



# City of Margate

5790 Margate Boulevard  
Margate, FL 33063  
954-972-6454  
www.margatefl.com

## Meeting Minutes Regular City Commission Meeting

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

**Interim City Manager Samuel A. May**  
**City Attorney Douglas R. Gonzales**  
**City Clerk Joseph J. Kavanagh**

---

**Wednesday, April 5, 2017**

**6:30 PM**

**Commission Chambers**

---

### CALL TO ORDER

*Commissioner Peerman attended Roll Call by phone and the Regular portion of the meeting via Skype video conferencing.*

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

In Attendance:

Interim City Manager Samuel A. May  
City Attorney Douglas R. Gonzales  
City Clerk Joseph J. Kavanagh

### PLEDGE OF ALLEGIANCE

**A. [ID 2017-191](#)** JOSHUA BAYER, 6th GRADE, ABUNDANT LIFE CHRISTIAN ACADEMY

### **1) PRESENTATION(S)**

**A. [ID 2017-215](#)** READING PALS PROGRAM CHECK PRESENTATION (presented to Kathleen Cannon, LCSW President CEO, United Way of Broward County & Adriana LeCorge, Reading Pals Manager, United Way of Broward County)

### STUDENTS AND TEACHERS OF THE MONTH

*TEACHER/RABBI SHAYA DENBURG, HEBREW ACADEMY, AND STUDENT EASON LEE, LIBERTY ELEMENTARY, WERE NOT IN ATTENDANCE.*

*STUDENT LAURA CATHCART DURAN, MARGATE MIDDLE SCHOOL, ARRIVED LATE DURING COMMISSION COMMENTS.*

**B. [ID 2017-179](#)** ABUNDANT LIFE CHRISTIAN ACADEMY: STUDENT, DAVID BAYER; TEACHER, ANGELICA KURZWEIL (Mrs. Stacy Angier, Principal and/or Mrs. Renate Ramirez, Assistant Principal)

ATLANTIC WEST ELEMENTARY: STUDENT, DAVE SELEUS; TEACHER, KRISTY RANT

(Ms. Diane Eagan, Principal and/or Ms. Jounice Lewis, Assistant Principal)

HEBREW ACADEMY: STUDENT, CHAYALE ROTENBERG; TEACHER, RABBI SHAYA DENBURG

(Mrs. Rivka Denburg, Head of School)

LIBERTY ELEMENTARY: STUDENT, EASON LEE; TEACHER, HAYLEY POTTRUCK

(Mr. David J. Levine, Principal and/or Donna Styles, Assistant Principal)

MARGATE ELEMENTARY: STUDENT, CHELSEA JOSEPH; TEACHER, TERESA PUJA

(Mr. Thomas Schroeder, Principal and/or Ms. Vicki Flourney, Assistant Principal)

MARGATE MIDDLE: STUDENT, LAURA CATHCART DURAN; TEACHER, LUCIA WILLIAMS

(Mrs. Lezondra Harris, Assistant Principal)

RISE ACADEMY SCHOOL OF SCIENCE AND TECHNOLOGY: STUDENT, NEHEMIAH BESSARD ; TEACHER, SONIA GORDON

(Dr. Carmella Morton, Principal and/or Ms. Adriana Guerra)

WEST BROWARD ACADEMY: STUDENT, LESLI ASECIO; TEACHER, RICHARD WITHERSPOON

(Mrs. Donna Baggs, Principal)

## PROCLAMATION(S)

- C. [ID 2017-163](#) NATIONAL LIBRARY WEEK - APRIL 9 - 15, 2017 (presented to Susan Hodos, Community Librarian, Margate Catherine Young Branch)
- D. [ID 2017-211](#) NATIONAL CRIME VICTIMS' RIGHTS WEEK - APRIL 2 - 8, 2017 (presented to Tara Arena, Victim Advocate, Margate Police Department)

*THE MEETING RECONVENED FOLLOWING A BRIEF RECESS.*

## 2) COMMISSION COMMENTS

*COMMISSIONER CAGGIANO said that the annual Margate Spring Cleanup and Garage Sale was held on March 18th, which was a beautiful day with a lot of people attending. He noted that he, the Mayor and Vice Mayor were in Tallahassee trying to get money for two important water projects, as well as trying to protect the Home Rule authority. He noted that he attended a ribbon cutting at the CC Massage at 7660 Margate Boulevard on March 24th, and he attended another ribbon cutting on March 30th for Sober Beginnings Treatment with the Vice Mayor and Commissioner Simone. He explained that he had a joint Pompano Beach Margate Chamber Rum and Beer tasting event on March 31st. He added that the Sounds at Sundown was scheduled for April 1st with the Spring Fair on April 7th across the street. He noted that Spring Break was starting at that time as well.*

*COMMISSIONER SIMONE said that at the last meeting it was learned that two residents, Eddie Decristofaro's and Sydney King's wives were in the hospital and she wished them well. She stated that a resident previously mentioned the possibility of*

changing the zip code from Pompano Beach to Margate. She noted that on March 30th Congressman Deutsch sent a letter to the U.S. Postal Service on behalf of the City, requesting that Margate be registered as Margate and not Pompano Beach. She congratulated Norman and Sharon Grad on being selected as two of the 2017 Senior Hall of Famers, which was a great honor for Broward Seniors. She noted that their names would be added to the Senior Hall of Fame plaque, which hangs in the lobby of the Government Center. She also congratulated Master Police Officer Walter Grieve on his recent retirement after 27 years, and Communication Coordinator Lynn Burnside on her retirement after 35 years. She congratulated the Margate U-16 Age Group Travel Soccer Team on winning the Naples Spring Shootout Tournament. She noted that Team A came home with a First Place trophy and Team B placed fourth. She stated that the Saber Soccer Team that received recognition last month just won second place in their first Beach Soccer Tournament in Pompano Beach. Commissioner Simone stated that the Spring Easter Egg Hunt was scheduled for this Saturday, April 8th at the Sports Complex on Banks Road. She explained that the Youth Summer Camp registration ages 6 to 12 was now open and if registering now, there would be up to a \$50 registration fee. She stated that the shade cover at the Fitness Park looked great and the park was now open for all to use. She thanked the City Clerk's office for the tremendous job they do. She explained that some of the dedicated employees in the City Clerk's office wear two or more hats and strive and achieve giving the highest level of customer service. She said that they were always pleasant and greeted people warmly. She noted that their duties were not easy as they dealt with the Commissioners, the public, other departments, Commission meetings, Agendas, Public Records, Liens, Elections and any duties required by the Charter, Ordinance or Commission. She added that the Clerk's office was the Records Management liaison office for the City to the State. She thanked the department and all of the City Clerk's office. Commissioner Simone explained that she researched the State Statute 112.061 concerning the car allowance for elected officials. She stated that elected officials were entitled to an allowance. She said that the intent of the State Statute was to prevent inequities, conflicts and inconsistencies.

**A motion was made by Commissioner Simone, seconded by Commissioner Peerman, that the car allowance policy follow both our City Charter and State Statute with signed individual logs open to the public on our website of actual mileage and places driven for City business; and based on the log, individual Commissioners submit to be paid accordingly at the approved State per mile rate, either annually or monthly; payment will be based on each individual Commissioner log.**

She stated that according to the State Statute, the signed statement should have been filed before the allowance was ever granted. She explained that the money already received by the Commissioners receiving the car allowance can either be paid back to the City or applied to future Commission logs. She noted that the City Attorney provided all Commissioners a log to be filled out; however, that was for a typical monthly average. She felt that there was no such thing as a typical month, because there were no meetings in the summer. She added that the State Statute indicated that no traveler, if carpooling, was entitled to mileage or transportation expenses, and there was no reimbursement for expenditures related to the operation, maintenance or ownership of a vehicle when owned and used on public business.

ANNE BLATT, 6775 NW 17th Street, said that she had no prior issues with anything the Commission did, but felt that the Commissioners were the good shepherds of the taxpayer's dollars. She stated that they were to make sure the money was used wisely for the citizens. She noted that the City was 8.8 miles and the federal allowance was 53.5 cents per mile, which meant that the Commissioners would have to travel 740

miles each month in order to reach \$400. She said that she trusted the Commissioners equally to make sure the money was used wisely. She felt that the Commissioners should receive the car allowance for the amount driven. She asked why the three Commissioners currently being paid the allowance did not feel the previous methods of being paid for mileage was not fair and why they felt \$400 was fair and equitable.

