on the street near the area where the centers were located. She stated that mandatory addiction treatments or commitment did not exist under the Law, and an addict must choose to be in recovery. She mentioned Florida Statute 46 of Florida, which stated that failure to protect our children was a crime and a felony. She felt that the parents, grandparents, teachers and leaders of the community must protect the children who were innocent and the future of our community.

NATALIE MCNAIR, Time to Care Academy, 6201 West Atlantic Boulevard, said that she was also present on behalf of her parents, who operated Time Care Preschool, 5800 NW 8th Street. She asked whether anyone could speak about 603 Melaleucca, which was supposed to be the Elderly Care Facility.

CITY ATTORNEY STEINFELD stated that the City made a decision so it could be talked about.

MS. MCNAIR said that the zoning was changed and done and everybody was aware of her plans at the moment.

CITY ATTORNEY STEINFELD suggested that Ms. McNair speak with the Director of Economic Development, who could provide an update regarding that issue, which might

alleviate some of the questions.

MS. MCNAIR agreed that she would like a meeting.

MAYOR SIMONE told Ms. McNair that she could set up a meeting with the Director of Economic Development, who would answer all of her questions.

MS. MCNAIR said that when she appeared previously, she was very emotional about it and had not digested it. She stated that she realized now that competent substantial evidence was relevant and material that a reasonable mind would accept as adequate to support the conclusion. She questioned whether the City wanted proof that her business would fail.

CITY ATTORNEY STEINFELD clarified that the current discussion was with regard to the facility on Atlantic Boulevard, which may come back and there would be a zoning change and Ms. McNair would be given the opportunity to talk about that if and when it ever came.

MS. MCNAIR said that regarding 603 Melaleucca, she suggested everyone listen to the tape dated January 21, 2015, and noted that it was not put forward truthfully. She realized she would have her meeting and it would be explained. She said that pertaining to the facility on Atlantic, she did not understand how for 24 years of providing service to the City, she was standing here having to beg for a simple zoning change not to occur, because it would ruin her family. She said that she realized this was not substantial evidence; however, she could have left the community within the 24 years, but she stayed. She stated that the area had changed, but always seemed to improve and things would get better so she stayed in the community. She stated that she would have no choice but to close her doors, because families would not bring their children to a school near a Rehabilitation Center. She said that she was not against Rehabilitation Centers, but was against it in this location because it would destroy hers and her parent's business.

4) CONSENT AGENDA

- A.** [ID 14-1172](#) MOTION - AUTHORIZATION TO ADVERTISE AN ORDINANCE TO REVISE THOSE TERMS DEFINED "ACCESSORY BUILDING OR STRUCTURE" AND "ACCESSORY USE"
- B.** [ID 14-1178](#) MOTION - APPROVAL OF CITY COMMISSION MINUTES
- C.** [ID 14-1183](#) RESOLUTION - APPROVING THE UTILITY EASEMENT FOR MAINTENANCE OF WATER AND SEWER FACILITIES AT 6600 PARKWAY DRIVE SOUTH.

Resolution 15-058
- D.** [ID 14-1184](#) RESOLUTION - APPROVING THE TEMPORARY ACCESS AND CONSTRUCTION EASEMENT EAST OF 190 S.W. 69TH TERRACE FOR THE C-14 WATER MAIN CANAL CROSSING CONSTRUCTION PROJECT.

Resolution 15-059

Approval of the Consent Agenda

A motion was made by Commissioner Bryan, seconded by Commissioner Peerman, to approve the Consent Agenda. The motion carried by the following vote:

Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

5) CITY MANAGER'S REPORT

CITY MANAGER DOUGLAS E. SMITH gave his report as follows:

- The Fourth of July Celebration will begin with the parade in the morning. Calypso Cove will be open that day. The evening festivities will begin at 5:00 p.m. with pre-Fireworks activities, such as food, activities, music and the Fireworks will begin at 9:00 p.m. Director of Parks and Recreation Mike Jones mentioned having something special for the Fireworks Display.*
- The Baseball League mentioned an interest in selling Beer in the evening as a fundraiser to help the teams going to championships and he asked for a consensus. He noted that it had been run through the Police Department that would want parameters around it with additional Staff; however, they approved of it for this year.*

VICE MAYOR RUZZANO asked whether he could speak on the matter.

