



# City of Margate

5790 Margate Boulevard  
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## Meeting Minutes Regular City Commission Meeting

*Mayor Tommy Ruzzano*  
*Vice Mayor Arlene R. Schwartz*  
*Commissioners:*  
*Anthony N. Caggiano, Lesa Peerman, Joanne Simone*

*City Manager Douglas E. Smith*  
*City Attorney Douglas R. Gonzales*  
*City Clerk Joseph J. Kavanagh*

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Wednesday, February 15, 2017

7:00 PM

Commission Chambers

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### CALL TO ORDER

**Present:** 5 - Commissioner Anthony N. Caggiano, Commissioner Joanne Simone, Commissioner Lesa Peerman, Vice Mayor Arlene R. Schwartz and Mayor Tommy Ruzzano

In Attendance:

City Manager Douglas E. Smith  
City Attorney Douglas R. Gonzales  
City Clerk Joseph J. Kavanagh

### PLEDGE OF ALLEGIANCE

[ID 2017-088](#) DANNY AGOSTO, 12TH GRADE, MONARCH HIGH SCHOOL

### 1) PRESENTATION(S)

- A. [ID 2017-066](#) HENRY TATE, III - CIVILIAN RECOGNITION
- B. [ID 2017-082](#) RECOGNITION OF DR. MARTIN LUTHER KING, JR. / TOGETHER WE MAKE IT GREAT DAY OF SERVICE VOLUNTEERS AND COMMUNITY SERVICE PROJECTS.

### ATHLETES OF THE MONTH

- C. [ID 2017-079](#) BASEBALL: LOGAN ELY, 7 YEARS OLD  
(Margate Pony Elite Baseball and Softball, White Sox)

### EMPLOYEE RECOGNITION FOR YEARS OF SERVICE

- D. [ID 2017-073](#) THEOPHEN ESTREVOLO, UTILITY TECHNICIAN - DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES - 10 YEARS

### PROCLAMATION(S)

- E. [ID 2017-080](#) AFRICAN AMERICAN HISTORY MONTH - FEBRUARY, 2017

- F. [ID 2017-084](#) GUARDIAN AD LITEM MONTH - FEBRUARY, 2017 (presented to Gary Jackson, Guardian Ad Litem Program - 17th Judicial Court)

## 2) COMMISSION COMMENTS

COMMISSIONER CAGGIANO said that he was asked why he had to abstain from voting three times at the last meeting.

CITY ATTORNEY DOUGLAS R. GONZALES explained that after looking into the abstention further and communicating with the Commission it was determined that conflicts were generally only for when there was a pecuniary interest involved by the Commissioner or Elected Official in that vote. He stated that there was a caveat in the Statute that said that the Elected Official may abstain from voting in order to avoid the appearance of impropriety. He noted that as Commissioner Caggiano did not have a pecuniary interest he did not have to abstain from voting.

COMMISSIONER SIMONE recognized the City Staff for the tremendous work they did day in and day out for the Commission and the residents. She extended condolences to the retired Purchasing Director Pat Greenstein, as well as Richard Alianiello, for their recent family losses. She stated that Certified Emergency Response Team (CERT) was beginning a new training class on February 25th. She explained that CERT involved volunteers trained to help the Fire Department in cases of emergency. She noted that signups were at [www.coralspringscert.org](http://www.coralspringscert.org). She added that additional information was provided at [info@margatecert.us](mailto:info@margatecert.us). She stated that the fitness park was closed for improvements and installation of a steel pavillion. She noted that Movies in the Park, Kubo and the Two Strings, was scheduled for February 25th at 7:00 PM. She said that the Building Department would be having new inspections on Friday from 8:00 AM until 12:00 Noon. She noted that Margate had four junior tennis courts installed at Firefighters Park where the old roller skating rink used to be. She again thanked the Staff for making all those things possible.

COMMISSIONER PEERMAN acknowledged Yancey Timeus, a resident, who took the official City Commission photos. She asked the City Manager about City College.

CITY MANAGER DOUGLAS E. SMITH stated that he would review that with the Interim City Manager and a schedule would be put out.

VICE MAYOR SCHWARTZ wanted to extend her condolences to Pat Greenstein and Richard Alianiello, for their recent family losses. She asked Director of Economic Development Ben Ziskal to explain the Transit Oriented Corridor (TOC).

DIRECTOR OF ECONOMIC DEVELOPMENT BEN ZISKAL explained that the TOC was one of four mixed use Land Use Districts that Cities may adopt if they so choose. He said that the four categories were; Regional Activity Center, similar to Sawgrass Mills Mall or the Hockey Arena; Local Activity Center, smaller scaled Downtown City Center project or mixed use project; Transit Oriented Development, development near a transit station such as the main Broward County Transit Hub in Downtown Fort Lauderdale; Transit Oriented Corridor, stretching a long and major roadway. He stated that the TOC in Margate was a City initiated Land Use Amendment that encompassed 1,184 acres. He said that when implemented in 2007, it was the largest such district in Broward County. He noted that it fell along U.S. 441 and there were multi-jurisdictional efforts, as with any roadway, to look at long term solutions to traffic along U.S. 441. He explained that the City participated in organizations such as the State Road 7 Collaborative, as well as conducting studies with the Florida Department of Transportation (FDOT).

MAYOR RUZZANO asked what the advantage of the TOC was.

DIRECTOR ZISKAL said that the advantage was that it provided a mixed use in the same area. He noted that other Land Use designations throughout the County were all single use such as just commercial or just industrial or residential. He further explained that the Residential Land Uses were designed by density; therefore, a single family neighborhood would be residential with four units per acre; however, a condominium might be residential with 20 units per acre. He reiterated that they were all single use and that the four uses in the TOC allowed the mixture of office, residential, retail, industrial and office, and that uses could be co-mingled.

MAYOR RUZZANO asked what would have happened if the City had not taken any of the four.

DIRECTOR ZISKAL said that it would have remained as it was up until 2007, which the majority of the 1,184 acres was land that was either on U.S. 441 or on Atlantic Boulevard.

MAYOR RUZZANO asked whether the City could do whatever it wanted going by the City Code.

DIRECTOR ZISKAL said no and explained that the property would be restricted to commercial only. He noted that it was a single use Commercial District in those areas. He said that other areas in the TOC include land that was between Banks Road and State Road 7 that prior to the adoption was strictly Industrial uses and no regular retail or commercial restaurants could go there. He explained that other portions of the TOC included only residential land and no office, restaurant or retail could go on those properties.

MAYOR RUZZANO asked whether those could have been changed by the City.

DIRECTOR ZISKAL said that a Land Use Amendment could always be processed. He explained that a property owner had the right to do that and the City could initiate that. He further explained that Broward County was a Chartered County in the State of Florida that had its own Land Use map. He stated that the City's maps must comply with the County's maps. He said that in most cases where there was commercial land, the City map and County map would say commercial. He noted that in some instances, there could be a County density for residential that allowed more residential density than the City did. He explained that in those cases the City map would be amended but the City would still be in compliance with the County map. He stated that if amending the map and there was a change to both maps it would have to go through the City and County for approval. He said that they would all then have to go to the State for approval.

VICE MAYOR SCHWARTZ asked whether Margate initiating its own TOC allowed the City to decide what to put there and not to have to go back to the County for permission.

DIRECTOR ZISKAL agreed and said that with the 1,184 acre designation, all 1,184 acres could be developed under mixed use without going to the County or the State for each individual property.