MAYOR RUZZANO replied that there was no previous rate given. He noted that he had a third car that he did not use; however, he did start using it two days ago and put over 60 miles on it driving around Margate.

MS. BLATT felt that it should be documented that it was being done for City purposes as opposed to personal use. She said that it was hard to actualize that each of the Commissioners were traveling that mileage on a daily basis seven days a week when the City was only 8.8 miles. She stated that it should be documented and fairly put in the record, because if not documented, money was being taken from the City, which was not fair. She said that she was against the blanket amount and stating that all five Commissioners did approximately 700 miles each month. She stated that it was not fair or honest to the citizens who were paying for the gas. She suggested that the Commission document it and be honest about it.

ELSA SANCHEZ, 6930 NW 15th Street, said that at the last meeting Commissioner Simone made a motion to have this brought up, after which it was tabled. She asked whether the car allowance had already been agreed upon and given to the Commissioners.

MAYOR RUZZANO said yes.

MS. SANCHEZ said that she spoke with her neighbors and that at least 75 percent of the residents were not aware of this car allowance. She stated that it was not done transparent and was misleading. She noted that she watched the meetings and attended them; however, she did not understand how this went through. She explained that at the Workshop, the Commission agreed to look into the car allowance. She said that at the next meeting, Mayor Ruzzano asked the Commissioners to state whether they would accept it or not. She noted that two Commissioners said no and three Commissioners said yes. She stated that clarification was given by the City Attorney stating that all Commissioners would receive the car allowance if put through. She said that Commissioner Simone then made a motion asking whether City Commissioners should receive a car allowance and requesting that it be voted on with public discussion. She noted that after discussion, it was tabled indefinitely; therefore, she did not understand what happened. She added that the City Attorney said it could not be tabled. She said that the Commission believed that they deserved the \$400 and that other employees received it. She stated that the car allowance provided to the employees was provided in a package; however, they did not demand or give themselves an allowance. She said that the Commission was not offered a car allowance when taking their positions. She noted that last year \$5 million had to be taken from reserves and asked how much more would be taken for these expenses. She asked whether the City could afford the allowance, because the new administration in Washington was proposing a new Budget cutting of programs and money to the Cities. She asked whether the Commission would request a raise in their salaries at the next Budget meeting. She stated that she had signatures from 68 of her neighbors who were against the car allowance.

MAYOR RUZZANO explained that during the Workshop, the City Attorney said that it did not have to come back for a vote, and there were many discussions.

MS. SANCHEZ said that the people were not given time to give their opinion.

VICE MAYOR SCHWARTZ clarified that each of the Commissioners were asked to accept or decline, which she felt was transparent by owning their decision. She stated that accept or deny was a vote, which was transparent. She noted that Ms. Sanchez did speak at the last meeting.

MAYOR RUZZANO noted that he always allowed people to speak at meetings.

COMMISSIONER PEERMAN questioned whether Mayor Ruzzano asked the public to speak at the meeting where the Commission was asked to accept or decline.

MAYOR RUZZANO said that he did not remember.

COMMISSIONER PEERMAN stated that he did not ask for public discussion.

KEVIN ANDERSON, 2173 NW 73rd Avenue, agreed with Commissioner Simone and felt she was being ethical and diligent, as well as following State rules. He added that the federal government instituted this program so that people who worked for the government did not take blank checks. He stated that government workers should submit vouchers and provide checks and balances. He noted that he worked for the government for 35 years and received mileage, but \$400 a month was absurd. He applauded Commissioner Simone for her integrity.

RICH POPOVIC, 6066 Winfield Boulevard, felt that the Commission was compensated too much already in their salary, which should cover their driving in the City. He said that the Commissioners were driving all over promoting themselves and having the City pay for it. He mentioned functions such as installations, which were done to help them get elected. He stated that the \$400 was like the Commission giving themselves a back door pay raise. He mentioned other problems such as the Alzheimer's Family Center.

TODD ANGIER, 1913 NW 79th Terrace, agreed with Ms. Blatt's comments. He felt that a consensus was not the same as a transparent discussion and vote. He noted that it was tabled instead. He appreciated Commissioner Simone for bringing up new information according to State Statutes. He, as a resident and taxpayer, asked that the Commission complete the transparency and abide by the State Statutes. He said that there should be no problem logging the information for a car allowance and making it available to the public for transparency. He encouraged the Commission to vote yes on the motion and be transparent with the car allowance.

RICH ALIANIELLO, 7631 NW 23rd Street, said he agreed with keeping a record and getting paid for what was driven; however, he did not agree with getting a check for \$400, because maybe the Commissioners did not drive that amount. He stated that \$400 a month was a lot of money, and he suggested cutting that in half. He felt that \$400 was totally unacceptable.

RICHARD ZUCCHINI, 380 Lakewood Circle East, said that he was embarrassed and appalled by the public comments, which he felt were petty and ridiculous. He mentioned the public not being present last year when the Commissioners approved the sale of a \$30 million dollar assessed property for \$10 million dollars without deed restrictions or an architectural overview. He noted that the public was now grandstanding for a small amount. He stated that he did not want the Commissioners burdened down writing out expense reports.

VICE MAYOR SCHWARTZ explained that this started when she looked at the Budget and wondered why City Department Heads were receiving \$300 a month when they never left the building along with a pay raise, when the City Commission had not

received a raise since 2009. She noted that in the last five years the employees received 12.5 percent. She stated that it was then offered to the City Commission. She said that she had no problem keeping paperwork. She noted that she was given the forms yesterday from the City Attorney with the State Statute. She stated that her question of why employees who did not leave the building wound up with \$3,600 a year. She noted that only the three Charter members received the \$400 car allowance or a car at the City's expense, which included the City Attorney, City Manager and the City Clerk. She suggested that the Commission review the paperwork before voting. She noted that the City Attorney informed her yesterday that nobody in Broward County knew about this.

COMMISSIONER SIMONE asked whether the City should not follow the State Statute because other cities did not know about it. She noted that the City Charter was also being followed and stated that the Commissioners shall further receive their actual and necessary expenses.

VICE MAYOR SCHWARTZ said that she wanted the City employees to do the same and be held to the same standard.

**The motion failed by the following vote:**

**Yes:** 2 - Commissioner Simone and Commissioner Peerman

**No:** 3 - Commissioner Caggiano, Vice Mayor Schwartz and Mayor Ruzzano

STUDENT LAURA CATHCART DURAN, MARGATE MIDDLE SCHOOL, arrived and was awarded her Student of the Month award.

COMMISSIONER PEERMAN wished Jan a Happy Birthday and Happy Anniversary. She said that someone at the last meeting said that she voted yes for the \$400 car allowance. She noted that she listened to the Workshop and determined that there was no consensus. She stated that she was not taking the \$400 because she felt it was wrong and a waste of taxpayer money. She felt that if the Commission had to fill out a log it should be placed online for the residents to view.

VICE MAYOR SCHWARTZ stated that she preferred having an expense account where tickets to City events were paid for. She wished everyone a Happy Easter and Happy Passover. She said that she was going to read the names of those 20 to 30 people met in Tallahassee; however, it would take too much time. She spoke about Home Rule being attacked and taking away the ability of the cities to decide where cell towers could go. She said that they would be allowed to be placed on public property regardless of the aesthetics of the area or whether or not the City agreed with the idea. She mentioned taking away the ability of the CRA to build things or do anything beyond what they did now. She said that the ability for cities to tax businesses for sales tax was also being considered to be taken away. She stated that there was also a Bill that provided coverage for firefighters with cancer; however, it did not cover women firefighters. She said that Margate was interested in lobbying for some water park grants, and that there were two grants that made it through the committees. She noted that Broward County was not looked upon favorably in the State. She said that there was a struggle taking place between the Speaker of the House and the Governor, because the Speaker wanted to become Governor. She stated that the Commission made sure that whether Republican or Democratic, legislation knew where Margate was and what Margate's priorities were.

MAYOR RUZZANO wished the Planning and Zoning Board members the best. He

reminded everyone that at next Wednesday night's CRA meeting, the developer was coming with a Site Plan for over 1,000 units. He asked that everyone attend and be heard whether for or against the project.

CITY ATTORNEY DOUGLAS R. GONZALES mentioned a prior discussion about an AED Ordinance that was requested by residents in the Aztec Home area. He noted that the item had been deferred until tonight; however, it was not on tonight's agenda because it did not appear that there would be any sources that would lower the price of the AED units, which were pricey. He stated that he was working with the Fire Department to see if it was feasible for the City to institute. He mentioned that the Fire Department would have to train each of the places where AED's were required to be. He asked that the matter be put off indefinitely. He noted that the Commission asked for a Workshop where residents could express concerns and issues about it, but the City was still trying to determine if it was feasible. He asked for consensus to put it off or direction to continue going forward. He stated that putting it off would be to obtain additional information.