CITY ATTORNEY EUGENE STEINFELD suggested that because the Vice Mayor had a son that could be benefited if the team made it to Louisiana; therefore, he advised that the Vice Mayor abstain. He did agree that Vice Mayor Ruzzano could; however, speak on the matter.

VICE MAYOR RUZZANO noted that the teams would have to raise about \$30,000 each and this would give them a little bump to get going.

COMMISSIONER BRYAN questioned whether this would be a Beer tent.

CITY MANAGER SMITH said that there would be a general area where the zone would be. He added that there would be wrist bands for those that purchase. He said that if wandering too far from the area they will be asked to go back to the main area, which would be at the corner near the food trucks were.

COMMISSIONER PEERMAN asked whether there was a time limit on how long it would be sold and who would be policing the people on how many Beers were drank before getting in their cars and drive off.

CITY MANAGER SMITH said that it was proposed to end at 8:30 p.m.

COMMISSIONER PEERMAN again mentioned them getting in their cars and driving home.

CITY MANAGER SMITH stated that there can be some assurances that the League was taking the responsibility for insuring that they were not serving somebody to the point of intoxication.

COMMISSIONER PEERMAN said that could be a City legality issue, which could cause the City to get sued. She mentioned people having children in the car when driving home.

CITY MANAGER SMITH explained that when there were waivers for park facilities, there was a standard form, that the person doing the event signed that might already have, that reference in there to not over serve people. He said that would be handled however it needed to under the City Attorney's advice.

MAYOR SIMONE was not sure she was in favor of the children being involved with selling of Beer. She asked whether they could sell cotton candy or popcorn or something more age appropriate for the children to know that this was a fundraiser to help them.

CITY MANAGER SMITH said that the direction of the entire Commission would be explored.

MAYOR SIMONE suggested selling box theater candy.

COMMISSIONER PEERMAN said that it seemed the Commission was making a big deal out of this; however, she did not think it was appropriate to have a fundraiser where you sell alcohol to benefit the kids. She stated that something just did not seem right about that. She said someone would have to convince her why it was right to teach kids that you can make money off of selling Beer, because it did not sit well with her.

VICE MAYOR RUZZANO asked whether Beer was illegal. He said that if someone hit the lottery for \$500 and then donated the money, would the City say, "No" because gambling did not look good for kids. He asked where the line was drawn. He said that the City was trying to help these people out. He stated that if he had to vote on it he would and he would make sure his son received none of the proceeds.

CITY ATTORNEY STEINFELD explained that if his son was on the team, he would be benefiting; therefore, it was his advice to abstain and file.

VICE MAYOR RUZZANO said that if someone cracked his tooth on an ice pop, who would be liable. He commented on the Commission saying, "No."

COMMISSIONER PEERMAN clarified that she did not say, "No", but was asking questions. She stated that it did not sit well with her. She said that she had a problem with it and with the fact that the kids were benefiting from it. She added that she had a problem with drinking at the Sports Complex too. She stated that she was not sure that it was appropriate. She asked if all teams would benefit or just one team.

VICE MAYOR RUZZANO said that they would all benefit. He explained that the Vice President of the League was present, and if the kids did not make it to Louisiana, the money went right back to the League.

COMMISSIONER PEERMAN said that if she purchased a Beer thinking it was going to the kids going to Louisiana, it was actually going to the League.

VICE MAYOR RUZZANO said that the banner could just read, "Come support Margate Youth Baseball."

PATRICK GRIFFIN, 300 NW 65 Terrace, explained that these were teams that were fundraising, who did this once before. He noted that someone called Jimmy was asking for the permit. He stated that it was not just Beer, but there was candy and other things as well. He stated that a couple of Beers were sold to the parents. He stated that it was not a Beer Fest where everybody was getting intoxicated and getting in cars and running off. He explained that if the Shetlands did not make it to Louisiana, the money raised

would stay in the League to use for another team that might go. He stated that they could not fundraise and keep the money. He stated that if nobody went the money would go back to the League to use to purchase for equipment for the kids. He said that it was not used for whatever the Coach wanted.

COMMISSIONER TALERICO asked who was actually in charge of the sales.

MR. GRIFFIN said that it would be Coaches of the team that set up for the permit.

COMMISSIONER TALERICO asked whether a temporary permit from the State was required.

CITY MANAGER SMITH said that they would obtain whatever appropriate licensing was needed.