MAYOR RUZZANO mentioned the Martin Luther King Jr. project and thanked everybody involved with putting together the event and what a great job was done. He stated that the Building Department would now be open on Friday for inspections; however, those needing inspections still had to call in on Wednesday. He noted that

*usually individuals called in the day before and received the inspection the next day. He did not think this was the answer to the problem. He said that there were a lot of problems with permitting; therefore, if open on Friday he would rather they reviewed the permits and got them out. He suggested looking into that. He mentioned the Challenger Baseball Program for children with special needs and noted that they would be playing in Margate again this year. He noted that they played in Margate last year as well with some of the Commission attending. He stated that it was a moving time and the players received a plaque. He asked for a consensus about doing something for the participants such as buying a medal or making a donation.*

*VICE MAYOR SCHWARTZ asked whether the children were from Broward County or Statewide.*

*MAYOR RUZZANO believed they were from Broward County and Margate.*

*VICE MAYOR SCHWARTZ suggested giving passes to Calypso Cove.*

*COMMISSIONER CAGGIANO asked whether everyone would get the participation award.*

*MAYOR RUZZANO said that there were 200 children last year with possibly 6 teams. He stated that the children were so excited and full of energy that it took a ½ hour to take a group photo last year.*

*COMMISSIONER PEERMAN suggested having a Pool Day at Calypso Cove just for them with the City Commission buying them burgers, etc. She said that it could be worked out with the Director of Parks and Recreation Mike Jones to have a whole day designated as Challenger Day at Calypso Cove.*

*CONSENSUS was given and all agreed 5-0 to have the Challenger Day at Calypso Cove.*

*MAYOR RUZZANO mentioned the Commission meetings running long due to the Student and Teacher awards. He noted that at the last few meetings the presentations took about 24 to 26 minutes; therefore, suggestions were made to do it on a different day or at the schools. He asked whether the Commission was in agreement to keeping the meeting at 7:00 PM if keeping within the 26 minute time frame or having the meeting earlier at 6:30 PM.*

*COMMISSIONER PEERMAN said that the Commission previously discussed at a Workshop having the meeting at 6:30 PM, which she felt was good for the students and parents. She asked the City Clerk whether it was going to begin in March.*

*CITY CLERK JOSEPH KAVANAGH said that the City Manager was going to provide an update during his report, but basically the Clerk's office was prepared to move forward with the 6:30 PM time period if the Commission so wished.*

*COMMISSIONER PEERMAN agreed to trying 6:30 PM meetings, rather than having it done at the schools.*

*VICE MAYOR SCHWARTZ suggested recognizing each child with their parents and then have a presentation at the school assembly for the other students to see what it was like. She noted that some schools did that every three months and revolved the Teacher of the Month as well rather than having 7 Teachers at one Commission meeting.*

COMMISSIONER CAGGIANO asked whether the plan was only for the first meeting of the month while having the second meeting being at 7:00 PM.

COMMISSIONER PEERMAN noted that the employee recognitions were held at the second meeting of the month, while the Student, Teachers and Athletes were the first meeting of the month. She clarified that there were not as many employees as there were students.

COMMISSIONER SIMONE said that she would like to see the recognitions at 6:30 PM with the business portion of the meeting beginning at 7:00 PM. She noted that many schools had morning announcements including the Student of the Month for the peers to hear.

MAYOR RUZZANO clarified that the consensus was to move the student/teacher recognitions to 6:30 PM.

CONSENSUS was given and all agreed 5-0.

MAYOR RUZZANO asked whether the Commission wanted to do a presentation at the schools twice a year.

COMMISSIONER PEERMAN noted that at the end of the year, the schools held the Student of the Year presentations with a Commissioner going to each school and making the presentations.

VICE MAYOR SCHWARTZ asked whether the 12 children who received recognition from the City also were recognized at those presentations.

COMMISSIONER PEERMAN said no, but that could be discussed with the Principals.

CITY ATTORNEY DOUGLAS R. GONZALES informed the City Commission that pursuant to Section 286.011 Florida Statutes, he was announcing a Labor Executive Session for both the International Association of Firefighters (IAFF) and the Police Benevolent Association (PBA) to be held on Tuesday, February 21st, 2017, at 3:00 PM. He stated that those in attendance will include the Mayor, City Commission and the City's Management partnering team.

### 3) PUBLIC DISCUSSION

RICH POPOVIC, 6066 Winfield Boulevard, spoke about the TOC Plan being adopted. He also mentioned the Alzheimer Family Center and that \$500,000 was lost. He spoke about Calypso Cove and the \$30 million dollar Road Bond.

MICHAEL A. ROTH, 451 Banks Road, stated that he would love to be part of the Challenger event. He invited everyone to the Chamber of Commerce Breakfast next Thursday at the Carolina Club at 7:30 AM that the Fellowship was sponsoring.

MARCY BERNSTEIN, 5262 NW 31st Street, stated her neighbor in the back would not cut his bushes and trees. She noted that they were currently over 10 feet tall. She said that she needed the Code so that the Code Compliance Officer could make the neighbor cut the bushes and trees. She stated that she needed to change the Code.

MAYOR RUZZANO clarified that Ms. Bernstein came before the Commission previously regarding the bushes and trees. He said that some Commissioners felt that the trees should be trimmed; however, it was not clear who would pay for that and who was liable. He stated that after looking into it, the City determined that there were 31 Cities that went by the same Code Margate had; whereby, if it was your tree, you were

responsible. He said that if the trees were hanging into your yard, it was up to the homeowner who was annoyed by it.

MS. BERNSTEIN said that the neighbor did not have to enter her property, but just had to lean over the fence and cut them.

COMMISSIONER PEERMAN stated that by Code, it was Ms. Bernstein's responsibility. She understood that Ms. Bernstein wanted to change the Code; however, 31 Cities were using the same Code. She felt that if Ms. Bernstein made the neighbor cut on her side of the yard and happened to get hurt, it would be Ms. Bernstein's liability.

MS. BERNSTEIN said that she had homeowner's insurance.

COMMISSIONER PEERMAN asked whether Code approached the neighbor to ask if he would trim the trees for Ms. Bernstein.

MS. BERNSTEIN said that Code did speak with him; however, he did not want to lay out the money. She stated that she lived on Social Security.

COMMISSIONER PEERMAN asked that Ms. Bernstein provide her address to the City Clerk. She said that she would go to Ms. Bernstein's yard to see what could be done to help her.

ELSA SANCHEZ, 6930 NW 15th Street, wanted to know if it was true that the Fire House on Rock Island Road had mold and was unhealthy for the Firemen. She asked whether that rumor was true, and if so, what would be done about it.

COMMISSIONER PEERMAN clarified that there was mold found behind the wall from a water leak, which was taken care of; however, it was an old building and was being redesigned to have a new building built there.

#### 4) CONSENT AGENDA

Items listed under Consent Agenda are viewed to be routine and the recommendation will be enacted by one motion in the form listed below. If discussion is desired by the Commission, the item(s) will be removed from the Consent Agenda and will be considered separately. Anyone wishing to comment on any item on the Consent Agenda should approach the podium now. Each speaker is limited to three (3) minutes.

- A. [ID 2017-063](#) MOTION - APPROVAL OF CITY COMMISSION MINUTES.