VICE MAYOR SCHWARTZ mentioned prior years when AED's were installed with grant money that was available. She asked whether that could be looked into.

CITY ATTORNEY GONZALES stated that was done and there were not the same grant entities available any longer.

VICE MAYOR SCHWARTZ suggested looking into the Broward County School Board, because it insisted that an AED be placed in every school, with a second one for night school. She stated that if there was a contract with many schools, it was possible the City could piggy-back their contract.

COMMISSIONER CAGGIANO agreed with putting this off because it was a burden on new businesses and businesses just getting by. He expressed concern regarding using the machine incorrectly and felt it made no economic sense to force small businesses in the City to have AEDs.

VICE MAYOR SCHWARTZ noted that under the Good Samaritan Law, people were not held responsible for attempting to save someone's life.

CITY ATTORNEY GONZALES agreed regarding the Good Samaritan Law providing a safe harbor for everybody attempting to operate an AED unit in order to save someone's life.

COMMISSIONER CAGGIANO felt it was a litigious society and people could sue anyone over anything.

CONSENSUS was given and all agreed to put it off indefinitely 5-0.

VICE MAYOR SCHWARTZ asked that the Commission consider an ordinance for the number of parking spaces allotted to new construction.

### 3) PUBLIC DISCUSSION

RICK RICCARDI, 4829 South Hemingway Circle, noted that the Spring Carnival was across the street and he felt it would be special with over 50 rides. He said that every Friday, Saturday and Sunday night there would be a tribute band, such as Kiss, Bon Jovi, Journey and Led Zeppelin. He stated that it was a Spring Fling Music and Carnival sponsored by the Chamber of Commerce. He noted that the stage was being obtained from the City and he asked that the rental fee be waived. He said that the Carnival was from May 7th through May 16th; however, the stage would only be used on the

*weekends from 8:30 PM to 11:00 PM. He understood paying for the Police Officers and the workers needed to run the stage, which was \$75 an hour; however, the rental fee for the stage was \$50 an hour for as long as it was there.*

**A motion was made by Vice Mayor Schwartz, seconded by Commissioner Caggiano, to waive the stage fee.**

*COMMISSIONER SIMONE asked what the City's cost was to waive the fee, because a \$5,000 waiver was already provided for the use of the land.*

*MR. RICCARDI said that it would not cost the City, but was a revenue that the City would not receive if it was rented.*

*INTERIM CITY MANAGER SAM MAY explained that the stage fee was typically \$675 for six days. He noted that there currently was no loss of revenue, because the stage was not being rented those days.*

*COMMISSIONER CAGGIANO stated that he was the City's representative at the Chamber of Commerce and he felt it was an opportunity of getting Margate recognized and showcased.*

**The motion carried by the following vote:**

**Yes:** 3 - Commissioner Caggiano, Vice Mayor Schwartz and Mayor Ruzzano

**No:** 2 - Commissioner Simone and Commissioner Peerman

*RICH POPOVIC, 6066 Winfield Boulevard, spoke about having a more professional meeting. He mentioned the car allowance.*

*JULIE JONES, 7871 NW 1st Street, thanked Parks and Recreation Director Mike Jones and his staff for the awesome job they did on the City cleanup. She added that Law Enforcement was doing a great job and referred everyone to the Margate Florida arrest website to see the amount of arrests.*

*RICH ALIANIELLO, 7631 NW 23rd Street, said that changing the zip code from Pompano Beach was a good idea that needed to be supported.*

*ANNE BLATT, 6775 NW 17th Street, said that she read that zip codes affected car insurance and homeowner's insurance, and that being tied in with Pompano Beach was not good because it was close to the ocean with other liabilities. She felt that having 33063 be an exclusive Margate zip code would be beneficial. She mentioned Vice Mayor Schwartz's passion for holding people to the same standards. She noted that the citizens voted for the Commission and wanted the funds used appropriately. She asked what Vice Mayor Schwartz's objection was to showing accurate mileage and expense. She asked if the Dog Park plans were going forward.*

*MAYOR RUZZANO noted that the Dog Park was not going to be done on Rock Island Road, and that there were two other locations to consider. He said that Firefighters Park was being looked into and there would be a Workshop when more information was available.*

*VICE MAYOR SCHWARTZ clarified that she previously stated that she had no problem*

keeping paperwork.

MS. BLATT asked why this was suddenly being done if it was never done before.

ELSA SANCHEZ, 6930 NW 15th Street, questioned why Commissioner Caggiano objected to Commissioner Peerman having a vigil for the victims of the terrorist attack in Orlando when it did not cost the City money.

COMMISSIONER CAGGIANO felt that Commissioner Peerman needed to follow the same rules as anybody else when it concerned an event on City property, such as obtaining a permit.

COMMISSIONER PEERMAN said that the vigil, the car allowance and the Alzheimer's sale was a diversion of the fact that \$400 was going to the Commissioners.

#### 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 2017-196](#)** RESOLUTION - ACCEPTING BILL OF SALE AND APPROVING THE UTILITY AND ACCESS EASEMENTS FOR MAINTENANCE OF WATER FACILITIES AT 1190 SOUTH STATE ROAD 7  
*RESOLUTION 17-050*  
**APPROVED**
- B. [ID 2017-086](#)** RESOLUTION - VACATING, RELEASING, AND ABANDONING A UTILITY EASEMENT AT 1190 SOUTH STATE ROAD 7; PV-NOLA LLC, PETITIONER.  
*RESOLUTION 17-051*  
**APPROVED**
- C. [ID 2017-210](#)** RESOLUTION - UPGRADE OF MICROSOFT LICENSING.  
*RESOLUTION 17-052*  
**APPROVED**
- D. [ID 2017-217](#)** RESOLUTION - AUTHORIZATION TO SUBMIT A 2017 FLORIDA BOATING IMPROVEMENT PROGRAM GRANT APPLICATION.  
*RESOLUTION 17-053*  
**APPROVED**
- E. [ID 2017-221](#)** RESOLUTION - APPROVING AN AGREEMENT WITH CITY OF POMPANO BEACH TO PROVIDE BULK POTABLE WATER DURING TIMES OF EMERGENCY.  
*RESOLUTION 17-054*

**APPROVED**

- F. [ID 2017-229](#) RESOLUTION - APPROVING EMPLOYMENT AGREEMENT WITH RICHARD M. UBER AS PLANT MANAGER - WATER IN THE DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES

RESOLUTION 17-055

**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**

INTERIM CITY MANAGER SAM MAY explained that the City of Margate employees who traveled a lot had vehicles; however, some of the Department Heads did not have City vehicles. He felt that the car allowance was a benefit to the City and not the employees, because to provide those employees with a vehicle would cost the City approximately \$400 to \$500 per month with maintenance. He explained that giving those Department Heads, without cars, a \$300 a month allowance actually saved the City money. Interim City Manager May explained that the Little Library was brought forth by an 8 year old resident. He noted that the City acted upon that suggestion and was ready for the unveiling next week. He explained that the Little Library would supply children's books and would have additional reading material for the parents, such as National Geographic or Reader's Digest. He noted that the Aging and Disability Resource Center invited the City to the 34th Doctor Nan S. Hutchison Broward Senior Hall of Fame Breakfast on Friday, May 19th, 2017, at the Renaissance Plaza Hotel in Plantation. He added that it would also honor those elected in 2017, which included Norman and Sharon Grad from Margate. He asked for a consensus or vote because the breakfast was \$45 per person or \$450 for a table of 10. He noted that the event was from 9:00 AM to 11:30 AM. He said that there were also sponsorships available. He stated that the Famer Sponsorship was \$500, which included one seat at the sponsors table, half a page ad in the memory album and recognition in the program. He said that the Super Senior Sponsorship was \$750, which included a table for 10 people, full page ad, a memory album given to each attendee and recognition in the program. He stated that the Super Senior Sponsors may also place handouts at each seat.

COMMISSIONER PEERMAN asked whether there was something available that would provide an ad, as well as a table.

INTERIM CITY MANAGER MAY said that the table for 10 at \$450, and that a full page ad would be \$200, ½ page was \$140, ¼ page was \$75 and a business block was \$50. He explained that with the full page ad it would cost the Commission \$650; however, for \$750, recognition in the program as sponsor would be given.

