



# City of Margate

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## Meeting Minutes City Commission Workshop

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

*City Manager Samuel A. May*  
*Interim City Attorney Goren, Cherof, Doody & Ezrol, P.A.*  
*City Clerk Joseph J. Kavanagh*

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Monday, December 11, 2017

7:00 PM

Commission Chambers

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### ROLL CALL

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

In Attendance:

City Manager Samuel A. May  
City Attorney James A. Cherof  
City Clerk Joseph J. Kavanagh

### 1) PRESENTATION(S)

#### A. [ID 2017-799](#) MEDICAL MARIJUANA DISCUSSION

INTERIM CITY ATTORNEY JACOB G. HOROWITZ said that their office had conducted this presentation several times which included the Florida League of Cities. He explained that he wanted to give a general overview of what the law said and what the City's options were in the context of Regulations. He said that they did not have any policy recommendations and wanted to lay out the context of the City's recent State law of the legislator adopted. He said that Chapter 2017-232 laws of Florida was a version of Senate Bill 8A. He said that the Compassionate Care Act was replaced with a State office of Medical Marijuana (MM) which was administered by the Florida Department of Health. He advised that the delivery of MM and devices was exempt from the sales tax. He said that most Regulations were pre-empted to the State and that one area where the City had options were in the context of dispensaries. He said that there were certain qualifying conditions that were laid out in Florida law for patients to seek professional medical help. He said that a licensed physician would have the option of writing a prescription for MM. He read a list of conditions and said that they were a specific class of conditions that would make somebody eligible to receive and obtain MM. He said that MM Treatment Centers (MMTC) were the type of businesses they would see in Florida and that they would focus on this primarily throughout legislation. He said that an entity would need to meet the requirements to essentially provide the service from seed to sales. He said the definition of the MM had to be an entity that was registered with the Department of Health. He advised that there was a full and detailed application process and that they were required to put up a \$5,000,000 bond in order to get a license. He said that assuming that MMTC were licensed, they were eligible to cultivate, possess, process, transfer, transport, sell, distribute, dispense or administer MM products. He said that the City's Regulations would only address the dispensing and operation of

dispensaries within any particular municipality. He said that currently, there were 13 MMTCs licensed in Florida but there were 24 that were currently dispensing but advised that there were none operating in Broward County. He said that Florida had been subdivided into 5 regions and each region had a limited number of dispensaries that MMTC could open in a particular region but could fluctuate depending on the population of each region and those on the State Registry to be licensed to possess and purchase MM. He indicated that each MMTC had the ability to open up to 25 dispensaries statewide. He said that within six months of registration topping 100,000 people, each of those MMTCs would be able to increase the number of dispensaries if they could operate through 25 x 5, to 30. He advised that with increments of 100,000 people registering with the State and to be able to purchase and consume MM would increase the number of dispensaries for the MMTC to operate.

COMMISSIONER LESA PEERMAN said that she assumed that they could only have 25 in the whole State, not that each of the 13 MMTCs receive 25 each.

CITY ATTORNEY HOROWITZ explained that each MMTC gets 25 statewide. He said that each license issued comes along with 25 dispensaries which would equate to 325 statewide. He said there are currently 24 statewide. He said that as they were seed to sale operations, he said that in the Statute, if one MMTC had more products and was not operating in a particular location, they could wholesale to another MMTC and forego one of their dispensaries. He said that the number could be offset under certain types of whole arrangements. He said that the methodology in the statute was essentially based on supply and demand which was built in growth. He explained it was a first come first served opportunity as the MMTC seek to operate in the five different regions throughout Florida. He advised that he was unable to get the number for Margate. He repeated the definition of the medical use but said that it did not include possession, use, administration etc. that was not purchased by or through an MMTC and said that it would be a criminal offense. He said that medical use relates to vaping, edibles and oils but not in a smokable form of marijuana. He said that apart from a caregiver, the regulation did not include the transfer of MM from one person to another apart.

