



# City of Margate

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

## Meeting Minutes Special City Commission Meeting

*Mayor Arlene R. Schwartz*  
*Vice Mayor Antonio V. Arserio*  
*Commissioners:*

*Anthony N. Caggiano, Tommy Ruzzano, Joanne Simone*

*City Manager Cale Curtis*  
*Interim City Attorney Weiss Serota Helfman Cole & Bierman*  
*City Clerk Joseph J. Kavanagh*

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Thursday, September 30, 2021

10:00 AM

Commission Chambers and Zoom.us

Webinar ID: 836 4428 2818

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<https://us02web.zoom.us/j/83644282818>

### CALL TO ORDER

### MOMENT OF SILENCE - INVOCATION

### PLEDGE OF ALLEGIANCE

### ROLL CALL

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

Mayor Schwartz attended in person.

Vice Mayor Arserio attended via Zoom.

Commissioner Caggiano attended in person.

Commissioner Ruzzano attended in person.

Commissioner Simone attended in person.

City Manager Curtis attended in person.

Interim City Attorney Tolces attended in person.

City Clerk Kavanagh attended in person.

### 1) DISCUSSION AND POSSIBLE ACTION

#### A. DISCUSSION AND POSSIBLE ACTION - INVESTIGATION OF EMPLOYEE COMPLAINT

INTERIM CITY ATTORNEY DAVID N. TOLCES explained that this matter pertained to an investigation of an employee complaint who the City Commission had direct supervision over. He explained the procedures of this meeting to the City Commission.

MAYOR ARLENE R. SCHWARTZ wished a Happy Birthday to Assistant to the City Manager, Nancy Popick, Development Services Senior Planner, Andrew Pinney and Office Specialist III, Isamar Viveros.

CITY MANAGER CALE CURTIS explained that he outlined in a memorandum to each of the City Commissioners over the course of the last couple of months, two complaints were brought to his attention in regard to an employee that the City Commission oversaw by Charter. He said that there was not a whole lot of detail that was shared with the City Commission but said it was a unique situation as they oversee this individual per the Charter and that they have to operate in the public light in terms of making a decision on how to proceed. He advised that both he and Interim City Attorney Tolces believed that this should be investigated and that he sought direction for authorizing such an investigation and any sort of employment status change for the individual that was named in the complaint.

COMMISSIONER ANTHONY N. CAGGIANO said that based on the memorandum, these allegations should be looked into by an outside party, with, of course, Internal Affairs (IA) helping out to make sure that the right people had the opportunity to speak on the subject. He said that everyone was innocent until convicted and suggested that the person involved should be on administrative leave with pay and that they should be returning anything that the City had given to them other than stuff that was in their contract as they were still considered employees. He advised that anything ancillary, such as computers, should no longer be accessed by that employee while they were on administrative leave. He said they would need to consider how an external body would look into this and asked which employee would be moved up in the interim. He questioned if any of the City Commission disagreed with providing this employee with administrative leave with pay.

VICE MAYOR ANTONIO V. ARSERIO agreed with a majority of Commissioner Caggiano's comments and said that they needed to take this seriously and look at the allegations. He said that they would like to see IA investigate this first and then if they felt it necessary, they could involve a 3rd party. He agreed that the employee should be placed on administrative leave with the terms that they had outlined and that they needed to appoint someone in the interim. He said that he was concerned that it took a few months for the City Commission to find out, especially considering the fact they have a sole party in this matter. He said that whichever way this investigation went, the City Commission should appoint the liaison and that they should report directly to them. He said that the City should make a policy for the five Charter Officers and questioned what the proper procedure was if something was to happen again.

COMMISSIONER TOMMY RUZZANO agreed with Vice Mayor Arserio but said that they were representing the residents and having a Special City Commission meeting with no back-up, which he had addressed with the Interim City Attorney Tolces and City Manager Curtis. He questioned whether they could mention the name of the accused.

INTERIM CITY ATTORNEY TOLCES advised that although they could mention the employee, the idea was that they did not want to hide the employee's name but wanted to ensure that whatever information provided to the City Commission was accurate and that they were allowed to give this to the City Commission based upon the fact that they were dealing with certain information that was confidential. He confirmed that the allegations related to Chief of Police Jon Shaw.