**A motion was made by Commissioner Peerman, seconded by Vice Mayor Schwartz, to take the \$750, with a full page ad of the City congratulating Norman and Sharon Grad.**

COMMISSIONER PEERMAN stated that an attempt would be made to fill the table with Margate employees.

VICE MAYOR SCHWARTZ agreed that Norman and Sharon were involved in the City for a long time; therefore, she felt the City should support that. She added that the City gave the full fair share to the Area on Aging of which the Doctor Nan S. Hutchison award was part of.

MAYOR RUZZANO asked whether Norman and Sharon already had tickets.

INTERIM CITY MANAGER MAY did not know; however, he felt that their tickets would be provided by the organization.

MAYOR RUZZANO agreed with the \$750 Sponsorship and suggested having people from the Northwest Focal Point Senior Center (NWFPSC) attend.

**The motion carried by the following vote:**

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

INTERIM CITY MANAGER SAM MAY stated that the SOS Children's Village was requesting a waiver of the stage rental fees for the 5K run that was being held at Tradewinds Park in Coconut Creek on November 4, 2017. He noted that the fee for the same event was waived last year. He said that waiving the fee for one day four hour rental would cost \$200 with \$450 for the overtime staff cost. He noted that the entire amount was waived last year.

**A motion was made by Commissioner Peerman, seconded by Commissioner Caggiano, for approval. The motion carried by the following vote:**

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

INTERIM CITY MANAGER SAM MAY explained that some banners and signs, such as the corporate owned feather signs, were against the City Code for grand openings. He said that the City wanted to relax the requirements for some Codes for grand openings, because there were many new businesses opening in Margate. He asked that staff get back with the Commission with an alternate plan for grand opening signs that would be more business friendly with more flexibility.

COMMISSIONER PEERMAN asked whether new businesses could get permission while getting the new plan done.

INTERIM CITY MANAGER MAY said that he looked into that, but it could not be done because it would have to go through the Board of Adjustment.

CITY ATTORNEY DOUGLAS R. GONZALES agreed that it would have to go to the Board of Adjustment, as well having two readings of an ordinance. He noted that the current ordinance would not allow that.

INTERIM CITY MANAGER MAY explained that starting next month the City would be preparing a monthly update from the City departments to the Commission. He read

aloud some items from the update. He said that the Building Department now had live inspections on a mobile app.

DIRECTOR OF INFORMATION TECHNOLOGY (IT) JIM WILBUR explained that as of today, when an inspection was scheduled or performed the contractor and the homeowner would receive an email instantaneously to better the communication to the public, residents and businesses. He further explained that the mobile app would allow the inspectors to have all information loading onto their tablets, which connected to the database. He added that it also provided Google maps, and that as inspections were passed in the field, it would instantaneously update the database at City Hall and the website, as well as sending out emails to those involved. He stated that he and the Building Director were starting to inject technology into the Building Department. He noted that other cities used the app as well.

COMMISSIONER CAGGIANO asked whether there was a plan for the future to allow someone who submitted a permit application to see the status of that application as it went through the process.

DIRECTOR WILBUR said that IT was working on developing a Click2Gov website, which was how the water billing status was provided. He stated that it would provide more information to the public, as well as providing a way to track the permits. He noted that would be completed in a couple of months.

INTERIM CITY MANAGER MAY continued reading some items from the monthly update and said that the Burger King permit was issued and construction had started. He stated that plans were submitted for a two-story expansion at Northwest Medical Center. He added that Bay Bay's Chicken and Waffles had the permit issued and plans had been submitted to remodel the Margate Lincoln dealership to an Arrigo Alfa Romeo Fiat dealership. He stated that Dandee Donuts was in the review process for the old Blockbuster location. He explained that the Household Hazardous Waste and Document shredding was coming on April 29th at Oriole Field from 9:00 AM to 2:00 PM. He stated that the Human Resource Department had nine new hires within the last month. He said that the Police Department had a Drug Take Back Program coming on April 29th from 10:00 AM to 2:00 PM at the CVS on Atlantic Boulevard and Rock Island Road. He added that the Fire Department had 1,293 total fire EMS calls for service in the last month.

COMMISSIONER SIMONE thanked the departments for providing the monthly reports. She asked what the other half of the old Winn Dixie was going to be.

INTERIM CITY MANAGER MAY said that one half was a supermarket and the other was going to be Bealls Department Store.

MAYOR RUZZANO asked whether the Student of the Month and Teacher of the Month be put on Channel 78.

INTERIM CITY MANAGER MAY said that was already done.

THE MEETING RECONVENED FOLLOWING A BRIEF RECESS.

## 26) PUBLIC HEARING(S)

- A. [ID 2017-182](#) SECOND PUBLIC HEARING AND RESOLUTION - DESIGNATING REAL PROPERTY, IDENTIFIED BY FOLIO NUMBERS 4842-1934-0010 AND 4842-1934-0011 AND SHOWN IN EXHIBIT "A", AS A BROWNFIELD AREA FOR THE PURPOSE OF ENVIRONMENTAL REMEDIATION, REHABILITATION

AND ECONOMIC REDEVELOPMENT; PROVIDING FOR AN EFFECTIVE DATE.

RESOLUTION 17-056

**A motion was made by Commissioner Simone for approval, seconded by Vice Mayor Schwartz, for discussion.**

COMMISSIONER CAGGIANO said that he was opposed because paperwork showed no contamination and the perception of contamination was created by the petitioner. He was against saying the property was contaminated if it was not.

COMMISSIONER PEERMAN explained that the Brownfields were determinations made so that programs could bring jobs to the City and funds to the property owners to put into their property. She said that almost all of U.S. 441 was made a Brownfield so the property owners would have access to the programs that would give money back into the project. She further explained that with a Brownfield there were a certain amount of jobs required for a year, such as with Saveology. She stated that they would then be paid back by the federal government if the jobs were created for a year. She clarified that the money for this property was not going to the developer, but was going back into the project. She stated that a Brownfield was a good thing.

COMMISSIONER CAGGIANO read from the paperwork provided that the designation became a key part of the ambitious projects ultimate viability by enabling the access of certain regulatory and economic incentives to mitigate and manage the risk and expense associated with the discovery of contamination and the necessary response. He stated that there was no contamination and the money could go into the developer's pockets.

COMMISSIONER PEERMAN noted that the City had designated the CRA corridor of U.S. 441 a Brownfield.

COMMISSIONER CAGGIANO said that the developer wanted the City to expand the designated area.

VICE MAYOR SCHWARTZ said that she spoke with Representative Kristin Jacobs who was unaware that a Brownfield designation allowed sales tax money to return to the developer without proving there was a problem. She reviewed the criteria requirements and noted that the client had only agreed to possibly mitigate any problems, which did not meet the criteria of agreeing to rehabilitate and develop the Brownfield site. She mentioned the criteria requirement of a minimum job creation of 5; however, the project did not qualify because affordable housing did not have to provide 5 permanent jobs.

MICHAEL GOLDSTEIN, Attorney, 1 SE 3rd Avenue, Miami, Florida, 33131, present on behalf of the applicant, noted that the client had agreed to redevelop and rehabilitate the property. He noted that the Statute did not require entry into a Brownfield Site Rehabilitation Agreement, but only required that if contamination was identified in the future, the contamination would be rehabilitated. He explained that the developer defaulted to presuming that the site had actual contamination; therefore, the steps were taken that were required by Environmental Regulatory Officials to address the contamination if the testing revealed its presence. He said that to provide the highest level of assurance, the developer was meeting the express language of the Statute and the spirit of the Statute by conducting rehabilitation when there was no documentation of actual contamination. He noted that two feet of clean soil was brought in for landscaped areas across the property, as required by the State Department of

*Environmental Protection and the Broward County Environmental Protection and Growth Management Department required when there was impacted soil at a residential facility. He said that the impervious areas that would not be exposed, would be safely encapsulated beneath asphalt, concrete hardscaping and building pads. She noted that the ground water was being presumed to be impacted as a result of the reasonable perception of contamination as a result of historic uses surrounding the property. He stated that ground water would not be used for irrigation or consumption, which was the cleanup remedy required under State Law and under the Broward County Code.*

*VICE MAYOR SCHWARTZ stated that ground water would never be used for consumption and would be the City of Margate's water supply.*