COMMISSIONER TALERICO said that the Beer was being sold to the general public at the Fourth of July event. He asked whether the City would have to be named as insured for liability.

CITY MANAGER SMITH said that there might be a Certificate of Insurance involved that the City would obtain.

COMMISSIONER TALERICO added that the League also had to assume the responsibility.

MR. GRIFFIN stated that the League was not doing the fundraiser, and that the Coaches were doing the fundraiser.

COMMISSIONER TALERICO asked whether it would be under the auspices of the League, and whether the League had insurance to protect them.

MR. GRIFFIN said that he would have to check.

COMMISSIONER TALERICO understood what they wanted to do and was okay with it; however, he said that there needed to be safeguards to protect everyone.

MR. GRIFFIN said that he had not yet met with the Coaches as he learned about this today. He said that he just came up to explained that whatever they fundraise stayed within our League within our City.

COMMISSIONER TALERICO said that there should be conditions to cover the City, and that the Coaches were covered, as well as the League.

MR. GRIFFIN agreed and said that he understood.

COMMISSIONER BRYAN felt it was an oxymoron to be selling Beer for the kids. She said that she was weighing the decision of supporting the children; however, she was also weighing the selling of Beer.

MR. GRIFFIN said that it seemed to be coming across that it was going to be a Beer Fest, which was not what the team wanted to do. He stated that the Coach probably wanted a permit as he did before to sell to an adult here or there. He noted that at the 60th celebration the kids were running around selling candy, hot dogs, hamburgers, etc. He stated that they were not opening a bar. He said he had not spoken with the Coach

directly, but would do so tomorrow.

COMMISSIONER PEERMAN said that she was confused because Mr. Griffin mentioned one Coach; however, he then spoke about all of the teams.

MR. GRIFFIN explained that one coach was applying for the permit; however, all the money stayed with the teams. He said that if one group fundraised under the name of the League, they could not keep the money. He noted that if the money could not be used to take the kids directly to the event, it would be used for kids that cannot go to the event, did not have the money or equipment and could not fundraise.

COMMISSIONER PEERMAN said that she understood all of that, but she noted that there were already Go Fund Me accounts out there for teams that could not raise the money. She stated that her own issue was that it seemed odd, but she would be a team player and give her consensus to sell the Beer. She hoped that before they do sell the Beer, the City Manager would have more answers to questions such as the insurance, City liability and who was monitoring. She did not think that it was legal to have a kid behind where the Beer was being sold, which she felt needed monitoring as well.

MAYOR SIMONE felt that more answers and clarification were needed before taking the consensus.

COMMISSIONER PEERMAN said that there was no time because the next meeting was July 1st.

COMMISSIONER TALERICO asked whether it could be done conditionally where they have all of the safeguards in place to make sure they do or it would not happen. He wanted to protect the kids and parents.

MR. GRIFFIN agreed with Commissioner Talerico and said that he did not want to get in trouble either. He noted that it was all about the kids to him.

COMMISSIONER TALERICO asked what conditional safeguards could be added to allow the process to get started.

CITY ATTORNEY STEINFELD agreed that the City absolutely needed to have insurance that named the League with the City of Margate as additional insured. He said that though he would generally defer to Human Resources, he said that it would have to be the amount that the City traditionally got, which was usually be \$500,000 or \$1 million dollars.

COMMISSIONER TALERICO told Mr. Griffin to make sure the League was covered as well.

A motion was made by Commissioner Frank B. Talerico, seconded by Commissioner Joyce W. Bryan, that the Beer sale be allowed to proceed with the conditions that the City Attorney set forth.

CITY ATTORNEY STEINFELD added that it would be the standard amount that Human Resources would accept.

MITCH PELLECCCHIA, 6890 NW 9th Street, said that he was completely indifferent about this issue. He understood that Beer and kids was a strange combination; however, Beer companies sold billions and billions of dollars of the brew every year and sent money to

kid's charities. He said that previously during the Fourth of July, people were allowed to walk around with Beer, and he believed that local bar owners questioned whether people could take the Beer off their premises and walk around with it. He thought that was allowed and he did not believe they needed any additional insurance to allow the people to walk around with open containers. He stated that for this organization to get an insurance policy would not make the event worthwhile. He noted that the City was already insured for the Fourth of July festival, but did not know if they were insured for people carrying open containers. He asked whether the liability of a Beer being sold by the City be different than a Beer that one of the Café's in the area would sell. He said that there were many moving parts to this and the City might already have the insurance. He said that he was indifferent and could definitely understand the conflict, but it could be a great opportunity to raise money for the League. He noted that he had no children playing for the team and had no special interest.