VICE MAYOR ANTHONY N. CAGGIANO questioned if he ordered MM from Miami-Dade County, whether it could be delivered in Margate.

CITY ATTORNEY HOROWITZ said only if the delivery service would deliver that far. He said that it was a Regulation pre-empted to Florida and that the City had no ability to regulate the delivery of MM. He said that MM did not include use or administration in places such as public transportation except for low tetrahydrocannabinol (THC), any public place and place of employment. He said that it was a resident registry and therefore, you would need to be a resident and have a Florida MM registry card. He advised that people should only consume MM in their own state. He indicated that there were some limitations in statutory regulations with regard to the MM Registry and said that law enforcement had access to the same. He said that those records were confidential and exempt from Chapter 119 and was a Health Insurance Portability and Accountability Act (HIPPA) theory with limited exceptions. He advised that patients may only have one active physician at a time. He said that MMTC may not dispense more than a 70 day supply of marijuana to a patient or caregiver which was based on doctor's prescriptions. He said that qualified patients and caregivers can purchase delivery devices from the MMTC. He indicated that there was regulations on how edibles were packaged and that it could not be attractable to children. He explained that once a license had been placed, they were immediately placed within the Registry and therefore, no waiting period. He repeated that cultivating, processing and delivery were pre-empted to the State but said that on dispensing, the City had to make some decisions. He said

from a zoning prospective, the City had some options and opportunities on how to regulate where dispensaries may or may not be located in the City. He said irrespective of a city's population number, there was no population limit in the statute. He advised that every city in Florida can ban dispensaries within their jurisdictional boundaries. He indicated that dispensaries must comply with Code. He explained that if Margate sought to permit dispensaries, the regulations imposed on those dispensaries could not be any more restrictive than the Ordinances used for permitting or determining the locations of pharmacies. He confirmed that they considered CVS and Walgreens as pharmacies but explained that some cities such as Oakland Park had distinguished between retail sale operations and pharmacies. He explained that it was determined that any business that had 30 percent or more of its floor space that was not related to a pharmacy use would be considered a retail sale operation such as Publix.

MAYOR ARLENE R. SCHWARTZ referred to Oakland Park and asked whether it could be assumed that someone could consider litigating an act to see whether or not that was something they could do.

CITY ATTORNEY HOROWITZ said it was a reasonable statement.

VICE MAYOR CAGGIANO asked that if a pharmacy could only open in a certain area, whether that would apply in the same way if a dispensary wanted to open in the same place as a new pharmacy which would be similar to spot zoning.

CITY ATTORNEY HOROWITZ said that in the event that the City's Code changed which would affect existing businesses, those businesses would be legal non-conforming and would be able to continue to operate. He said that if the City wanted to allow pharmacies and dispensaries in one zoning district, he said that theoretically, they could do that but would have to refer to the planning staff as to how that would actually play out. He advised that they could not spot zone which was target zoning on a particular parcel or a particular limited area. He said that zoning districts would give more opportunities. He advised that some cities were permitting dispensaries in a particular district as a matter of right and others based on special exception use permit and therefore, there were other processes that could be considered.

MAYOR SCHWARTZ asked if they could exempt those that already had pharmacies.

CITY ATTORNEY HOROWITZ said that if they amend their Code and those amendments impact on current operating business, then business would become a legal non-confirming use. He said that if the City allowed dispensaries, there were certain enumerated security requirements that the State had mandated which could not be changed. He said that all dispensaries were required to have active operational security such as alarms, video and audio surveillance on a 24 hour basis, lighting and that at least two employees would be required to be on the premises and that there were certain requirements on the waiting area. He said that all MMTCs could not dispense from 9:00pm – 7:00am but they could still be cultivating, processing and operating 24 hours per day. He advised that MMTC could not engage in advertising that was visible to the public except for a sign in the window identifying the operation by the name and logo. He indicated that they were required to have websites which should include products, prices and delivery devices that they offered. He said that if the Department of Health had probable cause to believe that any MMTC was not registered or acted in violation, there were enforcement mechanisms that could include removing their license.