**APPROVED**

- B. [ID 2017-071](#) RESOLUTION - AWARDED BID NO. 2017-005 2017 WATER MAIN IMPROVEMENTS TO ROADWAY CONSTRUCTION, LLC IN AN AMOUNT NOT TO EXCEED \$1,945,100.

RESOLUTION 17-015

**APPROVED**

- C. [ID 2017-076](#) RESOLUTION - APPROVING AWARD OF BID NO. 2017-007 WILKINS 1" DUAL CHECK BACKFLOW PREVENTER TO FORTILINE, INC.

RESOLUTION 17-016

**APPROVED**

- D. [ID 2017-081](#) RESOLUTION - REJECTING BID RECEIVED FOR BID NO. 2017-003 - AERIAL UTILITY CROSSING REHABILITATION FOR THE DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES; PROVIDING FOR REBID OF THE PROJECT AT A FUTURE DATE.

RESOLUTION 17-017

APPROVED

## Approval of the Consent Agenda

**A motion was made by Commissioner Simone, seconded by Vice Mayor Schwartz, to approve the Consent Agenda. The motion carried by the following vote:**

**Yes:** 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

## 5) CITY MANAGER'S REPORT

CITY MANAGER DOUGLAS E. SMITH mentioned that in this year's Budget, the Commission had a \$10,000 contribution towards the Reading Pals Program. He stated that last November, the Commission heard a presentation from the United Way that administered the program. He said that a representative recently reached out to the City Clerk's office asking which school the City was recommending that the Reading Pal Program be implemented at for the upcoming year. He noted that this would be an Elementary School. He asked whether the Commission had any feedback regarding which school they recommended.

VICE MAYOR SCHWARTZ said that she was under the impression that the Principal of Margate Elementary School indicated he would love to have the program.

COMMISSIONER SIMONE felt that the decision should be left up to the Principals. She said that she had no problem letting the Principal of Margate Elementary School do it; however, she felt that the decision should not be made by the Commission. She stated that the Principals needed to be contacted and asked whether they want the program before assigning it to a school.

MAYOR RUZZANO stated that the first recommendation was to contact the Principal of Margate Elementary School.

CITY MANAGER SMITH said that if Margate Elementary School wished to move forward with the program that would be the submission. He stated that if not, the other schools would be contacted.

MAYOR RUZZANO stated that it would come back before the Commission. He asked what a secondary school would be if Margate Elementary School did not want to proceed. He mentioned Atlantic West Elementary School.

CONSENSUS was taken and all agreed 5-0.

CITY MANAGER SMITH noted that the Mayor previously mentioned the Home of the Month Program and brought forward a recommendation. He said that Staff was working on putting together the guidelines, as well as reviewing signage information with the Mayor today. He stated that the program would be available for single family homes, duplexes and townhomes within the City. He explained that the winner would have a

special Home of the Month sign placed in their yard. He added that pictures of the home would be placed on the social media website and in the monthly Newsletter. He noted that a gift certificate to a hardware store and recognition at a City Commission meeting were also included. He gave the opportunity to the Mayor to add anything else he wanted to the program. He showed the previously designed concept for the sign.

MAYOR RUZZANO stated that the sign was fine, but the colors could be changed to the logo colors. He said that he did not want to have it look like a voting sign.

VICE MAYOR SCHWARTZ said that she preferred that it not look like a realtor sign either.

CITY MANAGER SMITH explained that the City was again partnering this year with Waste Management for the Academic Scholarship Program for two \$2,500 scholarships. He noted that application information was available on the website and that applications were due May 25th. He announced that the City recently contracted for new City wide uniforms. He noted that they were not public safety uniforms. He explained that there were standard uniform types and colors based on the job function. He said that employees in streets and parks would have lime green or white shirts with the new City logo. He stated that Celebration Point building number 6 and the Glick Skin Institute on State Road 7 received a Certificate of Occupancy this month. He added that the Dominion Self Storage on Coconut Creek Parkway received a temporary Certificate of Occupancy this month. He mentioned a program in Coral Springs called the Little Library that could be installed at Firefighters Park to provide access to books. He noted that a Ribbon Cutting Event would be held when it was completed. He stated that the 38th Annual Senior Games would be held March 6th to March 10th. He said that applications were available at Parks and Recreation, the Senior Center or on the website.

COMMISSIONER SIMONE mentioned her prior concerns regarding the Home of the Month Program and asked whether it could be changed to the Most Improved Home of the Month with pictures of before and after. She felt that her concerns might be taken care of if the name was changed.

COMMISSIONER PEERMAN asked whether the lady who reached out regarding the Little Library could be included in the Ribbon Cutting Ceremony.

CITY MANAGER SMITH agreed.

VICE MAYOR SCHWARTZ felt that naming the program the Most Improved was a negative connotation because it indicated that the house needed to be improved. She would not want a sign on her house stating Most Improved.

MAYOR RUZZANO asked whether the Commission was in agreement with the sign picture shown with the colors changed.

All agreed.

MAYOR RUZZANO noted that this year was the 40th Birthday of the Northwest Focal Point Senior Center (NWFPSC), and that Director Karin Diaz wanted to have a celebration at the Senior Center. He noted that there would be very influential people attending and he hoped the Senior Center building looked the best it could.

DIRECTOR OF NWFPSC KARIN DIAZ stated that the event for the party was October 19th.



*COMMISSIONER CAGGIANO noted that on March 18th the City was holding its Spring Cleanup and Garage Sale Event.*

## 6) RESOLUTION(S)

- A. [ID 2017-055](#) AMENDING THE FUND BALANCE POLICY; PROVIDING FOR COMMITTED FUND BALANCE.

*RESOLUTION 17-018*

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

**Yes:** 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

- B. [ID 2017-069](#) RESOLUTION OF THE CITY OF MARGATE, FLORIDA APPROVING AWARD OF RFQ 2017-001 - FIRE STATION NO. 58 DESIGN SERVICES TO SALTZ MICHELSON ARCHITECTS, INC. WITH AN AGREEMENT FOR ARCHITECTURAL DESIGN AND RELATED SERVICES FOR THE PROPOSED PROJECT.

*RESOLUTION 17-019*

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

**Yes:** 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

- C. [ID 2017-074](#) APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MARGATE AND WITT O'BRIEN'S, LLC; PROVIDING FOR INITIAL ONE YEAR TERM AND OPTION FOR RENEWAL FOR SUCCESSIVE ONE YEAR PERIODS; AUTHORIZING ADMINISTRATION TO RENEW THIS AGREEMENT UNDER THE SAME TERMS WITHOUT FURTHER COMMISSION ACTION.

*RESOLUTION 17-020*

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

**Yes:** 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

- D. [ID 2017-075](#) APPROVING WAIVING BIDDING FOR THE TRAINING SUBSCRIPTION TO TARGET SOLUTIONS ONLINE LEARNING SOFTWARE USED BY THE FIRE DEPARTMENT TO MANAGE AND TRACK TRAINING HOURS THAT ARE REQUIRED BY THE STATE OF FLORIDA AND ISO.

*RESOLUTION 17-021*

**A motion was made by Commissioner Peerman, seconded by Vice Mayor Schwartz, that this Resolution be approved. The motion carried by the following**

vote:

Yes: 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

THE MEETING RECONVENED FOLLOWING A BRIEF RECESS.

