



City of Margate

5790 Margate Boulevard
Margate, FL 33063
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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, September 2, 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

MAYOR SIMONE mentioned Frank Pumilia, who passed away recently. She noted his accomplishments as follows:

- President and Chief Examiner of the Civil Service Board from 1994 to 2002.*
- President of the Margate Democratic Club*
- President of the Margate Association of Condominiums*
- Past President of the Holiday Springs Village Condominium Association.*
- Past President of the Council of Club Presidents*
- Inducted into the Aging and Disability Resource Center Senior Hall of Fame*

A. ID 14-1312 GIRL SCOUT TROOP 10314, TROOP LEADER TRACY ZOELLER

1) PRESENTATION(S)

PROCLAMATION(S)

A. ID 14-1311 HUNGER ACTION MONTH - SEPTEMBER, 2015 (presented to Feeding South Florida)

B. ID 14-1323 SENIOR CENTER MONTH - SEPTEMBER, 2015 (presented to Karin Diaz, Project Director of Northwest Focal Point Senior Center)

ITEM 7A WAS HEARD PRIOR TO COMMISSION COMMENTS.

7) RESOLUTION(S) - QUASI-JUDICIAL HEARING

- A. ID 14-1326 CONSIDERATION OF RENEWAL OF SPECIAL PERMIT FOR EXTENDED HOURS OF ALCOHOL SALES FOR CONSUMPTION ON PREMISES FY 2015/2016 FOR:

District B

Carolina Country Club	
(McDivot's Restaurant)	3011 Rock Island Road
El Balcon De Las Americas	7932 West Sample Road
El Bohio De Mama Restaurant	2179-2181 N. State Road 7

District C

Café Vincenzo	5801 Margate Blvd.
Gerri's Sports Pub	6500 West Atlantic Boulevard
Jasmine Thai & Chinese Rest.	1785 N. State Road 7
Sharkey's Blvd. Lounge	5889 Margate Blvd

District D

American Legion Post #157	1791 Mears Parkway
Applebee's Neighborhood Grill and Bar	5377 West Atlantic Boulevard
Brunswick Margate Lanes	2020 North State Road 7
Guapo's Cocktail Bar & Lounge	2160 Mears Parkway
Jesse's Xtreme Sports Bar	5442 West Atlantic Blvd
O'Malley's Sports Bar, Inc.	1388 North State Road 7
Paladium	5688 West Sample Road
Saigon Deli, Inc.	1392 North State Road 7
Galaxy Restaurant (Tropicante Rest.)	5190 Coconut Creek Parkway

District E

Brady's Irish Pub	986 South State Road 7
Centenario Night Club	199 South State Road 7
Gold Choice Production, Inc.	345 South State Road 7
Jawil Enterprise DBA Master Billiards	201-205 South State Rd 7

MAYOR SIMONE stated that this was a Quasi-Judicial matter that covered every extended hours application for all districts within the City of Margate. She asked anyone in the audience wishing to be heard on this matter to please stand and be sworn in.

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

Resolution 15-082

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

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

2) COMMISSION COMMENTS

COMMISSIONER PEERMAN thanked Public Works Director Sam May for picking up the debris from when Waste Management missed picking up some houses.

COMMISSIONER TALERICO congratulated the Hunger Action Groups and said that supplies for the groups needed to be built up when having food drives in the City. He asked that everyone contribute their canned goods when there was a food drive. He commended Director of the Northwest Focal Point Senior Center (NWFPSC) Karen Diaz for the good job with Senior Center Month. He announced that he was going to South Carolina next month, because the last of his children was getting married.

COMMISSIONER BRYAN said that she and Commissioner Peerman attended the People's Choice Medical Supplies Grand Opening, where they met Lorenzo White, former football player with Michigan State. She thanked Mr. Riccardi for pointing Mr. White out for her to meet. She also thanked Mr. Riccardi for the Chamber of Commerce Breakfast, where Director of Economic Development Ben Ziskal provided information. She announced that she was sworn in one year ago today as City Commission, and she spoke of how she learned a lot and what a challenge it was. She thanked her fellow Commissioners, City Manager and Staff, City Clerk and Staff and all Department Heads and employees for their help throughout the year. She stated that she would continue to grow and be gracious, kind and courteous. She said that she loved her job, helping people and providing services. She noted that everyone did a great job in Margate.