*ATTORNEY GOLDESTINE agreed and said that the methodology for rehabilitation was codified in State Law and the Broward County Code, which the developer met when they agreed to rehabilitate the property. He added that the developer had rehabilitated and the process was ongoing. He referred to the second criteria requirement mentioned by the Vice Mayor and explained that in 1997, when the Statute was enacted, there was a job creation requirement for 10 permanent jobs. He said that was later amended to reduce the job creation requirement to 5 permanent jobs. He added that there was also an exception made for developers providing affordable housing, which stated that the 5 jobs were not required. He clarified that the developer met the second criteria because there was no requirement for affordable housing.*

*VICE MAYOR SCHWARTZ referred to the fourth criteria requirement, which stated that notice of proposed rehabilitation had been provided to neighbors and nearby residents of the proposed area to be designated. She added that there was a requirement to allow those being noticed the opportunity for comments and suggestions about rehabilitation. She noted that a sign was posted about a meeting and she asked how many people attended and whether anything was disseminated to the people closest to the project.*

*ATTORNEY GOLDSTEIN stated that the statutory notice criteria was met and exceeded. He said that the sign was posted and submitted evidence of posting of the sign to the property. He added that an advertisement was also required in a newspaper of general circulation. He passed out a copy of the Affidavit of Publication for the Fort Lauderdale Sun Sentinel. He added that another requirement was publication in a single community bulletin, which was published in the online community section of Craigslist, which he provided a copy of. He stated that statutory requirement was exceeded in terms of notice by holding a community meeting. He noted that nobody showed up to the hearings, and he added that 70 percent of the time, nobody showed up to the community meetings. He stated that when the legislation created the designation process two public meetings were required because legislature wanted to give concerned citizens the opportunity to reach out to the applicant after the first designation hearing. He noted that there was plenty of notice following the first designation hearing; however, the applicant still had not received any calls. He stated that he was willing to work with the Commission to go to legislature to lobby for additional provisions to provide a greater level of participation and/or protection.*

*VICE MAYOR SCHWARTZ asked whether he was the author of the law.*

*ATTORNEY GOLDSTEIN clarified that he had participated in the drafting of the legislation in 1997.*

*VICE MAYOR SCHWARTZ felt that it would be better to have a notice provided that was understandable. She added that another criteria requirement was that there be an*

*Advisory Committee established or an existing Advisory Committee used that would formerly address redevelopment of the specific Brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment. She asked whether there was an Advisory Committee that was aware of this.*

*ATTORNEY GOLDSTEIN was not aware of an Advisory Committee. He explained that the provision applied to projects that had an executed Brownfield Site Rehabilitation Agreement and where there was actual contamination. He explained that the template for the Brownfield Site Rehabilitation Agreement contained as an exhibit, a form for creating the Advisory Committee. He said that the interpretation was that the Advisory Committee kicked in only after the designation was approved. He explained that if the Commission approved the designation the developer would constitute an Advisory Committee to report back to the Commission as to steps being taken to fulfill representations being made during this application process.*

*VICE MAYOR SCHWARTZ disagreed with Attorney Goldstein's interpretation, because the intent was to improve the public participation and was for public awareness.*

*ATTORNEY GOLDSTEIN noted that the Statute indicated that the operation of the Advisory Committee related to redevelopment and rehabilitation, which came after the designation. He stated that the Statute did not state that the Advisory Committee was a condition precedent to the designation. He added that the Advisory Committee was first required to receive a draft copy of the Brownfield Site Rehabilitation Agreement; therefore, the Brownfield Agreement was not executed until after the Advisory Committee was formed, which was not part of the designation. He noted that the public participation that the paragraph pertained to the actual cleanup being conducted.*

*VICE MAYOR SCHWARTZ also read about the subject property falling under the definition of a Brownfield Site because of a history of agricultural use and agrichemical application on surrounding topographically up gradient property with stormwater runoff creating a perception of contamination complicating redevelopment and reuse. She read that design and construction changes on the project would be required, which increased Arbor View's exposure to environmental and regulatory liability, making the project more expensive and time consuming to move forward. She asked for explanation of how this would cost more in time, effort and materials when putting down blacktop and concrete.*

*ATTORNEY GOLDSTEIN showed aerial photographs that showed the property in 1973 and 1976, which was surrounded on all sides by property being used for agricultural purposes.*

*VICE MAYOR SCHWARTZ noted that the area shown was currently a shopping center with concrete and asphalt.*

*ATTORNEY GOLDSTEIN said that the argument made, which he would provide expert testimony for in the event that he had to take this issue to an appellate proceeding, was that the use of land for agricultural purposes historically involved heavy use of chemicals such as fertilizers, pesticides, herbicides, Arsenic and Chlordane. He stated that those chemicals tended to flow from higher ground to lower ground via rain water and could wash from property that was up gradient or higher to properties that were lower or at the same level. He noted that the chemicals applied to those properties also migrated from soil into ground water and flow sub surface east to southeast. He stated that he suspected that there could have been significant impacts to the property from the historical use of the adjacent properties. He explained that the cost involved two feet of clean fill that would have been required for the landscaped areas.*

MAYOR RUZZANO asked whether Attorney Goldstein had receipts for the fill, because he did not see clean fill brought in.

ATTORNEY STEINFELD stated that by law, the fill had to be clean and that impacted fill could not be imported to a job site. He noted that there was 2 feet of clean fill in impervious areas and said that he could provide the receipts. He added that there was also the cost of lawyers and consultants to prepare contingency plans, health and safety plans and legal liability strategies to deal with the issues. He said that there were also incremental costs incurred to ensure that any stormwater drainage did not impact whatever contaminated plumes may exist beneath the property or adjacent properties.

ATTORNEY GOLDSTEIN asked several questions of Mr. Miller, to which he responded as follows:

JIM MILLER, Environmental Engineer, agreed when asked the question of whether he typically worked on contaminated redevelopment sites. He agreed when asked the question of whether he worked on probably 100 properties with similar issues to this property. He agreed when asked the question of whether in his professional opinion, based on 20 years of experience as a Licensed Professional Engineer, the history of the adjacent property was relative to the subject property and there was a legitimate perception of contamination associated with the subject property. He agreed when asked the question of whether it was reasonable, permitted by law and contemplated by law to implement the rehabilitation activities that were discussed to address the environmental concerns associated with the property, such as bringing in clean fill to impervious areas, concrete, hardscaping in impervious areas and not using ground water for consumption or irrigation.

VICE MAYOR SCHWARTZ asked whether Mr. Miller considered it reasonable that under no circumstance was ground water ever to be used for public consumption or irrigation in that area, considering it would be connected to the City water supply and no canal to be watering from.

MR. MILLER agreed and said that there were similar properties where irrigation wells would be installed to cut the cost of a monthly water bill.

VICE MAYOR SCHWARTZ asked what mitigation, other than clean fill, was being done, because blacktop and concrete would have been done regardless.

MR. MILLER explained that once contamination was identified, the local regulatory agency would have to be involved. He noted that as part of this development, there was an Engineering Control Plan available to provide to the agencies.

VICE MAYOR SCHWARTZ asked whether contamination had been identified.

ATTORNEY GOLDSTEIN clarified that the additional enhancements included not only the black top and the building foundation and hardscaping, but construction and maintenance of those materials in such a way to ensure their integrity and perpetuity, which required inspection by a Licensed Professional Engineer twice a year, every year in perpetuity. He explained that if there was compromise to either the clean fill cap or the asphalt or concrete, the Environmental Consultant was required to implement an immediate fix to ensure that the continuing protection to human health and environment existed. He said that with respect to groundwater, use of groundwater for irrigation could be petitioned for; however, the petitioner was foregoing that because it was not a smart thing to do. He stated that the voluntary restriction on use of groundwater for any type of purpose at the property was an additional accepted form of remediation. He

*noted that the local ordinance requiring hook up to the City 's source of potable water was incorporated into the Florida Contamination Clean Up Rule of Chapter 62.780 of the Florida Administrative Code as of February this year. He stated that the local ordinance prohibiting use of a contaminated media, such as groundwater, were referred to as non-recorded controls that served to protect human health and environment. He stated that there was no knowledge of actual contamination, because the Statute did not require it. He handed out Chapter 376.79, which included definitions incorporated in the Brownfield Statute, Section 4. He noted that the Statute expressly allowed for the showing of environmental distress and to be either actual or perceived contamination. He stated that the perception of contamination was from the historic use of every property surrounding the subject property. He noted that expert testimony had been provided regarding the historic agricultural use including the application of herbicides, pesticides and fertilizers containing chemicals that migrated in surface water flow, as well as ground water flow.*