COMMISSIONER PEERMAN did not remember if people were allowed to walk around with alcohol at the Fourth of July celebration. She asked that what was covered with the City be added in. She noted that she did not want to make it harder for the teams, but wanted the City to be covered.

CITY ATTORNEY STEINFELD said that he did not know either and he noted that Director Mike Jones had already left the meeting. He asked whether Commissioner Peerman was stating was that she wanted to make an amendment that if the City was adequately insured for this type of situation, no additional insurance would be necessary.

COMMISSIONER PEERMAN said that sounded scary and it terrified her, but she understood the price of the insurance the City required. She agreed that was the amendment she wanted to make.

VICE MAYOR RUZZANO noted that there were two events last year with food trucks serving Beer and Liquor and at the Street Festival they were serving Beer and Liquor. He said he did not know how the insurance worked with that.

CITY ATTORNEY STEINFELD said that he did not know.

An amendment was made by Commissioner Lesa 'Le' Peerman, seconded by Commissioner Frank B. Talerico, that if the City was adequately insured for this particular type of activity, no additional insurance would be necessary.

COMMISSIONER TALERICO noted during the past events the bar owners had liability insurance. He said that he wanted to make sure the City was adequately covered, but he did not know if the policies with the City even allowed for something like this. He asked whether the City must be named as insured.

CITY ATTORNEY STEINFELD said that normally that was the case, but he was not sure whether this was allowed in the 60th Anniversary situation. He stated without Director Mike Jones or someone from Human Resources present, he was not exactly sure how the City was insured; however, the City did allow people to circulate. He noted that this event was in an area where there were more streets, but the 60th Anniversary event was in a park. He stated that it was not brought to his attention that the City was not insured, and that was a Baseball League situation that was selling Beer.

COMMISSIONER TALERICO felt that it needed to be looked into in the future to make

sure everyone was covered adequately and neither the City nor the groups were being jeopardized.

CITY ATTORNEY STEINFELD explained that the amendment would ensure that the City of Margate was adequately insured for this type of activity, and that if it was, no additional insurance would be necessary.

COMMISSIONER PEERMAN stated that at the last Fourth of July, the Chamber sold alcohol at the earlier event; therefore, whatever the City did to allow that was on record somewhere.

COMMISSIONER TALERICO mentioned the carnivals held across the street and asked whether they had to provide insurance for the City, and he asked how that differed from anything else.

CITY ATTORNEY STEINFELD explained that this was a City event.

COMMISSIONER TALERICO mentioned Community Redevelopment Agency (CRA) events.

CITY ATTORNEY STEINFELD said that it would be jointly funded, according to the City Manager.

CITY MANAGER SMITH said that the events were joint City/CRA events.

COMMISSIONER TALERICO questioned whether the City co-sponsored some of the Carnivals where the Commission's name was on there as the CRA. He asked whether they still had to provide the insurance.

CITY ATTORNEY STEINFELD stated that they would make sure.

CITY MANAGER SMITH said that he would see how that was handled.

The amendment carried by the following vote:

Yes: 4 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico and Mayor Simone

Abstain: 1 - Vice Mayor Ruzzano

The motion as amended carried by the following vote:

Yes: 4 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico and Mayor Simone

Abstain: 1 - Vice Mayor Ruzzano

CITY MANAGER SMITH proceeded with his report:

- He noted that the City currently had \$450,000 in funding for two different Water Projects. He said that it still had to go through the final approval process, but providing

that went well, the City would obtain \$350,000 more than last year. He thanked the Mayor and Commission, Staff and the City Lobbyist for their support on that project.

- The Northwest Focal Point Senior Center (NWFPS) had a Summer Health Expo Event coming up on the 24th. He noted that there would be health screenings, hurricane preparedness and other activities.
- The Veteran's Park repairs of the boat ramp were completed and the ramp was open.
- Coral Gate Park had Tennis and Basketball court resurfacing completed, which he would provide pictures for to the City Commission.
- The City had been named a Playful City U.S.A. for the fourth time recognized by Kaboom who recognized 241 municipalities from across the Country that make play a priority in their communities.
- Curb cleaning was being done at Rock Island Road between Royal Palm Boulevard and Sample Road, as well as along Margate Boulevard in preparation for the Fourth of July Parade. He thanked Director of Public Works Sam May.
- The City had an agreement with the company that did the advertising on the bus bench panels and the City was going to start advertising City events on those panels. He said that the advertising would begin with the July 4th event, which would be at various locations throughout the community.