VICE MAYOR RUZZANO congratulated Commissioner Bryan. He also congratulated Coral Springs for being awarded with Cleveland Clinic's \$320 million dollar project. He said that he listened to a tape of Coconut Creek's meeting last week and noted that they rejected a Marriott on Lyons Road. He noted that it was a 105 unit building, which worried Coconut Creek about traffic. He said that it would be six lanes, like U.S. 441, where the Margate project was being added with 1,000 units. He noted that he was previously informed that Community Development Block Grant (CDBG) and State Housing Initiative Partnership (SHIP) were for low income housing applicants; however, other Cities used the grants differently. He said that other Cities were using the grants for first time buyers, and he suggested Margate using it in a different way. He spoke about horror stories he heard about people receiving the grants two and three times for the improvement of the inside of their homes. He felt that was not a good way to spend the money and felt it should be spent a different way. He wished everyone a safe Labor Day.

CITY MANAGER SMITH DOUGLAS E. SMITH said that he would look into the matter and report back to the Commission.

MAYOR SIMONE mentioned the item coming up on the Agenda for donations. She asked that the City Manager contact the Baseball Teams that were recently given donations to take trips to tournaments, so that they can provide their expenditures to include food, hotel, entrance fee, flights, etc.

CITY MANAGER SMITH said that could be done with a consensus.

COMMISSIONER PEERMAN questioned whether their books could be obtained. She noted that the Tennis people paid 20 percent to use the Tennis Courts; however, the Baseball Team did not pay anything because they were 501C3. She asked whether the City could ask to see their books to determine if they were financially stable, because everybody else paid. She also agreed with obtaining the expenditures.

The City Commission consensus agreed.

CITY CLERK JOSEPH J. KAVANAGH wished Commissioner Bryan a happy one year Anniversary.

The City Commission congratulated Commissioner Bryan.

3) PUBLIC DISCUSSION

ERIN THOMPSON, 1681 NW 65th Terrace, said that she lived in Margate for three years. She noted that there was a speeding problem on 65th Terrace, which was a side street. She noted that 65th Terrace was cut by the canal, and that she was on the side closest to Royal Palm Boulevard. She stated that she taught High School and was up very early in the morning. She said that cars raced through at 6:00 a.m. when she was outside with her dog. She stated that people used 66th Avenue, which connected from Atlantic Boulevard, and thought that there was a thruway through Royal Palm Boulevard. She felt that she could not be the only agitated resident, because she had three children and a dog. She added that she protected wildlife on her street; however, there were several casualties. She noted that Margate was a bird sanctuary per the Code, and did not know if the ducks applied. She asked about a speed impediment or deterrent. She said that she notified the Police with her concerns and would like the situation to be improved, because 66th Avenue was a speedway. She suggested a sign or speed bump. She challenged the City to watch the people fly down the street. She felt that rather than complain she would voice her concern at the meeting, because this issue was very important to her. She asked what action she could take as well.

CITY MANAGER DOUGLAS E. SMITH said that he would have the Police Department follow up with Ms. Thompson to explain the process for reviewing the street issue.

COMMISSIONER TALERICO asked what Ms. Thompson contacted the Police Department about.

MS. THOMPSON said that she first contacted them when a duck was dying; however, nobody had any advice. She noted that a few days later another duck was killed and then another was smashed. She said that she called the Police Department to ask what she should do.

COMMISSIONER TALERICO asked whether the issue of speeding was addressed when Ms. Thompson spoke to the Police Department.

MS. THOMPSON said that she did inform the Police of the speeding and requested a sign showing the speed, because she felt people would slow down. She stated that she was also told that a Police Car would be sent to her street, but she did not see that happen.

COMMISSIONER PEERMAN asked that Ms. Thompson call her, as she would pick up the dead ducks. She said that she then put them in the City garbage cans, because she felt that the City should be picking them up. She noted that there was a resident who rescued ducks called Duck Haven. She said that Duck Haven's information was online. She agreed about the speeding in that area.

VICE MAYOR RUZZANO agreed that it was a speeding zone, and he asked whether signs, "Duck Crossing – Slow Down" could be put up.

MARCY BERNSTEIN, 5262 NW 31st Street, said that she was a Registered Nurse. She

explained that the last time she came to a meeting she had a complaint about trees growing 18 feet high.