*MR. MILLER agreed and confirmed that Attorney Goldstein was making an accurate statement.*

*ATTORNEY GOLDSTEIN said that the five designation criteria had been met. He noted that the Statute required the designation and Staff had agreed. He stated that the money was not going into the developer's pockets. He explained that the sales tax refund on construction materials, which he calculated at the low end to be under \$500,000 and at the high end under \$1 million dollars, which was the measure of damages if the designation was improperly denied and he had to litigate. He noted that the money would be put back into the project by creating enhanced landscaping onsite and outside the project creating a better visual experience increasing property values. He added that the money would also be put into public art visible on site, as well as from the perimeter of the property. He stated that enhanced physical and wellness amenities would also be provided for seniors living there. He noted that this was a wonderful project for seniors providing innovative, sustainable affordable housing. He beseeched the Commission to make the right policy decision and approve the designation based on the law. He added that he was willing to work with the Commission to advance their concerns in legislature. He provided additional documentation to address a prior concern of Commissioner Peerman. He wanted to show the proximity of the property to the previously designated Brownfield area by the Commission. He stated that in 2011, the City adopted Resolution 11-826, which created 1,300 acres of Brownfields based on perception of contamination. He said that if this designation was denied, every property owner within that area would be able to apply for the incentive that the petitioner was asking for, providing they also built affordable housing.*

*VICE MAYOR SCHWARTZ noted that nobody ever applied for this previously.*

*ATTORNEY GOLDSTEIN felt that was because there was not adequate outreach to the business owners and perspective developers and end users about all of the incentives. He referred to the exhibit to the Resolution that showed the bereft of land that was designated a Brownfield in the City by the Commission based on the perception of contamination. He noted that the property was directly across the street from the existing Brownfield area. He clarified that the developer was not creating a Brownfield or poisoning land, but was taking advantage of an economic development incentive blessed by the State and prioritized for affordable housing with five criteria met.*

*COMMISSIONER PEERMAN asked whether there was a short time after Saveology when there were no Brownfield incentives being offered.*

*ATTORNEY GOLDSTEIN said no and explained that the program was robust and well*

utilized for the past 20 years. He stated that Commissioner Peerman could have been thinking of a companion Environmental Cleanup Program for petroleum contaminated sites, which was oversubscribed and went bankrupt.

VICE MAYOR SCHWARTZ mentioned that Merrick Preserve was east of the project and was built about 2004, and Fiesta was built in 1997, across the street. She noted that Attorney Goldstein suggested that both of those developments were Brownfields.

ATTORNEY GOLDSTEIN said no. He explained that Brownfield was a status that was applied when designation criteria was met. He clarified that sites that were used for agricultural purposes, which might have included some of those projects mentioned, were involved in land use activities that result in a long lasting legacy of chemical contamination. He clarified that those materials were used and likely left a legacy of contamination in the soil and groundwater and could have migrated south and east towards the petitioner's property. He stated that as a reasonable likelihood and legitimate thesis, a perception was created that complicated the redevelopment because it caused the spending of money during construction and development, as well as the cost to put in place contingency plans so that in the future, actual contamination was discovered. He noted that it would allow access to the State, County or neighbors to install wells on the property to conduct groundwater sampling or soil sampling.

VICE MAYOR SCHWARTZ noted that the two feet of cleanup and the additional plans for protection was not previously mentioned. She wanted to clarify that there was no contamination.

ATTORNEY GOLDSTEIN clarified that he initially stated that the industry standard protocol was implemented for conducting a non-invasive evaluation for the recognized environmental conditions. He also clarified for Vice Mayor Schwartz what non-invasive meant. He explained that non-invasive involved historical research and on-site recognizance for stained soil, oily sheen, pooled water, vent pipes and solid waste. He added that it was the review of old agency records and aerial photographs. He noted that only the aerial photographs were found that demonstrated the perception of contamination. He stated that according to the standard, there was no legal, technical or regulatory basis to conduct invasive sampling.

VICE MAYOR SCHWARTZ said that there was a loop hole that allowed sales tax to be rebated without having to prove it existed. She understood that once concrete and black top was put down there was no need to worry about any intrusion of Arsenic because the issue was capped.

ATTORNEY GOLDSTEIN agreed, providing the cap was maintained appropriately. He stated that soil caps tended to degrade over time and in impervious areas. He said that it was infrequently the case that a developer would maintain the original thickness in a landscaped area. He stated that was what needed to be done to ensure the environmental integrity of the encapsulation mechanism. He mentioned that the developer was voluntarily undertaking the State approved remediation methodology to address the strong likelihood of environmental impacts, which was not required by the Statute in order to determine eligibility for the designation.

MAYOR RUZZANO noted that the drawing indicated that the property was not in the Brownfield area, and that there was farmland in the west; however, the plan submitted showed no farmland. He felt that there would be a future problem, which would need to be addressed by the Commission.

ATTORNEY GOLDSTEIN explained that the historical land use associated with the neighboring properties involved the activities that were commonly understood and had

*long been demonstrated to result in the type of contamination that did not go away. He said that it would remain on the subject property and would migrate. He stated that when it migrated, it had a generational life. He explained that the chemicals were heavy metals engineered to stay in soils.*

*MAYOR RUZZANO asked whether there would be stormwater drainage.*

*ATTORNEY GOLDSTEIN explained that the stormwater was draining through an exfiltration trench in the panhandle in the north. He noted that native soil had been removed in that area and replaced with clean soil. He clarified that all the stormwater would be contained on the property.*

*MAYOR RUZZANO questioned what would happen if in the future, the water was found to be contaminated.*

*ATTORNEY GOLDSTEIN explained that if the water was found to be contaminated in the future, the County could require modification to the stormwater system by installing a deep injection well.*

*MAYOR RUZZANO asked whether there was a retention area on the property.*

*ATTORNEY GOLDSTEIN explained that there would be exfiltration trenches in the area, which would percolate and go to the aquifer. He understood that an additional retention area might not be needed if using an exfiltration trench; however, he did not have that information.*

*VICE MAYOR SCHWARTZ noted that at the last meeting Attorney Goldstein mentioned that City Staff approved the project. She stated that upon review, she determined that the City Staff had approved nothing.*

*ATTORNEY GOLDSTEIN noted that the Staff report indicated that Staff was recommending approval.*

*COMMISSIONER SIMONE asked whether the State Tax refund was only given for affordable housing or for any building.*

*ATTORNEY GOLDSTEIN said that it was for affordable housing only and clarified that it was for new construction of affordable housing in a designated Brownfield area.*

*COMMISSIONER SIMONE noted that Saveology being built on a Brownfield had nothing to do with this particular incentive.*

*ATTORNEY GOLDSTEIN explained that there was a separate incentive for job creation on a Brownfield. He said that currently and at the time of Saveology, any employer in a designated Brownfield area creating new full time equivalent jobs was entitled to \$2,500 per full time equivalent job. He said that it was a great tool the City had available for anyone wanting to open a new business in the 1,300 acre CRA area.*

*COMMISSIONER SIMONE felt that because no contamination was found now, did not mean it might not come up in the future.*

*ATTORNEY GOLDSTEIN said that it was possible and plausible that contamination would appear when other sites were developed. He stated that at that point, additional action would be taken and the developer would immediately enter into a Brownfield Site Rehabilitation Agreement, because the designation would be in place.*

COMMISSIONER SIMONE said that she was confused and perplexed. She stated that it was not hurting the City and was no loss to the City to build the project. She said that there were already 1,300 acres of Brownfield; therefore, she did not understand why the issue of calling this property a perceived Brownfield area. She noted that the sales tax refund was going back to the project with things that the Commission wanted for the City, such as public art and beautified entrances. She said that there would also be enhanced physical amenities.

MAYOR RUZZANO said that his concern was that it was not in the Brownfield area and that there was already 1,300 acre Brownfield area.

ATTORNEY GOLDSTEIN explained that there were 6,757 designated Brownfield acres in Broward County. He noted that the City of Pompano had a Brownfield of 3,084 acres. He said that the Statute Section 376.80 was amended to read that a local government designating a Brownfield area pursuant to the Section, was not required to use the term Brownfield area within the name. He stated that if the Commission was concerned about the perception or civic stigma created by the term Brownfield, that the project could be called a Green Reuse Area or a Revitalization Area. He added that the designation of properties as Brownfields increase the property values. He showed slides referencing three studies funded by the United States Environmental Protection Agency that indicated large increases of property values accompanying Brownfield designation and rehabilitation ranging from 5.1 percent to 12.8 percent. He added that he personally did a study of the Property Appraiser's website in Broward County and Dade County and had not seen a decrease in property value in Brownfields.