Discussion ensued on other Police Officers named in the complaints.

COMMISSIONER TOMMY RUZZANO explained that he was against using a firm and would recommend that the IA lead the investigation with one City Commissioner being appointed. He referenced transparency and continued to provide his comments on the alleged allegations against members of the Police Department.

INTERIM CITY ATTORNEY TOLCES said that the unique situation was that the employees who were identified were subject to different rules and procedures under the collective bargaining agreement who were not directly supervised by the City Commission.

Discussion ensued including the reporting levels and the State Attorney's report.

CITY MANAGER CURTIS referenced the original report on July 1st and said that he was making decisions under the advice of colleagues and other attorneys and that the State Attorney was looking at it and that there was nothing that he could share at the time. He advised that it was a unique situation and Chief of Police Shaw did not report directly to him. He followed advice and as soon as he received information he could share, he did the same with the City Commission.

Discussion ensued.

MAYOR ARLENE R. SCHWARTZ clarified that they were using limited information and that they were aware that several other people were apparently named in the complaint but did not have access to those names or know who those persons were. She said that they would have to discuss what action they intended to take.

Discussion ensued on the parameters.

**A motion was made by Commissioner Caggiano, seconded by Mayor Schwartz, that the following points pertaining to Chief of Police Shaw, should be approved:**

- 1) Administrative Leave with pay;**
- 2) Return City items, except what is in the contract that he was allowed to have;**
- 3) No longer have access to City computers;**
- 4) Make himself available upon request to report on occasion, if needed.**

COMMISSIONER JOANNE SIMONE sought clarification that they were doing everything by the law. She questioned whether this was normal procedure under the City's by-laws.

INTERIM CITY ATTORNEY TOLCES confirmed that it was normal procedure and that it was pursuant to their authority under the City's Charter.

MARGATENEWS.NET REPORTER, MITCH PELLECCCHIA, 6890 NW 9TH STREET, questioned items relating to the motion and referenced Collective Bargaining pertaining to protecting the unnamed Police Officers.

Discussion ensued, including on transparency and whether the other Police Officers' names could be revealed.

INTERIM CITY ATTORNEY TOLCES stated that under Chapter 112.533, the names and

information contained in any investigation were going to be confidential until completion of the investigation. He explained that if there was an individual that the City Commission would like to appoint as Acting Chief of Police, City Manager Curtis would be able to advise at that time whether or not that person was part of the complaint. He read a statement from the relevant statutory provision which was Charter 112.533.

Discussion ensued including the possibility of recruiting an external Interim Police of Chief, the return of City items, the accused speaking to other named Police Officers in the report and a gagging order.

LESA B. PEERMAN, 6921 NW 4TH PLACE questioned if they were going to have another motion about whether this went to IA or an outside investigation.

MAYOR SCHWARTZ advised Ms. Peerman that it would probably be the next item they would discuss.

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

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

MAYOR SCHWARTZ questioned how the investigation should be performed.

Discussion ensued on whether IA should be involved and whether they should appoint an external source.

**A motion was made by Commissioner Caggiano, seconded by Mayor Schwartz, that the City should have Internal Affairs (IA) lead it. If it turns out that the IA needs assistance or additional resources, they could bring it to Interim City Attorney Tolces' attention and they could bring it to the City Commission to decide what they want to do at that point in time.**

Discussion ensued including recommendations and processes on outside resources.

MR. PELLECCCHIA referenced the "elephant in the room", nepotism pertaining to the report and conducting a clean investigation.

Discussion ensued on Mr. Pellecchia's comments and revealing the other Police Officers' names.

ELSA J. SANCHEZ, 6930 NW 15TH STREET, agreed that IA should be part of the investigations but believed that there should be two bodies working together.

MS. PEERMAN highlighted a previous IA investigation which involved a former City Commissioner. She recommended that they should start from day one with an outside person to work directly with Paul Kostick.

MAYOR SCHWARTZ advised that they would have to discuss one way or another whether it was in tandem from the beginning as needed or not at all.

Discussion ensued.