CITY ATTORNEY EUGENE STEINFELD recalled that Ms. Bernstein wished to have an Ordinance that required the individuals whose branches went on other property to cut the branches. He stated that the only City in Broward County that had such an Ordinance was Deerfield Beach. He clarified that Deerfield Beach's Ordinance stated that if a neighbor made a complaint and the branches or roots of a tree went on the neighboring property, the owner had the duty to cut it or they could be cited for it.

MS. BERNSTEIN asked whether Margate would follow Deerfield Beach or leave it the way it was. She passed her phone around to show the trees. She noted that the trees were cut about a month and a half ago. She said that the property owner said that she was costing him money; therefore, he only cut his side and informed her that she would have to pay to cut her side. She felt that there should be a Code indicating that if someone had bushes they should have to cut both sides.

CITY ATTORNEY STEINFELD said that an Ordinance would have to be sponsored by a Commissioner. He said that could be done; however, the general situation in most all of Broward County was to leave it in the Common Law.

MS. BERNSTEIN asked the Commission if they would sponsor the Ordinance.

COMMISSIONER PEERMAN stated that she would sponsor looking into changing the Code, because the same problem existed with trees growing into the Florida Power and Light (FPL) wires. He asked that the issue be looked into and possibly come up with an Ordinance.

CITY ATTORNEY STEINFELD said that he would draft an Ordinance.

COMMISSIONER PEERMAN asked whether it was legal if the hedges died on Ms. Bernstein's side of the property.

CITY ATTORNEY STEINFELD said that he would have to check the Ordinance. He stated that Common Law was that if you have the right to trim the bushes or trees and the tree died, there could be liability if improperly pruned.

MS. BERNSTEIN asked what happened with the Rehabilitation Center discussion, which was previously discussed at a prior meeting.

CITY ATTORNEY STEINFELD noted that presently, there were no applications pending.

MS. BERNSTEIN was pleased that the City did away with the pill mills.

COMMISSIONER TALERICO questioned whether a tree infringing on someone else's property, which fell and broke, was the property owner's liability.

CITY ATTORNEY STEINFELD said that was considered an act of nature.

COMMISSIONER TALERICO stated that if the tree owner came in the Ms. Bernstein's yard to cut the trees and was hurt in her yard, she would be liable. He said that the City could not indemnify someone for someone getting hurt on their property. He stated that it would be the ordinance that caused or led to the problem.

CITY ATTORNEY STEINFELD agreed that the City could not indemnify someone. He clarified that it would not be the Ordinance, but the person who did it. He noted that enforcing an Ordinance was not grounds for liability in Florida, generally, unless you were the active enforcer. He clarified that the City would not be the active enforcer.

VICE MAYOR RUZZANO clarified that the Ordinance would be drafted stating that if trees or bushes were on the neighbor's property, the neighbor would have to give approval; however, if they get injured while cutting, they would be liable. He felt that this was opening a can of worms.

CITY ATTORNEY STEINFELD stated that the neighbor first had to complain. He said that he would provide a copy of the Ordinance to the Commission, prior to drafting. He noted that it would have to be advertised and go for a first and second reading.

VICE MAYOR RUZZANO asked whether it would be mandatory to maintain both sides of the hedges.

CITY ATTORNEY STEINFELD stated that if there were trees, roots or bushes that impede or infringe on a person's property, that person can ask the other person to trim it back at the property line. He said that if they did not, it would become a Code issue, which they would be cited for.

VICE MAYOR RUZZANO stated that one neighbor would be dictating what the other neighbor had to do.

CITY ATTORNEY STEINFELD agreed that if the tree, etc., intruded on the property, the neighbor would ask them to cut it and if they did not, it would become a Code violation. He reiterated that Deerfield Beach was the only City he could find that had an Ordinance.

COMMISSIONER PEERMAN understood wanting to give the property owners their rights; however, once the bush grew into the neighbor's yard, the property owner behind was intruding on your yard. She said that she walked between her fence and the bushes to cut them so as not to have them go over into the neighbor's yard. She stated that it was inconvenient, but the person owning the bush should not be intruding on other people's property. She commented on how the property owner cut only his side and left Ms. Bernstein's side, which was why she felt the City should have recourse.