MAYOR RUZZANO noted that Margate had 17 or 18 percent of the Brownfield in Broward County.

ATTORNEY GOLDSTEIN said that Margate was one of three communities that self-designated an area for economic redevelopment purposes. He noted that the other two cities were Pompano and Lauderhill. He added that there were 25 separate designations in Broward County from the inception of the program in 1997, with the first designation occurring in 1999.

COMMISSIONER SIMONE apologized to the Attorney for a comment made previously insinuating that he was not speaking the truth to the Commission.

VICE MAYOR SCHWARTZ said that her concern was that it was being assumed that there was contamination, which might never be looked for or found.

ATTORNEY GOLDSTEIN emphasized that to address the concerns the developer was engaging in a presumptive remedy by assuming the worst, though there was no factual basis to do so. He felt that the Commission's concerns should be resolved with respect to this property; however, those concerns may remain with regard to other properties. He stated that he would be happy to work with the Commission and Staff to find an acceptable strategy to resolve the concerns.

RICHARD ZUCCHINI, 380 B Lakewood Circle East, asked whether a Phase 1 was done on the property.

ATTORNEY GOLDSTEIN said yes there was a Phase I done.

MR. ZUCCHINI said that Phase I's usually reviewed the historical potential and environmental concerns of the property.

ATTORNEY GOLDSTEIN agreed.

MR. ZUCCHINI asked whether the Phase I recommended a Phase II.

ATTORNEY GOLDSTEIN said that Phase 1 did not recommend Phase II, and stated that was discussed at the first hearing.

MR. ZUCCHINI said that great financing was received for the project and that there were over \$21 million dollars in loans with 78 percent of the development cost. He added that TD was underwriting 70 percent including being underwritten by the Federal Housing Authority (FHA). He noted that he had 7 years of experience with originating commercial loans and had never seen a bank originate a loan where there was a perception of an environmental concern.

ATTORNEY GOLDSTEIN stated that he routinely obtained lender approvals to provide acquisition financing and construction financing on sites with actual contamination, as well as the perception of contamination, provided that it could be demonstrated to the lender that their risk would be mitigated, the value of the asset would be preserved and the borrower would not be subject to an enforcement action that would impair their ability to service the debt. He stated that was done specifically with respect to TD Bank and he closed loans with TD Bank on properties with both actual and perceived contamination. He said that he closed multiple loans with other banks as well. He noted that another incentive provided by the designation was additional statutory protection for lenders. He explained that if the borrower's counsel was aware of the designation in the Statute, counsel could point to the liability protection that existed as a result of the designation, which allowed the lender to get comfortable with the environmental risk.

MR. ZUCCHINI asked what the approximate cost of Phase II was.

ATTORNEY GOLDSTEIN said that depended because to conduct an adequate environmental investigation of the property required more than one or two soil samples. He noted that the property was 2 ½ acres and to clear it of contamination everywhere, 200 soil samples would have been needed. He noted that analytical data alone would have cost \$80,000, which did not include the consulting fee or the physical advancement of the borings. He stated that the entire consulting effort would have cost about \$120,000 just for soil. He said that after the first hearing, it was determined that clean fill had been brought in, the development project was almost finished and the presumptive remedies were being implemented; therefore, the Phase II testing was unnecessary. He stated that he did not want the City to be confused about what the designation criteria required, and he clarified that it did not require the showing of any actual contamination, but only the perception of contamination.

MR. ZUCCHINI wanted to know who perceived the contamination.

ATTORNEY GOLDSTEIN replied that it was the burden of the applicant who was seeking the designation to demonstrate that it met the criteria. He noted that the designation criteria did not include a showing that the definition of the term Brownfield Site was met. He stated that the five criteria used the word Brownfield Site so it was commonly understood. He said that it was local government's responsibility to determine whether or not that was done properly.

MR. ZUCCHINI asked about the property elevation being downland.

ATTORNEY GOLDSTEIN explained that he was advised that the property was topographically up gradient in terms of surface water flow. He stated that hydraulically it was demonstrated that the property was down gradient.

MR. ZUCCHINI asked whether the contaminants were cleared and filtered as they travelled.

ATTORNEY GOLDSTEIN said no and explained that metals did not biodegrade like organic chemicals.

ELSA SANCHEZ, 6930 NW 15th Street, thanked Attorney Goldstein for being so thorough. She said that because Broward County designated it a Brownfield, she was in agreement.

COMMISSIONER CAGGIANO questioned whether heavy metals ever broke down.

MR. MILLER stated that they did not have an organic composition; therefore, they did not break down.

CITY ATTORNEY DOUGLAS R. GONZALES reminded the Commission that for designation of a Brownfield area proposed by a person other than local government, the local government with jurisdiction over the proposed Brownfield area shall provide notice and adopt a resolution to designate the Brownfield area pursuant to paragraph 1C, if the person established each of the five criteria at the public hearing to adopt the resolution.

The motion carried by the following vote:

**Yes:** 3 - Commissioner Simone, Commissioner Peerman and Vice Mayor Schwartz

**No:** 2 - Commissioner Caggiano and Mayor Ruzzano

## 7) RESOLUTION(S)

- A. [ID 2017-195](#) APPROVING APPOINTMENT OF \_\_\_\_\_ AS THE DIRECTOR, \_\_\_\_\_ AS FIRST ALTERNATE, AND \_\_\_\_\_ AS SECOND ALTERNATE FOR THE BROWARD LEAGUE OF CITIES FOR 2017-2018.

RESOLUTION 17-057

A motion was made by Vice Mayor Schwartz, seconded by Commissioner Caggiano, that Commissioner Caggiano be appointed as Director.

A motion was made by Commissioner Caggiano, seconded by Vice Mayor Schwartz, that Mayor Ruzzano be appointed as First Alternate.

A motion was made by Vice Mayor Schwartz, seconded by Commissioner Caggiano, that Commissioner Simone be appointed as Second Alternate.

The motions carried by the following vote:

**Yes:** 4 - Commissioner Caggiano, Commissioner Simone, Vice Mayor Schwartz and Mayor Ruzzano

**No:** 1 - Commissioner Peerman

- B.** [ID 2017-200](#) APPROVING A “MEMORANDUM OF UNDERSTANDING” WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT FOR PARTICIPATION IN THE REGIONAL LAW ENFORCEMENT EXCHANGE SYSTEM (R-LEX).

*RESOLUTION 17-058*

**A motion was made by Vice Mayor Schwartz, seconded by Commissioner Caggiano, 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

## 8) DISCUSSION AND POSSIBLE ACTION

- A. ID 2017-232** PURCHASING OF ALZHEIMER’S BUILDING.

*MAYOR RUZZANO said that he requested discussion of this item. He noted that at the last CRA meeting it was noted that the property would go up for sale and he wanted to know if the City was interested in purchasing the property. He stated that when the property was sold to the CRA, he felt the City should have purchased it for \$309,000. He said that it was currently appraised at over \$600,000.*

*COMMISSIONER CAGGIANO asked how much the City would have to pay for the property.*

*MAYOR RUZZANO said that he spoke with the CRA Attorney David Tolces who said it could be purchase for \$1 or \$1,000 or what the City paid for it; however, he was unclear as to what the City could do with it when purchased.*

*COMMISSIONER CAGGIANO asked how the City could find out what could be done with the property at the different purchase price levels.*

*CITY ATTORNEY DOUGLAS R. GONZALES said that the purchase price did not determine the use, and that CRA Attorney David Tolces would have to research and determine whether there would be any restrictions on what could be done with the property based on the source of the funds used by the CRA to purchase the property.*

*COMMISSIONER CAGGIANO asked whether that was a City Attorney to CRA Attorney conversation.*

*CITY ATTORNEY GONZALES said that he could discuss it with CRA Attorney David Tolces.*

*COMMISSIONER SIMONE said that she needed information to make a decision and agreed with having the Attorneys discuss it.*

*VICE MAYOR SCHWARTZ and COMMISSIONER CAGGIANO agreed as well.*

*MAYOR RUZZANO also agreed with having the Attorneys speak.*

COMMISSIONER PEERMAN said that she had no backup, and she mentioned Mayor Ruzzano convincing the City Manager, City Attorney and the CRA to purchase the building. She stated that she would vote no.

MAYOR RUZZANO clarified that he was the only vote against the CRA purchasing the property because he felt it was a good move for the City to purchase the building.