MAYOR SCHWARTZ asked that if they precluded that from happening, whether the City could change or amend that particular rule.

CITY ATTORNEY HOROWITZ advised that if it was an Ordinance, it could be amended. He repeated that in order to become an MMTC, you had to be approved by the Florida Department of Health which would include a stringent background and application process which would include a Level 2 background check and an application process. He said once your license was received from the Florida Department of Health, then those MMTCs would be able to perform every step in the process. He repeated that one MMTC can help another.

COMMISSIONER TOMMY RUZZANO asked if anyone could apply for an MMTC License and whether there was anything that would prohibit the average person from applying.

CITY ATTORNEY HOROWITZ repeated that they would have to pass the Level 2 background screening process as well as the \$5,000,000 bond which every MMTC was required to up. He said that in terms of Licenses, they were close to the cap.

COMMISSIONER RUZZANO asked if they could distribute through the federal mail. He also asked whether there was any financial gain for a City and how many cities had voted "Yes" in Broward County.

CITY ATTORNEY HOROWITZ said that he would be weary to utilize the postal service to deliver. Referring to the financial gain, he said that it would be very limited and that the City could receive their local business tax receipt payments but the product was tax exempt. He said that for creating new business tax receipts, it would be no different to that of a pharmacy. He said that he did not have the exact number of how many cities that had voted "Yes" and explained that it was not yes or no per say as it was a vote to regulate as opposed to ban. He said that Miami, Oakland Park, Wilton Manors and Deerfield Beach had regulated or voted to regulate. He said that Pembroke Park, Parkland and Coral Springs have all banned it. He also advised that Broward County had an Ordinance on their Agenda to allow regulation in unincorporated Broward County. He said that dispensaries could not open or operate within 500 feet of a school.

COMMISSIONER RUZZANO said that initially, he was against it but received positive feedback via Facebook that it should go ahead. He said that he was unsure what it brought to the City but it could be a convenience to the City as somebody could drive 2 miles instead of 5 miles to receive it.

CITY ATTORNEY HOROWITZ said that they had no opinion one way or the other.

VICE MAYOR CAGGIANO asked if someone with a felony conviction would not pass a background check.

CITY ATTORNEY HOROWITZ said it depended on what crime they were convicted of but it would very likely be a no. He confirmed that currently, it had to be a cash only business due to some federal issues. He said that as marijuana was still a federal criminal offense, the banking industry had not caught up with some of the state legal changes which was a major issue in Colorado.

COMMISSIONER JOANNE SIMONE said that if somebody needed it, she was not against them getting it but once you allowed one, you allow everybody. She said that there were ten cities that were currently banning them and 13 had temporary moratoriums and eight cities had a regulated use. She said that the State receives a licensee fee from the vendors and that the State could take it over completely. She said it could be a money making scheme for the State which she would have a problem with. She said and

listed a number of concerns in the Senate Bill and also said that it could also result in the Department of Health being left to monitor it. She said that if there were other cities around that were going to allow it, let them do so but she did not think that Margate needed it. She said that Coconut Creek, Dania Beach, Deerfield Beach, Fort Lauderdale, Hallandale Beach, Hollywood and Wilton Manors have all asked to be regulated.

MELISSA EVANS, 870 SOUTHWEST 49TH WAY said he was in favor of the dispensaries being located in Margate.

GARY WILDER, 6943 NW 27TH COURT asked in terms of retail, what was the difference from it being sold in a CVS or a MMTC. He said that he thought that it could only be used as a pill and not used as a vapor and also asked whether the marijuana would be grown inside or outside if it was at a MMTC.