## 7) RESOLUTION(S) - QUASI-JUDICIAL HEARING

CITY ATTORNEY DOUGLAS R. GONZALES read the following statement: Florida courts have determined that there are certain types of matters, including the following applications, which are to be treated differently than other issues considered by the Commission. Most decisions of the Commission are legislative in nature, which means that the City Commission is acting as policy making body. In contrast, in Quasi-Judicial matters, the Commission is applying existing rules and policies to a factual situation, and is therefore, acting like a Judge or Jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. The City of Margate's procedures for Quasi-Judicial Hearings are as follows: All who wish to speak shall be collectively sworn in by the City Clerk. The hearing shall be conducted in an informal manner. He would read the title of the item to be considered and City Staff shall present a brief synopsis of the application and make a recommendation. Next there would be a presentation by the applicant. The Commission would then hear from participants in favor of and in opposition to the application. All witnesses were subject to cross examination by the City Staff, City Commission and the applicant, and a participant may request that the Commission ask questions of a witness. The applicant and Staff will make concluding remarks and no further presentations or testimonies shall be permitted, and then the public hearing will then be closed. All decisions of the Commission must be based on competent substantial evidence presented to it at the hearing. All backup materials provided to the City Commission as part of the Agenda, will automatically be made a part of the record of the hearing, and all approvals will be subject to Staff recommended conditions, unless otherwise stated in the motion for approval.

CITY CLERK JOSEPH J. KAVANAGH swore in those affected parties wishing to provide testimony.

MAYOR RUZZANO asked that any Commissioner that engaged in Ex-Parte communications regarding this Quasi-Judicial Agenda item disclose that information including City Commission discussions with interested parties including the petitioner and City Staff, and any visitations to the being discussed should be disclosed at this moment.

COMMISSIONER CAGGIANO said that he spoke to Staff.  
COMMISSIONER SIMONE said that she spoke to Staff.  
COMMISSIONER PEERMAN said that she spoke with Staff.  
VICE MAYOR SCHWARTZ said that she spoke to Staff.  
MAYOR RUZZANO said that he spoke to Staff.

- A. [ID 2017-054](#) APPROVING WITH CONDITIONS A SPECIAL EXCEPTION USE TO ALLOW FOR THE INSTALLATION OF AN OUTDOOR WALK-IN COOLER/FREEZER AT ANNE MARIE'S PIZZA COMPANY LOCATED AT 2403 NORTH STATE ROAD 7.

RESOLUTION 17-022

A motion was made by Commissioner Peerman, seconded by Commissioner Simone, that this Quasi-Judicial Resolution be approved with the conditions read into the record.

CITY ATTORNEY GONZALES read the conditions into the record and stated that the Petitioner must comply with the following findings announced during the January 24th, 2017, Development Review Committee (DRC):

1. Provide Landscaping and Irrigation Plan and install any necessary plant material and irrigation required to meet minimum Code requirements.
2. Test the existing parking lot lighting facilities and provide either a Certification of Compliance from a qualified design professional or provide a Photometric Plan and install any improvements required to meet minimum Code requirements.

CITY ATTORNEY GONZALES explained that there were various findings that the Commission will need to make as part of the record. He said that if the item was approved those findings would need to be stated at this point in time and were in the resolution. He asked the applicant to come forward and asked whether he agreed to have the Commission take a vote at this point.

JONATHAN LINKER, Jonathan Thomas Developers, being duly sworn, stated that he agreed to the conditions and agreed to have the Commission take a vote at this point.

The motion carried by the following vote:

Yes: 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

## 8) ORDINANCE(S) - SECOND READING

- A. [ID 2017-078](#) APPROVAL OF AN ORDINANCE TO PROVIDE REGULATIONS FOR NEW PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, AND HIGH SCHOOLS.

ORDINANCE 2017-1500.626

A motion was made by Commissioner Simone, seconded by Vice Mayor Schwartz, that this Ordinance - 2nd Reading be approved. The motion carried by the following vote:

Yes: 5 - Commissioner Caggiano, Commissioner Simone, Commissioner Peerman, Vice Mayor Schwartz and Mayor Ruzzano

## 9) DISCUSSION AND POSSIBLE ACTION

- A. [ID 2017-090](#) DISCUSSION AND POSSIBLE ACTION - MAXIMUM NUMBER OF UNITS AVAILABLE IN THE CITY CENTER TOC DISTRICT

THE FOLLOWING WAS A VERBATIM TRANSCRIPT:

MAYOR TOMMY RUZZANO: Alright this item has been talked about a lot and uh, and right now the maximum allowable units allowed in the Downtown area or the City Center is 503 units. I know the CRA's been having meetings and numbers have been thrown out of 968, 750. So basically, before the developer starts going any forward, to trying to find out where he's going with the project of how many units are possibly gonna be allowed in the Downtown area, because the only way this number could

change is by the City Commission. So, just wanted to bring it up for discussion.

COMMISSIONER LESA PEERMAN: I think when we had our, the CRA had the Workshop it came out to be 313 on the east side, 316, and 750 max for the whole development.

MAYOR RUZZANO: Well, Commissioner Caggiano.

COMMISSIONER ANTHONY N. CAGGIANO: Is there any way of reducing the number from 503?

MAYOR RUZZANO: Reducing? To the Attorney?

CITY ATTORNEY DOUGLAS R. GONZALES: In order to do so it would take a, and I would have to call Mr. Ziskal because we are going to confirm some of this, but it would require a Land Use Amendment, similar to the process that was pretty much uh voted down today, and under Chapter 163 of the Florida Statutes, that particular process requires that there be two hearings um similar to what we would have for an ordinance and various uh other issues that would have to be done, so, it could be done, but it would have to be done through a formal process.

MAYOR RUZZANO: Does that work for you?

COMMISSIONER CAGGIANO: Yes.

MAYOR RUZZANO: Commissioner Peerman?

COMMISSIONER PEERMAN: So if we don't have, we have to go through the whole Land Use process again or reopen the one that was ...

CITY ATTORNEY GONZALES: Well we don't have one currently open. There's none, there's none open or active at this moment so at this moment, uh, the 503 units or whatever the number is, is what is there and available. Um, if you wanted to take action on that it would have to come through the formal process.

COMMISSIONER PEERMAN: Could they reopen the one that just was up?

CITY ATTORNEY GONZALES: Well since we're under a month ...

COMMISSIONER PEERMAN: ... or do we have to go through the 16 months, \$22,000 thing again is my question?

CITY ATTORNEY GONZALES: Well, it's been voted down tonight. If somebody wanted to reopen it, we're now under and using a modified Rules of Robert's Order, and I've discussed with you in the past my feelings about what that means, but effectively, in reviewing this, there are no rules and if there are no rules you all can bring this back whenever you feel like it; however, if you want to bring it back, you would still have to follow the requirement that it be brought back by a member on the ...

COMMISSIONER PEERMAN: ...winning side.

CITY ATTORNEY GONZALES: ...the winning side and I want you to keep something in mind. The last two times we discussed this item I have told you that getting past the 60/180 day issue, there are 180 days for the City to go ahead and complete the process under the former um Land Use Amendment that was here for second reading. The County also has requirements that they would have to pass concerning the same and we've been told that the County process lasts, it would require them to put it on an Agenda approximately 45 days before the 180 day period would end, so if you take 45 days back from 180, that means we would have to act and get it to the County probably by the 130th day. Now I have no idea where we are in this whole, the timeline of all of this. I suspect we're still under the 60 that we thought we had to begin with, but we're looking at it being around 130, which would mean if we wanted to get the one that has been now shut down, back to be considered and considered and to the County, they would require the information from the City around March 20th.