COMMISSIONER PEERMAN mentioned being told that it was Mayor Ruzzano that wanted to purchase the building, and said that she did not want the building, but did want to sue.

MAYOR RUZZANO asked whether a conversation he had with the City Attorney or City Manager could be relayed to Commissioner Peerman.

INTERIM CITY MANAGER SAM MAY stated that he did not relay the Mayor's answers to Commissioner Peerman.

MAYOR RUZZANO clarified that Commissioner Peerman was stating that he came up with the idea of purchasing the building and that the old City Manager told her about it.

INTERIM CITY MANAGER MAY stated that the conversations he had with Mayor Ruzzano stayed with Mayor Ruzzano.

MAYOR RUZZANO asked whether that was the way it was supposed to be.

CITY ATTORNEY GONZALES said yes.

MAYOR RUZZANO asked whether there was a violation.

CITY ATTORNEY GONZALES said that Commissioner Peerman indicated that after the Sunshine ended, she determined the information.

COMMISSIONER PEERMAN clarified that it was after the vote was done to purchase it and the building was bought and paid for; therefore, there was no Sunshine violation.

MAYOR RUZZANO noted that the City lost \$500,000 on the property, and that as a separate entity than the CRA, the City paying rent to the CRA for use of the property was absurd.

COMMISSIONER PEERMAN said that this discussion was gone through previously, and said that it was determined that the CRA had to charge the City as part of the law.

CITY ATTORNEY GONZALES clarified that Commissioner Peerman was referring what took place with the prior City Attorney and not him.

MAYOR RUZZANO said that the Commission was giving direction to the City Attorney to speak to CRA Attorney David Tolces.

**B. ID 2017-233 AMENDING PARKING SPACES FOR FUTURE BUILDING.**

MAYOR RUZZANO apologized for the lack of backup.

INTERIM CITY MANAGER SAM MAY passed out documentation from other Cities with regard to parking spaces.

MAYOR RUZZANO noted that approximately 2 to 3 years ago, when Toscana was ready to be built, he felt that there was not enough parking. He stated that there was

currently a problem with parking at Toscana and a variance was requested. He felt that in the future, the Code needed to be looked into. He asked whether the Transit Oriented Corridor (TOC) was only U.S. 441. He noted that he was told if the City wanted to change the Code, the Comprehensive Plan would also have to be changed.

ECONOMIC DEVELOPMENT DIRECTOR BEN ZISKAL replied that the TOC was a 1,184 acre boundary generally along U.S. 441 from the north boundary of the City to the south boundary, extending out  $\frac{1}{4}$  mile on either side of U. S. 441, and also flanking along Atlantic Boulevard extending the duration of the commercial corridors on Atlantic Boulevard.

INTERIM CITY MANAGER MAY questioned whether the Cities on the list were on the TOC corridor on U.S. 441.

DIRECTOR ZISKAL explained that those were the TOC designated land uses within Broward County and not all of them were necessarily on U.S. 441; however, a number of them were on U.S. 441.

VICE MAYOR SCHWARTZ noted that Wilton Manors was not on U.S. 441.

DIRECTOR ZISKAL stated that Hollywood, Miramar, West Park and Tamarac were along U.S. 441.

MAYOR RUZZANO noted that Parkland, North Lauderdale, Coconut Creek, Sunrise and Fort Lauderdale were not included. He asked what the benefit of the TOC was.

DIRECTOR ZISKAL clarified that there were 4 different mixed use designations in Broward County. He noted that they were the Regional Activity Center, Local Activity Center, Transit Oriented Corridor and a Transit Oriented Development. He stated that 20 of the 31 Cities in Broward County had one of those four somewhere in their City. He said that his Staff was asked to prepare the TOC's within Broward County; therefore, this did not include other mixed use districts. He stated that Coconut Creek was not on the list, because Coconut Creek had a mainstream project that was a mixed use designation, but not a TOC.

MAYOR RUZZANO said that he was foreseeing a problem in the future, and he asked whether the Commission wanted to have Staff address it or leave it as it was.

VICE MAYOR SCHWARTZ said that she observed the Board of Adjustment meeting yesterday where the discussion came up. She stated that she looked at Arbor View, which was entitled and Code required 160 spaces, but was told they only had to put in 125 spaces. She said that there were 64 one-bedroom units and 36 two-bedroom units. She noted that even a one-bedroom unit might have two cars for a husband and wife, and that a two-bedroom unit could need four cars. She stated that the City decided that 1.25 spaces were available for both whether one or two bedrooms. She noted that she looked at MargateNews.net, who blamed the Commission for allowing terrible parking restrictions. She stated that people in Toscana were complaining that they were promised two parking spaces, which they did not have it. She added that people were not parking correctly either. She felt that the City needed to look into the people who were developing. She understood that the developers wanted to maximize the use of the property in order to collect more rent; however, that did not work for the people who lived here. She felt that the City should not give a variance. She said that Arbor View was 160 units and already had 125 spaces and had not even been built yet. She felt that people needed to be held accountable so there would not be a parking problem.

INTERIM CITY MANAGER MAY said that Arbor View had done a study and determined

*that only 125 spaces were needed.*

*VICE MAYOR SCHWARTZ did not understand how that could be determined until the units were rented and people moved in.*

*COMMISSIONER SIMONE did not feel that this was the City's problem. She understood that this was the minimum and the developer could always ask for more spaces.*

*VICE MAYOR SCHWARTZ noted that the Code required the minimum of 160 spaces; however, the City had now agreed to 125 spaces.*

*INTERIM CITY MANAGER MAY explained that Paradise Gardens I, II, III and IV were two and three bedroom units, and many of those units only had one car or two.*

*MAYOR RUZZANO stated that those were already built and were existing problems in the neighborhood because of parking in the street. He said that everyone was aware of the problem and suggested trying to stop the problem in the future.*

*INTERIM CITY MANAGER MAY said that he would take whatever direction the City Commission gave.*

*VICE MAYOR SCHWARTZ mentioned the problems in her neighborhood and agreed that the problem needed to be solved in advance of it being a problem.*

*INTERIM CITY MANAGER MAY noted that other requirements might have to be abided by because of the increase in the parking requirements.*

*VICE MAYOR SCHWARTZ said that a decision was not needed, but she asked that the City Manager look into it.*

*INTERIM CITY MANAGER MAY agreed to look into the matter and bring back any negatives, such as impact fees, to the Commission.*

*VICE MAYOR SCHWARTZ asked whether something had to be done about the Comprehensive Plan.*

*DIRECTOR ZISKAL said that he had previously mentioned a hypothetical discussion that would have required a Comprehensive Plan Amendment. He stated that there might be a level the parking could be moved to while still complying with the Comprehensive Plan. He said that if going higher than the threshold and being in conflict with the Comprehensive Plan, a Comprehensive Plan Amendment would be needed prior to changing the Code. He clarified that the Code could not be changed in conflict with the Comprehensive Plan.*

*CITY ATTORNEY DOUGLAS R. GONZALES explained that something that might occur if increasing the number of parking units allowable in the TOC, there was a requirement that the other spaces throughout the City would have to have more spaces available. He said that to have a TOC, the TOC would have a reduced parking requirement; therefore, the City would have to remain higher for other development under the Code.*

*DIRECTOR ZISKAL agreed and explained that the TOC required that the TOC District have reduced requirements; therefore, if the TOC requirements were raised higher than it was elsewhere in the City, it would be in conflict.*

VICE MAYOR SCHWARTZ said that the City could require that somebody looking to develop would only develop to the point where the City did not have to disagree with the TOC requirements. She stated that if there were one less building in Toscana, there would not be an issue.

DIRECTOR ZISKAL stated that he would provide the Commission with the study received from Arbor View to show the rationale of the reduction on that property. He said that a study was provided and the community was a 55 and older affordable housing community, and that a comparable study was performed with similar 55 and older communities to show the lesser demand on parking.

JULIE JONES, 7871 NW 1st Street, stated that she drove through Toscana on Monday. She said that she parked her vehicle and looked around for 45 minutes, but did not see many 55 and older residents. She felt that there needed to be no less than two cars. She spoke about the congestion in Toscana and how it was affecting the sale of the units. She stated that the tandem parking was ridiculous and there should be a two car minimum. She also agreed that with one less building there would not have been this problem.

The City Commission gave direction to Interim City Manager May to research parking options with Staff and report back to the Commission.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 11:32 PM.

Respectfully submitted,

Transcribed by Carol DiLorenzo

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

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