CITY ATTORNEY HOROWITZ explained that the State would not allow pharmacies such as Publix, CVS and Walgreens to dispense it. He said that during the rule making process, some cities sent Resolutions to the Florida Department of Health suggesting that if it was medicine, it should be dispensed like any other medicine. He explained that they opted to go through the MMTC process which was a more common or conventional process utilized around the nation which essentially isolated the seed to sale cultivation, processing and distribution of MM to all of those particular facilities. He said that there were 13 MMTCs in Florida and each of those can operate up to 25 dispensaries and each of those 13 were also required to cultivate. He advised that they could be growing different strains of MM and that each were required to cultivate and sell at least one low THC option. He indicated that the 25 dispensaries would be selling a product grown by the treatment center that operated them. He repeated that there could be instances where one MMTCs could wholesale to another MMTC so there could be some overlap of what you see at a dispensary.

COMMISSIONER PEERMAN said that she wanted clarification that the dispensaries did not grow it and that they got it delivered to them. She said that in 2016, the voters overwhelmingly agreed to have MM and the State decided what type of regulations they would put on. She said that if Margate opened one, it would help the residents.

COMMISSIONER RUZZANO asked if the marijuana was the same as the regular street marijuana.

CITY ATTORNEY HOROWITZ said that MM was on the ballot in Florida for the first time in Florida in 2014 which failed. He explained that after it failed, the legislator enacted the Compassionate Care Act which approved a low THC strain of marijuana for consumption around the State which had been available since 2015. He advised that it was a non-euphoric marijuana product resulting from the cannabis plant.

RESIDENT, 3188 MARION AVENUE said that he was totally against it. He said that he read that Margate was the fourth safest City in Florida and asked how it would be good for the Margate population. He asked why Coral Springs and Parkland banned it whilst other cities had regulations. He said that it was the same as recreation marijuana and recommended that they should wait and watch. He said that Commissioner Simone did a good job with her research.

COMMISSIONER RUZZANO asked if they had high grade THC medicine. He also repeated his question of what it would bring to Margate.

CITY ATTORNEY HOROWITZ said that he did not have a scientific answer for that

question but indicated that THC was measured in milligrams and that the State had a 10mg cap on what any edible could be.

COMMISSIONER SIMONE explained that the voters voted for it blindly as none of the State statute was given or available to the public before they voted. She said that it could have altered the vote if they had that knowledge. She also spoke about the qualified physician and the seed to sale system which she was also concerned about.

COMMISSIONER PEERMAN said that they were only talking about a dispensary and not looking at opening a medical treatment in the City so the seed to sale was not what they were discussing. She said that there was an opioid problem in the US which was more addictive and dangerous than marijuana would ever be and said that it was easier to get. She said that both Coral Springs and Parkland have MM doctors. She said that they allow a lot of things in the Margate such as non-profit organizations and churches that did not make the City money. She said that it was not recreational but it was medical which had a specific purpose and a way you go about getting it.

MAYOR SCHWARTZ confirmed that there were three or four doctors in the City of Margate that were licensed to write those prescriptions.

VICE MAYOR CAGGIANO read an extract from the November 2017 Florida Bar Journal which said that MM was a significantly safer alternative to opioids.

ROBERT G. AGRAMONTE, 5568G LAKEWOOD CIRCLE commented on opioids and legalized marijuana.

CHARLIE ARTNER, 6631 NW 22ND COURT asked how Law Enforcement controlled MM not being handed to a third party which he said was an issue with the Opioid. He asked where MM could be consumed. He asked what was considered low THC.

COMMISSIONER PEERMAN said that smoking would not be part of it and said that it was a different high. She said in terms of control, it would be the same principle of going into a liquor store and buying beer to give to a 14 year old. She said that there was a list of places where MM could be consumed.

MELISSA EVANS, 870 SW 49TH WAY said cannabidiol (CBD) was part of the cannabis that helped with seizures and also could help with pain. She said that THC was the part that relaxed you and was psycho active made you feel stoned or high. She said that when you receive a prescription for MM, you were only allowed to purchase a limited amount every 70 days and said that patients would not be sharing it with anybody as they were only allowed to buy so much. She said that they could not get refills early and stated that it was very stringently regulated.

MR. ARTNER said that his church offered many services to the community which did not come out of tax money but from the members of the churches. He referred to a 36 month study in Colorado and said that the property and local crime rose up to 80% since MM was introduced. He explained that he did not doubt or deny the medical properties of marijuana but questioned the way it was distributed. He said that he did not want it to be in his City.