COMMISSIONER PEERMAN: Okay, so if they don't, if that route isn't going, then how do they, how is it, would it be possible to change the number of units?

CITY ATTORNEY GONZALES: Then we could do another one at this same expense that we're talking about.

COMMISSIONER PEERMAN: That's what I was asking.

CITY ATTORNEY GONZALES: Yes, if it gets to that point.

COMMISSIONER PEERMAN: So you have one that's still within the 180 days or it

would have to start all over to change the maximum number of units, I'm reading of what's here, to change the maximum number of units.

CITY ATTORNEY GONZALES: Yes ma'am.

COMMISSIONER PEERMAN: Okay. That's all I wanted to know.

MAYOR RUZZANO: Vice Mayor.

VICE MAYOR ARLENE R. SCHWARTZ: Question to the City Attorney. I've several times heard, modified Robert's Rules. When did Robert's Rules get modified?

CITY ATTORNEY GONZALES: When the City decided to change its Code and include the word modified.

VICE MAYOR SCHWARTZ: So that's actually in the Code?

CITY ATTORNEY GONZALES: Yes.

VICE MAYOR SCHWARTZ: Okay, second question. If indeed you just said, and I've heard several different things, that there are now 5, the actual number is 503 units?

CITY ATTORNEY GONZALES: I don't know that.

VICE MAYOR SCHWARTZ: No, but I'm telling, I'm telling you it is.

CITY ATTORNEY GONZALES: Let's assume for argument that there's 503.

MAYOR RUZZANO: Well, I don't want to, I don't want to assume.

CITY ATTORNEY GONZALES: I

COMMISSIONER PEERMAN: Yeah there are 503.

MAYOR RUZZANO: There's 503.

CITY ATTORNEY GONZALES: I

VICE MAYOR SCHWARTZ: I did my research. There are, we all know there are 503 units.

CITY ATTORNEY GONZALES: Very well.

VICE MAYOR SCHWARTZ: If that is now what's available, then that is what, the only thing we're talking about now, because that's the only amount available.

CITY ATTORNEY GONZALES: Well, Yes. What we have now, given today's action, would be 93 units on one end and how many units on the other end?

ECONOMIC DEVELOPMENT DIRECTOR BEN ZISKAL: 300.

CITY ATTORNEY GONZALES: 300 on the other end and 110 in the TOC. We could of course pull some of the units from the 93 or the 300 into the 110 and the middle area, but we can't pull the items, or any of the units ...

VICE MAYOR SCHWARTZ: Oh I get that.

CITY ATTORNEY GONZALES: ... I'm sorry, for the middle area out into the other.

VICE MAYOR SCHWARTZ: And that's the max at 503.

CITY ATTORNEY GONZALES: Yes ma'am.

VICE MAYOR SCHWARTZ: So all you're talking about now is if I look at this maximum number of units available you're now talking 503 units.

CITY ATTORNEY GONZALES: Yes.

VICE MAYOR SCHWARTZ: And so bringing back something that was voted down to give additional, would not do as the Mayor suggested about doing less. It would have to be amending the Budget, rather the Land Use Amendment because it's not the direction the Land Use Amendment was going. It was going for an additional 1200 or 1800 that number. You can't take to the bank.

CITY ATTORNEY GONZALES: Correct, that amendment would ...

VICE MAYOR SCHWARTZ: But this is the opposite direction. This would at amending that amendment.

CITY ATTORNEY GONZALES: Right.

COMMISSIONER PEERMAN: But Mayor, this says available in the City Center, that's not the TOC.

VICE MAYOR SCHWARTZ: It's the 503 though.

COMMISSIONER PEERMAN: No. that's the ...

CITY ATTORNEY GONZALES: No. The TOC is 110.

COMMISSIONER PEERMAN: No. That's not, that's not, that's ...

VICE MAYOR SCHWARTZ: It's the City Center.

CITY ATTORNEY GONZALES: It's 110 now, but it could be 503 when you bring in

the ...

COMMISSIONER PEERMAN: Right. It's the whole TOC.

MAYOR RUZZANO: Wait a second. The Downtown area is 110?

VICE MAYOR SCHWARTZ: That's why you hear these twice. You're gonna hear the same thing twice.

MAYOR RUZZANO: The City Center's 110?

COMMISSIONER PEERMAN: Plus ...

CITY ATTORNEY GONZALES: Plus the two other sides.

VICE MAYOR SCHWARTZ: Why doesn't he get up and tell us.

CITY MANAGER DOUGLAS E. SMITH: Mr. Ziskal?

VICE MAYOR SCHWARTZ: So that's 503?

CITY MANAGER SMITH: Yeah Mr. Ziskal if you could ...

COMMISSIONER PEERMAN: Right. There is 503 ...

CITY ATTORNEY GONZALES: 503. It is 503.

COMMISSIONER PEERMAN: On the TOC.

CITY ATTORNEY GONZALES: In the TOC, but that requires some of you as we brought it, but that doesn't require any action.

VICE MAYOR SCHWARTZ: But it's a maximum number.

COMMISSIONER PEERMAN: Right.

VICE MAYOR SCHWARTZ: That's all. It's the maximum number. It's 503.

MAYOR RUZZANO: Ben, a question. Right now there's 503 allowed...allocated to the Downtown, or there's 110 allocated to the Downtown? And not what can be but what's there right now?

DIRECTOR ZISKAL: What's allocated there right now is nothing. What you've got to understand is there's two different numbers that we're looking at and with the amendment failing, the parts of the pieces don't add up to the total, which is referenced in another number. Let me try to explain what I mean by that. Right now there are 503 TOC units available. In the Comprehensive Plan based on the 2007 amendment, they are broken down geographically so that up to 1249 of them could be in the City Center, which is between Coconut Creek Parkway and Atlantic. That means that all 503 could go into that area because we can go up to 1249. We've allocated zero there so we still have all 1249. Also in the Comp Plan, we are allowed up to 300 north of Coconut Creek Parkway. We've already allocated 107 to Toscana and 100 to Arbor View. That leaves 93 that are available in that District meaning out of the 503 only 93 of those could ever go north of Coconut Creek Parkway. Likewise, the Comp Plan allows 300 south of Atlantic Boulevard. We have allocated zero, meaning up to the full 300 of the 503 could go in that area. The 110 number that is being referenced means if the 93 that could go to the north, go to the north, if the 300 that could go to the south, go to the south, 110 of the 503 have to go in the City Center ...

VICE MAYOR SCHWARTZ: Dedicated.

DIRECTOR ZISKAL: ... because they're not allowed anywhere else.

VICE MAYOR SCHWARTZ: The word's dedicated. Dedicated ...

DIRECTOR ZISKAL: You can say 110 are dedicated to the City Center if that's the word you choose.

VICE MAYOR SCHWARTZ: Well at least ...

DIRECTOR ZISKAL: That's the only place they're allowed, but the center could get all 503.

VICE MAYOR SCHWARTZ: Move them around.

MAYOR RUZZANO: So if Commissioner Caggiano were to make a motion allocating.. just limiting it to 110 in the Downtown area...

DIRECTOR ZISKAL: That's, that's what the, that's what the Attorney's trying to mention.