POLICE SERGEANT AND INTERNAL AFFAIRS (IA) SUPERVISOR PAUL KOSTICK advised that this was a very unique situation. He also explained why the individuals named in a report were protected for the integrity of the investigation and based under Florida Statute Chapter 112, they could not be released at this period in time. He informed that he would not have any issue in completing the investigation. He indicated that if the City Commission had the trust in him to do this, he did have the opportunity to either bring someone alongside him as it would be an extremely in-depth investigation and that he would need the necessary resources to do this. He expressed that whatever choice the City Commission made in regards to their decision, for transparency, he would implore them that he would be involved in some way. He concluded that they would be receiving an unbiased, truthful and transparent investigation.

**An amendment was made by Commissioner Caggiano, seconded by Vice Mayor Arserio, to have IA lead with the option to use a 3rd party as he sees fit up to \$25,000 and that items related to Chief of Police Shaw are given to the City Commission in a timely manner. The IA investigator would report directly to City Manager Curtis of anything about Chief of Police Shaw and this would be brought to the City Commission immediately. If it involved other employees, this would go to City Manager Curtis.**

MR. PELLECCCHIA spoke about double standards.

Discussion ensued.

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

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

**A motion was made by Commissioner Caggiano, seconded by Vice Mayor Arserio, to appoint Police Captain Joseph Galaska as the Acting Chief of Police, should be discussed.**

VICE MAYOR ARSERIO questioned if anyone had administratively spoken to the Police Captains to see if this was something that they wanted to do.

CITY MANAGER CURTIS confirmed that Police Captain Galaska was present at the meeting and that in the past, he had served as Acting or Interim Chief of Police. He

informed that yesterday, he had spoken to both Captain Galaska and Captain Mike Palma respectively to give them an inclination that this matter might be discussed today but did not receive an indication from either one of them that they would not be willing to take on this assignment if they were chosen to do so.

Discussion ensued including the justification on picking one Police Captain over the other and possibly choose an external candidate who was not associated with the City.

POLICE CAPTAIN JOSEPH GALASKA explained that he had conversed with Police Captain Palma and Captain Palma was not interested in the position of Acting/Interim Chief of Police.

Discussion ensued.

MR. PELLECCCHIA referenced being in the DROP and to ensure that Police Captain Galaska did not have any pending actions against him before the City Commission made him Interim Chief of Police.

Discussion ensued.

MS. PEERMAN agreed with Mr. Pellecchia and suggested that the candidate they chose had been vetted and to check with Human Resources to see if there were any pending investigations.

Discussion ensued that the City Commission should be made aware of employees who were under investigation that could rise to a level of concern.

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

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

COMMISSIONER CAGGIANO questioned if they should choose a City Commissioner that the IA would report to.

Discussion ensued including the Acting Chief of Police receiving an extra 10% increase, details of which would be provided in the Collective Bargaining.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 11:25am.

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.

One or more members of the City of Margate advisory boards may be in attendance and may participate at the meeting.

The City of Margate will be holding this meeting through the use of electronic communication. Members of the public are invited to join the City of Margate meeting by accessing the meeting through Zoom using Webinar ID: 836 4428 2818 or can call in via telephone by calling one of the following phone numbers: US: +1 312 626 6799 or +1 929 205 6099.

- A copy of the Agenda for this Meeting is posted on [www.MargateFL.com](http://www.MargateFL.com) and on the main bulletin board outside City Hall located at 5790 Margate Blvd, Margate, FL 33063.

- Any comments related to any item on the agenda can be submitted to the City of Margate via the following e-mail address: [JJKAVANAGH@margatefl.com](mailto:JJKAVANAGH@margatefl.com).

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Go to "Agendas & Minutes" > Find the respective meeting date and click "Agenda Summary" to view the agenda items and see the Zoom meeting website address

PRIOR to the start of the meeting, email Public Comments to [JJKAVANAGH@margatefl.com](mailto:JJKAVANAGH@margatefl.com) (all public comments that are three (3) minutes or less will be read into the record.)

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Topic: "Margate Special City Commission Meeting "

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3. On the computer users should click "Participants" then see option to raise hand
4. Once you have been selected to speak, you will be prompted to unmute your device or stay muted.