MAYOR SIMONE asked what the time was for the NWFPS event, and the City Manager said that it was 9:00 a.m. to 1:00 p.m.

6) RESOLUTION(S)

- A. [ID 14-1161](#) DESIGNATION OF ONE (1) VOTING DELEGATE AND ONE (1) ALTERNATE FOR FLORIDA LEAGUES OF CITIES' ANNUAL CONFERENCE ON AUGUST 13-15, 2015, IN ORLANDO, FLORIDA.

Resolution 15-060

A motion was made by Commissioner Peerman, seconded by Commissioner Talerico, to insert the name of Commissioner Joyce W. Bryan as the Voting Delegate for the Florida League of Cities Annual Conference. The motion carried by the following vote:

Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

A motion was made test by Commissioner Lesa 'Le' Peerman, seconded by Commissioner Joyce W. Bryan, to insert the name of Vice Mayor Tommy Ruzzano as the Alternate for the Florida League of Cities Annual Conference. The motion carried by the following vote:

Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

- B. [ID 14-1181](#) APPROVING AGREEMENT WITH RAFTELIS FINANCIAL

CONSULTANTS, INC. (RFC), TO PROVIDE PROFESSIONAL CONSULTING SERVICES TO PREPARE A STORMWATER RATE STUDY FOR THE DEPARTMENT OF PUBLIC WORKS, IN AN AMOUNT NOT TO EXCEED \$16,250.00; PROVIDING FOR PROFESSIONAL FEES AND DIRECT EXPENSES; PROVIDING FOR A SCOPE OF SERVICES (ATTACHMENT A); PROVIDING FOR AN HOURLY RATE SCHEDULE (ATTACHMENT B); PROVIDING FOR ADDITIONAL SERVICES IF REQUIRED

Resolution 15-061

A motion was made by Commissioner Talerico, seconded by Commissioner Peerman, that this Resolution be approved. The motion failed by the following vote:

Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

- C.** [ID 14-1182](#) AWARDING BID NO. 2015-009 N.W. 18TH STREET FORCE MAIN CONSTRUCTION TO SOUTHERN UNDERGROUND INDUSTRIES, INC. IN AN AMOUNT NOT TO EXCEED \$437,498.00.

Resolution 15-062

A motion was made by Commissioner Talerico, seconded by Vice Mayor Ruzzano, that this Resolution be approved. The motion carried by the following vote:

Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

7) ORDINANCE(S) - FIRST READING

- A.** [ID 14-1174](#) CONSIDERATION OF AN ORDINANCE TO REVISE ARTICLE XXXIX. SIGN CODE OF THE MARGATE ZONING CODE.

A motion was made by Commissioner Talerico, seconded by Commissioner Peerman. The motion carried by the following vote:

An amendment was made by Commissioner Lesa 'Le' Peerman, seconded by Commissioner Frank B. Talerico, that it go back to 12 months for opinion and election signage for residential only. The amendment carried by the following vote:

Yes: 4 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico and Vice Mayor Ruzzano

No: 1 - Mayor Simone

The motion as amended carried by the following vote:

Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

ADJOURNMENT

There being no further business, the meeting adjourned at 9:43 p.m.

Respectfully submitted,

Transcribed by Carol DiLorenzo

Joseph J. Kavanagh, City Clerk

Date: _____

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, TOMMY RUZZANO, hereby disclose that on JUNE 17, 20 15 :

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, Son _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

MOTION - THAT BEER SALES AT THE JULY 4TH EVENT TO BENEFIT THE BASEBALL LEAGUE WOULD BE ALLOWED TO PROCEED WITH THE CONDITIONS SET FORTH BY THE CITY ATTORNEY

AMENDMENT TO THE MOTION - THAT IS THE CITY WAS ADEQUATELY INSURED FOR THIS PARTICULAR TYPE OF ACTIVITY, NO ADDITIONAL INSURANCE WOULD BE NECESSARY.

I have to abstain because one of my sons is on one of the baseball teams.

Originally file 6/22/15
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.