COMMISSIONER PEERMAN: Can't

DIRECTOR ZISKAL: You can't because the only way to change a regulation in the Comp Plan is through a Comp Plan amendment. With the amendment that was heard at 6:30 failing to pass, the language that says up to 300 in the north, up to 1249 in the

center and up to 300 in the south, still stands. The only way to reduce that number would be a Comp Plan amendment. So as it stands now, the Comp Plan will say up to 1249 are allowed in the City Center, even though we only have 503 available to allocate.

MAYOR RUZZANO: But that's the Comp Plan, that's where I'm totally confused, like how do you put something out to bid or the CRA that..that gives 968 when there's only 503 available.

COMMISSIONER PEERMAN: It didn't give the 968.

DIRECTOR ZISKAL: Mr. Mayor. With all due respect, I'm not gonna speak to what the CRA did with the developer.

MAYOR RUZZANO: Okay.

DIRECTOR ZISKAL: The Comprehensive Plan is the guiding development document for this City ..

MAYOR RUZZANO: Okay.

DIRECTOR ZISKAL: ... and it's approved by the State of Florida.

MAYOR RUZZANO: Alright.

DIRECTOR ZISKAL: ... and that is what has been approved by Tallahassee. That's our future development for the next 30 years. The only way to change that is through a process, and we did the very same thing with Aztec if you remember. They wanted to change a minor section of the Comprehensive Plan that said they could sleep in structures. That had to go to Tallahassee. Just like our City Code, if we change 30 pages or if we change one word, it has to go to ordinance. The Comp Plan's the same way. We are not allowed to change a single word in that document without Tallahassee approval.

MAYOR RUZZANO: Commissioner Peerman.

COMMISSIONER PEERMAN: Okay. So earlier there was a developer that was sitting out there, he left after it got closed, who wants to build something over on Coconut Creek Parkway. If these 503 are gone, they're gone. He, he can't do that right?

CITY ATTORNEY: Well, inaudible.

COMMISSIONER PEERMAN: I'm asking Ben. I'm sorry.

DIRECTOR ZISKAL: Well I ...

COMMISSIONER PEERMAN: I said if they're gone.

DIRECTOR ZISKAL: If they're gone he could, you would not be able to build there. That is correct.

COMMISSIONER PEERMAN: So, so the whole idea for the TOC was to allow extra in there plus get back what we weren't given in 2007, and, and get extra in there. Now when you were presenting this at one point, you made this suggestion, and I think this is where may be where the Mayor is and Mr. Caggiano are coming from, you made the suggestion of, of putting an amendment onto that TOC project, TOC bill to limit a number in the uh in the City Center TOC District, right?

DIRECTOR ZISKAL: That's correct.

COMMISSIONER PEERMAN: Okay and I think you said at 503 at that point or whatever but we've had discussions for ...

DIRECTOR ZISKAL: That was the mechanism to be able to do it. That ordinance, that, that Land Use Amendment was the mechanism to be able to approve additional units and allocate them.

COMMISSIONER PEERMAN: Yeah I know.

DIRECTOR ZISKAL: As ...

COMMISSIONER PEERMAN: I got it.

MAYOR RUZZANO: Ben I don't buy that because if you're telling, if we approve an amendment that allows 1200 units, you have a developer that put a bid out for 968 units and then we tell him you can't have them ...

DIRECTOR ZISKAL: That's not what I said at all Mr. Mayor. I said the mechanism ...

MAYOR RUZZANO: Didn't you say if we approved the amendment that we would have many more additional units in the Downtown area.

DIRECTOR ZISKAL: What I said Mr. Mayor ...

MAYOR RUZZANO: How many? How many Ben?

DIRECTOR ZISKAL: ... with all due respect, what I said is the process to amend our Comprehensive Plan ...

MAYOR RUZZANO: Ben how many, how many units would it give us in the Downtown area ...

DIRECTOR ZISKAL: However much you ...

MAYOR RUZZANO: ... because of the amendment?

DIRECTOR ZISKAL: However much you decide. That is the mechanism to approve it.

MAYOR RUZZANO: That's what I'm saying. That's what I'm saying. Right now there's only 503.

DIRECTOR ZISKAL: Correct.

MAYOR RUZZANO: But if we approve the amendment, it would bump that number up to well over 1000.

DIRECTOR ZISKAL: Okay.

VICE MAYOR SCHWARTZ: 1200.

COMMISSIONER PEERMAN: Of allotable ...

DIRECTOR ZISKAL: Sure.

COMMISSIONER PEERMAN: Of allotable for the whole TOC.

CITY MANAGER SMITH: Well no, it's really, it was really the way that that amendment was, was worded. It was 300 north, 300 south, 1249 in the middle. Now what, what Ben's indicating is that's the process to make these kind of changes.

COMMISSIONER PEERMAN: To put the 503.

CITY MANAGER SMITH: Well if the City, if the City Commission wants to reallocate that ...

MAYOR RUZZANO: But, (inaudible) how you gonna do that with (inaudible) per thousand units

CITY MANAGER SMITH: ... then reallocate it.

MAYOR RUZZANO: ... and then say well we have them but you're not getting them. You think that's fair? I'm not ...

DIRECTOR ZISKAL: I'm explaining, I'm explaining.

CITY MANAGER SMITH: It's really up to you all to determine as the City Commission.

DIRECTOR ZISKAL: Mr. Mayor, I'm explaining a State process to you.

MAYOR RUZZANO: Exactly.

DIRECTOR ZISKAL: I'm explaining a State process...

MAYOR RUZZANO: That's right and you know what ...

DIRECTOR ZISKAL: That is the mechanism to do it.

MAYOR RUZZANO: That's right and you know what, the way I want to go about this isn't the same way you want to go about this.

DIRECTOR ZISKAL: I'm doing it according to State Law Sir.

MAYOR RUZZANO: Well, do it to the way that ...

DIRECTOR ZISKAL: I will not.

MAYOR RUZZANO: ... you were asked to.

DIRECTOR ZISKAL: I will not...

CITY MANAGER SMITH: You have to follow State Law Mayor, with all due respect.

DIRECTOR ZISKAL: ...do it. Absolutely not. I follow a State Law and Ethics. I will not violate Ethics.

MAYOR RUZZANO: I am not asking you not to follow State law.

MAYOR RUZZANO: I'm just trying to figure a way to limit the Downtown property, the Downtown area. Increasing it by 1200 units was not the right way to go.

CITY MANAGER SMITH: And you all didn't take that action.

COMMISSIONER PEERMAN: He answered that.

CITY MANAGER SMITH: That action is gone.



COMMISSIONER PEERMAN: He answered that when he said ... it's gone.

CITY MANAGER SMITH: So it's up to you all to determine if you want to go a different direction. You all just tell us what direction you want to go and the Staff will work with you on that.

COMMISSIONER PEERMAN: And he answered that at the meeting when he said I suggest you make an amendment to this TOC to limit the, to limit the amount of units in the City Center, in which case he could have.

VICE MAYOR SCHWARTZ: It's not defensible.

MAYOR RUZZANO: It is.

VICE MAYOR SCHWARTZ: It's not defensible in a Court of Law.

MAYOR RUZZANO: I talked to several lawyers that said that it would not be the right way to go.