COMMISSIONER RUZZANO asked if they could open up a dispensary that only had low THC/Charlotte's web only.

CITY ATTORNEY HOROWITZ explained that dispensaries were required to dispense at

least one low THC product and was unaware if they could be limited to just that one product.

VICE MAYOR CAGGIANO read an article pertaining to marijuana and said that when people say that there had been no testing, he said that they had been using it for 5,000 years.

RICHARD ZUCCHINI, 380 LAKEWOOD CIRCLE EAST said that MM being scheduled as a Schedule 1 drug was ridiculous which means that it did not have any medical benefits. He explained that the federal government owned the pattern rights to MM and that as it was Schedule 1, it prohibited a lot of research being done which was a shame. He advised that if they said no to MM, they were saying no to a list of illnesses such as cancer patients, glaucoma, nerve pain and multiple sclerosis and said that was what they were saying no to. He said that the City would have been able to provide relief for those patients which would have been a benefit to the City. He indicated that they could stop the opioid problem. He advised that they should overcome the ignorance that was being applied to MM and asked them to have the courage to help those patients in Margate that needed to be helped.

KRISTEN B. BEAN, 6915 NW 15TH STREET said that she was very happy that there was a great majority that passed the legalizing of MM. She said that as they had already taken the vote which was decided, why would they then decide not to have it in their city. She said that people would not be running around the streets getting high and just wanted a convenient place to get it. She said that it could be a very nice respected dispensary that followed the laws and rules. She asked for clarification if Fort Lauderdale had banned it. She said that she had family members that had long term illnesses or conditions and that they required MM.

PAULA C., 3328 CARAMBOLA S CIRCLE said that there was a taboo about MM. She said that she worked in California and that they were regulated constantly. She said that if they get tested and if they find anything that was not validated through their lab test, the entire crop was destroyed. She also advised that they worked with the police, the City and the fire departments and made sure that everything was levelheaded. She said that there was nothing that was going to affect anybody's ability or impair them from the use of MM which did not have the THC. She said that the one which was approved from MM was a small percentage which was lab tested and regulated. She said that MM contained no THC but CBD and said that dispensaries were required to have one that had a THC level in it which was minute and they could not get high. She said that the only way it would work if someone was in legitimate pain and that it would go to those receptors that were naturally in the body. She said that the edibles came in all different forms but were the same one product.

The conversation continued about the effects and levels of THC and CBD and how it was consumed.

CITY ATTORNEY HOROWITZ said that the one low THC option was correct but the other products that would be available would have THC components to the products that were available at the dispensaries. He said that the CBD and Charlotte's web had been legal in Florida in 2014/15 but advised that there was a distinction between the THC and CBD products.

COMMISSIONER SIMONE said that they were being side tracked about the effects and contents of THC and CBD. She said that it should be determined if they allowed it in their City, they could not regulate it which would be her issue. She repeated that she did

not want to see dispensaries in Margate. She advised that neighboring cities would have the product available for those who required it.

MR. ARTNER said that he agreed with Commissioner Simone's view. He said that he did not have anything against the medicinal use of marijuana but was concerned about the criminal element the dispensaries brought in other cities and states and hopes they take that into consideration.

VICE MAYOR SCHWARTZ said that the purpose of the Workshop was to learn about the legislation and understand what their options and available locations might be. She also advised that as the legislator did not regulate it, she wanted them to make a decision on what was best for the City before someone made it for them.

COMMISSIONER PEERMAN confirmed that they voted for staff to come back to them with the zoning that allowed the City with an Ordinance to change the zoning to allow. She advised that they were not voting on it on Wednesday.

## ADJOURNMENT

There being no further business, the meeting adjourned at 9:00pm.

Respectfully submitted,

Transcribed by Salene E. Edwards

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Joseph J. Kavanagh, City Clerk

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

## PLEASE NOTE:

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

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

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