MAYOR SIMONE asked about two fences back to back, with the hedges coming through the fences. She asked whether the neighbor cutting the growth would cut the chain link fence.

CITY ATTORNEY STEINFELD said that if you asked the neighbor to come on your property to cut the bushes and the neighbor cut the chain link fence, technically it could be a Small Claims Lawsuit, because they did it the wrong way.

4) CONSENT AGENDA

No items on Consent Agenda.

5) CITY MANAGER'S REPORT

CITY MANAGER DOUGLAS E. SMITH stated that the Margate Sock Hop was coming up this Saturday, September 5, 2015, from 5:00 PM till 8:00 PM. He noted that there were still some tickets available; however, he expected they would be taken. He said that

the tickets were available at the Parks and Recreation Department from 8:00 AM to 6:00 PM. He explained that on Saturday, September 26, 2015, was the Household Hazardous Waste Collection Event from 9:00 AM to 1:00 PM at Oriole Park. He reported that the construction at Rock Island Road and NW 18th Street was continuing and was anticipated to be completed September 18, 2015. He mentioned that collection areas would be available at City Hall and other City facilities for food donations. He added that there would also be an employee promotion day for donations. He stated that the new Amscot Service for accepting City Water Bills was up and running. He said that would be available 24 hours a day and seven days a week at Amscot. He noted that a \$2.00 fee was charged for the transactions; however, the payments made were posted the next business day. He added that in September, the new Water Bill format would begin. He congratulated Commissioner Bryan for her first year. He also thanked the Commission for their support.

6) RESOLUTION(S)

A. ID 14-1261 APPROVAL OF A PLAT NOTE AMENDMENT FOR CELEBRATION POINTE

Resolution 15-083

A motion was made by Commissioner Peerman, seconded for discussion by Commissioner Bryan, 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

B. ID 14-1330 APPROVING THE PURCHASE OF ONE REPLACEMENT VEHICLE IN THE PUBLIC WORKS DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$31,000.00 UTILIZING FLORIDA SHERIFFS ASSOCIATION PRICING

Resolution 15-084

A motion was made by Vice Mayor Ruzzano, seconded by Commissioner Peerman, 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

C. ID 14-1322 APPROVING A SPECIAL EVENTS FUNDING/DONATION REQUEST PROGRAM FOR ORGANIZATIONS AND INDIVIDUALS

Resolution 15-085

A motion was made by Commissioner Peerman, seconded by Commissioner Talerico, 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

8) ORDINANCE(S) - FIRST READING

- A. ID 14-1333 AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 2 - ADMINISTRATION, ARTICLE I, IN GENERAL, SECTION 2-8 - POLITICAL CAMPAIGNS; TO PROHIBIT CAMPAIGN ACTIVITIES BY KEY CITY EMPLOYEES FOR CERTAIN ELECTIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Commissioner Peerman, seconded by Vice Mayor Ruzzano, that this Ordinance - 1st Reading be approved on first reading. The motion carried by the following vote:

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

- B. ID 14-1336 AN ORDINANCE AMENDING THE CODE OF THE CITY OF MARGATE, FLORIDA, CHAPTER 39, WATER AND SEWERS, DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES, SECTION 39-71. RATES ESTABLISHED; PROVIDING FOR WATER AND WASTEWATER UTILITY RATES INSIDE MARGATE MUNICIPAL BOUNDARIES; PROVIDING FOR WATER AND WASTEWATER UTILITY RATES OUTSIDE OF MARGATE MUNICIPAL BOUNDARIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Commissioner Bryan, seconded by Commissioner Peerman, that this Ordinance - 1st Reading be approved on first reading. The motion carried by the following vote:

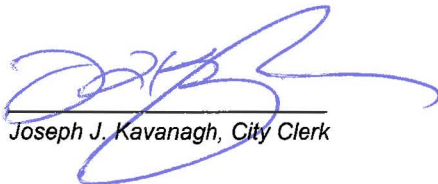
Yes: 5 - Commissioner Peerman, Commissioner Bryan, Commissioner Talerico, Vice Mayor Ruzzano and Mayor Simone

ADJOURNMENT

There being no further business, the meeting adjourned at 8:18 PM.

Respectfully submitted,

Transcribed by Carol DiLorenzo



Joseph J. Kavanagh, City Clerk

Date: 10/28/15