VICE MAYOR SCHWARTZ: You can't stop, it's not defensible to say to somebody they're there but we won't give them to you but we'll give them to someone else. It is not defensible. No Judge, and I got a legal opinion from someone, the CRA Attorney. It's not defensible to play that game with people. You either give it to them or you don't, but you don't say tomorrow, they're there but you can't have them. It's not defensible. It's not bargaining in good faith and it's not defensible in a Court of Law.

COMMISSIONER PEERMAN: We bargained in good faith last week.

MAYOR RUZZANO: How did we ...

COMMISSIONER PEERMAN: We got a number of 750 that was thrown out there. Okay?

VICE MAYOR SCHWARTZ: I'm just saying it's not defensible that they're 1200, and say but we're only gonna give you 503.

COMMISSIONER PEERMAN: But if you had a negotiation with the people and they said we'll, we'll go 750 and you make that number 750.

VICE MAYOR SCHWARTZ: I'm not discussing, I'm just telling you it goes back to the Comp Plan. It's not defensible that you stop them from using the units that they were ... (INAUDIBLE)

DIRECTOR ZISKAL: And Mrs. Vice Mayor, if I could, I understand that and there are two components. We need to make sure we're understanding these two components and the process to do this. My statement originally was based on this item that's on the Agenda, how do you limit the number that can be allowed in the City Center. Right now with that amendment failing, the number in our State approved Comprehensive Plan says there can be up to 1249 units. If all 503 go there we have no issue. If the question is how do you reduce that to a lower number than 503, it has to be done through a Comprehensive Plan Amendment.

VICE MAYOR SCHWARTZ: Oh I get that.

DIRECTOR ZISKAL: And that was the point that I was trying to make. That is the mechanism to change these numbers. Whether you want to approve all 503, whether you want to approve, and you just want to change the distribution, you have to go through that process. You can't deny the amendment and then on the other side say you want to redistribute the units. It doesn't work that way. It has to be done legally.

VICE MAYOR SCHWARTZ: I got that. But since you mentioned that there were 1200 others, that would go at the discretion of the City Commission to move those around. Cause you're talking the flex units correct?

DIRECTOR ZISKAL: No I'm talking the Comprehensive Plan distribution of units.

MAYOR RUZZANO: No ... (inaudible)

VICE MAYOR SCHWARTZ: But if there are 503 available now ...

DIRECTOR ZISKAL: Correct ...

VICE MAYOR SCHWARTZ: ... all the units that were available go to the City Center, but you also said there were an additional 1200 and change units that could be allocated to that. Would that take City Commission approval to do so?

DIRECTOR ZISKAL: You're you're speaking to flex units. Flex and reserve units there are two different zones, zones 35 and 36, roughly broken down north/south of the City. The north side of the City has 89 flex units. Those can be allocated to any property

north of Coconut Creek Parkway by the City Commission. The southern portion of the City has 790 combined flex and reserve units. They can be assigned to anything in the southern portion of the City.

VICE MAYOR SCHWARTZ: So by southern you do not mean the City Center.

DIRECTOR ZISKAL: The City Center is bisected by the north and south.

VICE MAYOR SCHWARTZ: With your concentric circles, but right now there are 503 dedicated units that could be given to the City Center.

DIRECTOR ZISKAL: That's a true statement.

VICE MAYOR SCHWARTZ: Total.

DIRECTOR ZISKAL: That is a true statement.

VICE MAYOR SCHWARTZ: I understand.

MAYOR RUZZANO: Okay. There, there was a developer here tonight. I don't know how many units he's looking for. Any idea how many he was looking for?

DIRECTOR ZISKAL: 210.

MAYOR RUZZANO: 200?

DIRECTOR ZISKAL: 210.

MAYOR RUZZANO: 210, so if he comes and applies for his permit or whatever does that reduce that 503 down to ...

CITY ATTORNEY GONZALES: No. He only had 93 available units because of where his property's located.

DIRECTOR ZISKAL: Where his property is located, he would be able to obtain 93 TOC units administratively and he would have to apply for the 89 flex units that are available in the north end of the City. The City Commission could grant those units and then his project would be capped at 182 units.

MAYOR RUZZANO: Okay. Commissioner Caggiano.

COMMISSIONER CAGGIANO: Well, I just, I'm not gonna ask for things, I'm not gonna ask for things to be re-opened up. Uh, what I'll say is then I'll just go with what the max is at 503 and not allow any more available units to be available.

MAYOR RUZZANO: That's a motion?

COMMISSIONER CAGGIANO: Yes.

(INAUDIBLE)

VICE MAYOR SCHWARTZ: It's a discussion and possible action.

COMMISSIONER PEERMAN: It's a discussion and possible action.

COMMISSIONER CAGGIANO: Okay there's no action. Okay. Okay.

COMMISSIONER PEERMAN: Because you don't have an open Land Use.

CITY ATTORNEY GONZALES: Both of those are right.

COMMISSIONER PEERMAN: So are we done?

MAYOR RUZZANO: No, I'm gonna hold firm to the 503 as well.

COMMISSIONER PEERMAN: It's on there. You don't have to hold firm.

MAYOR RUZZANO: No, no, no, in other words, okay, I'm, okay, okay ...

CITY ATTORNEY GONZALES: We're capped at 503.

MAYOR RUZZANO: Okay we're capped at 503.

COMMISSIONER CAGGIANO: Leave at that then.

COMMISSIONER PEERMAN: Yep.

MAYOR RUZZANO: Alright. Public? Anybody want to speak on it?

MICHAEL LIEBERWIRTH: Michael Lieberwirth, 451 Banks Road, you know I'm sitting here listening to this and you, it's my understanding that you're putting yourself in a box with any future building in Margate, because you don't want to make this amendment to take these units on. It's not saying these units have to be used for the Downtown, but you're undercutting every building possibility for the future of Margate. This is insane. It's not saying they're all gonna go Downtown. It's not saying they're all going here. It's just allowing the future to build in the City of Margate. I mean, this is not, has nothing to do with the allotment that is going in the Downtown area. There's already 503 there. They can do that. It's done. They do the phase one. That's already done, but you're undercutting the whole future of Margate and the building in all these other places throughout the City. This is crazy. People are so stuck in these units Downtown,

these units Downtown, that they're not seeing the whole picture of the whole City. With all due respect, you guys have to take a look at this and think about it. You have people with brilliant minds that have been doing this, showing you, that this is not putting you in a box by granting this amendment, but you guys by not doing it, you're putting yourself in a box where the whole future of Margate is gonna be the 503 units in phase one, that's gonna be it, we'll do some retail over here and that's going to be the only building going on in Margate. Thank you.

MAYOR RUZZANO: Next.

CHARLIE ARTNER: Charlie Artner, 6631 NW 22nd Court, so, my, first of all I want to thank you Mr. Smith for your detailed answer to my email. Um, I appreciate that and I uh actually read the email while you guys were talking about the numbers. Wanted to confirm with your email I was wondering if there maybe comes up another story now, but it wasn't, so thank you for that. But, um, on another note, basically if the City does not approve to go beyond the 503 apartments, that's the end of it right?

COMMISSIONER PEERMAN: The end of what?

MR. ARTNER: Of the number of apartments, it's 503 and that's it right?

MAYOR RUZZANO: Yes.

MR. ARTNER: Um, the last I heard is that the developer was willing to negotiate down to 750 and not lower. Where are we standing with the contract if the developer doesn't want to go lower than 750. Or... Was it the correct number 750?

COMMISSIONER PEERMAN: 750 was thrown out.

MR. ARTNER: 750 and you're not approving, which I, I agree because I don't think we need more apartments in Margate. We need commercial, uh, more commercial going on in Margate. Um, but where are we standing with this contract then?

COMMISSIONER PEERMAN: Well, we don't have 750 to offer him, so what basically he can do is go out and turn in his Site Plan for phase one and build the 413 apartments across the street and get the commercial across the street and then see what happens after that ...

MR. ARTNER: Okay who ...

COMMISSIONER PEERMAN: ... because he doesn't have to come back before the Commission for ...

MR. ARTNER: Another question, who, sorry ...

COMMISSIONER PEERMAN: Who what? I'm sorry go ahead.

MR. ARTNER: Uh, who, who actually originally approved, who looked at these numbers and who worked out that contract, because ...

COMMISSIONER PEERMAN: The contract, the contract was just if ...

MR. ARTNER: You know what's just ...

COMMISSIONER PEERMAN: ... if the, if the Land Amendment is passed, it's 968. The Land Amendment was in the works ...

MR. ARTNER: Okay.

COMMISSIONER PEERMAN: ... and absolutely no one in their right mind thought that it would not pass for the future of Margate.

MR. ARTNER: So if that's in the contract, how can the developer now say okay I'm coming down with the numbers of apartments but we got to renegotiate the price. If there's already a clause in there that says you get the apartments if it is approved, then there shouldn't be no, no renegotiating of the price what we selling the land for, cause I heard that's the other option now. He is coming down with the number of the apartments, but he wants to go below \$10 million dollars.

COMMISSIONER PEERMAN: But Charlie, it's, it's a moot point. We don't have 750 basically, okay? We don't have 750, which is the number that was discussed.

MR. ARTNER: So we're renegotiating the price now?

COMMISSIONER PEERMAN: We're not renegotiating anything. We renegotiated down there and, and then it came up here and went south, you know. They've said they're not going to give them the flex units. You don't, the flex units when they're gone, they're gone. They're never coming back.

MR. ARTNER: Yeah.

COMMISSIONER PEERMAN: The TOC allotments you know, the developer that wants to develop could go through the 16 month process, the \$22,000 we already spent

MR. ARTNER: Yeah.

COMMISSIONER PEERMAN: I'm sorry, \$35,000 we already spent to get approved, but it would have to come before the City Commission first and then he'd have to go through all that stuff that we already went through, but at this moment, right at this moment, there are 503 units available. The first phase calls for 416 units available.

MR. ARTNER: And that's all east of 441 right?

COMMISSIONER PEERMAN: That's all the City Center. That's the whole City Center.

MR. ARTNER: Yeah.

COMMISSIONER PEERMAN: There's 503 taking some from here and some from there so they can build 413, 16, 13, 16, across the street as planned. This does not change anything that has to do with the Downtown development except the fact that you know we now negotiate in bad faith basically in my opinion.

MAYOR RUZZANO: Not the City.

MR. ARTNER: But, no, no I understand that the CRA and City is different. I totally understand it.

COMMISSIONER PEERMAN: We are.

MR. ARTNER: Even though it's the same.

COMMISSIONER PEERMAN: Even though we use, you know this was used as a leverage against them.

MR. ARTNER: One of the statements the developer made two weeks or three weeks I don't remember, but he said if he doesn't have his 963 units he's not making money on that deal and the deal was not worth it for him. Now he comes down to 750 but he does not get that either, so what's the stance on that now, he's basically not making any money, which I don't understand how that works, but I'm not a builder so I'm just gonna leave that there.

COMMISSIONER PEERMAN: The, the whole thing is in phases. He has the ability to do phase one.

MR. ARTNER: Yeah, but his statement ...

COMMISSIONER PEERMAN: When he finishes phase one ...

MR. ARTNER: His statement was he needs the 963 units to make money otherwise he cannot sell that to the lenders.

COMMISSIONER PEERMAN: The 750 is what he went down to and yes that's what he said because ...

MR. ARTNER: So now he does not even get the 750 so where's the ...

COMMISSIONER PEERMAN: But now he's only, now he's only gonna to, he's only gonna market it as one section instead of a complete Downtown of that side this side over there. He's only gonna market it as one section because that's what he can build.

MR. ARTNER: And who's doing phase two and three?

COMMISSIONER PEERMAN: We won't know. Nobody will put any, any mixed use there because they don't have, they don't have the allotments. So maybe, maybe the CRA will do it. I don't know. I was part of the negotiations, we talked about it at that time too, but again, don't know. All we know is right now as of this minute, they can put 413 apartments across the street with the commercial, how they have it set up, with the um, community center, with the (inaudible). Everything that they have in their plan for phase one, they can walk out the door tonight and turn in their Site Plan tomorrow and do it without anybody, without this, this body's permission.

MR. ARTNER: Okay. Thank you.

CITY ATTORNEY GONZALES: These, these discussions are actually more prevalent with the CRA.

COMMISSIONER PEERMAN: I, I know, but, I'm sorry.

MAYOR RUZZANO: Vice Mayor.

VICE MAYOR SCHWARTZ: I forgotten what I, uh, Mr. Ziskal, question, my

*understanding of everything I read about the Comp Plan Amendment was that it was due no later than December 30th, 2017. Am I right?*

*DIRECTOR ZISKAL: That is a different amendment that we are ...*

*VICE MAYOR SCHWARTZ: Different one?*

*DIRECTOR ZISKAL: That is a different amendment. We are, there's another section of State Statute that requires every City to evaluate its Comp Plan every seven years and to determine if there's been any changes to State Law that we are no longer in compliance with. We, we've done that. We determined that there have been changes. There's a number of changes since 2011, so we will need to make amendments to a number of our elements of our Comp Plan including the Land Use Element, Transportation Element, Housing Element and the Rec and Open Space Element, and we have to transmit those changes to the State no later than December 30th, transmit meaning it has to go before first reading of the City and the County and be submitted to Tallahassee for review no later than November 30th.*

*VICE MAYOR SCHWARTZ: So this was different from that?*

*CITY ATTORNEY GONZALES: Yes, those are called EAR based amendments.*

*VICE MAYOR SCHWARTZ: To be honest I thought it was the same thing.*

*DIRECTOR ZISKAL: This is different. This is a separate amendment specifically for the development rights in the TOC. The change to uh, Aztec was a separate amendment, and the ones that we have to submit by November 30th are a separate amendment.*

*VICE MAYOR SCHWARTZ: I thought it was all the same. I guess my question would be to the developer, as to some input as to what he's heard and what he'll do whether he has to digest this or whatever else.*

*CITY ATTORNEY GONZALES: Again, I think that we need to be very careful of what's more appropriate for the CRA.*

*VICE MAYOR SCHWARTZ: Don't answer it. I take the question back because this actually is the wrong venue for that. Thank you. Thank you.*

*DIRECTOR ZISKAL: Yes, ma'am.*

*MAYOR RUZZANO: Anybody else? Public? That's it right?*

*CITY ATTORNEY GONZALES: Yes, sir*

*MAYOR RUZZANO: Meeting adjourned.*

## ADJOURNMENT

*There being no further business, the meeting adjourned at 9:38 PM.*

*Respectfully submitted,*

*Transcribed by Carol DiLorenzo*

\_\_\_\_\_  
*Joseph J. Kavanagh, City Clerk*

*Date:* \_\_\_\_\_