



City of Margate

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

Meeting Minutes Regular City Commission Meeting

Wednesday, February 4, 2015

7:00 PM

Commission Chambers

CALL TO ORDER

Present: 5 - Lesa 'Le' Peerman, Joyce W. Bryan, Frank B. Talerico, Tommy Ruzzano and Joanne Simone

In Attendance:

City Manager Douglas E. Smith
City Attorney Eugene M. Steinfeld
City Clerk Joseph J. Kavanagh

PLEDGE OF ALLEGIANCE

ID 14-883 MICHAEL ANSTETT, 5TH GRADE, MARGATE ELEMENTARY

1) PRESENTATION(S)

STUDENTS AND TEACHERS OF THE MONTH

- A. ID 14-885** ABUNDANT LIFE CHRISTIAN ACADEMY: STUDENT, ALLISA RIBEIRO; TEACHER, ANGELICA KURZWEIL
(Mrs. Renata Ramirez, Assistant Principal)
- ATLANTIC WEST ELEMENTARY: STUDENT, NICOLE SILVA; TEACHER, DIANA GRECO
(Ms. Janette Hameister, Principal and/or Ms. Jounice Lewis, Assistant Principal)
- HEBREW ACADEMY: STUDENT, JARED SCHIPS; TEACHER, JAYE KLEIN
(Morah Rivka Denburg, Head of School)
- LIBERTY ELEMENTARY: TEACHER, CORINNE MILLER
(David J. Levine, Principal and/or Donna Styles, Assistant Principal)
- LIBERTY ELEMENTARY: STUDENT, JAD SADIK; TEACHER, NANCY SUNSHINE
(David J. Levine, Principal and/or Donna Styles, Assistant Principal)
- MARGATE ELEMENTARY: STUDENT, ROSALINA VARSALONA; TEACHER, LANA CHAPMAN
(Thomas Schroeder, Principal and/or Tara Pasteur, Assistant Principal)
- MARGATE MIDDLE: STUDENT, SARAI OSORIO; TEACHER, SHERRY BROWN
(Mrs. Coletti, 7th Grade Assistant Principal)

RISE ACADEMY: STUDENT, ISHMAEL EVERETT; TEACHER, JENNIFER JIMENEZ
(Ms. Sharon Smith, Principal)

RISE ACADEMY: STUDENT, ALEXA CEDRAS; TEACHER, JANET PEYNADO
(Ms. Sharon Smith, Principal)

PROCLAMATION(S)

B. ID 14-888

#SAFERBY4 DAY - FEBRUARY 9, 2015

(Presented to Kim Gorsuch, Community Development Administrator, Florida Department of Children & Families)

2) COMMISSION COMMENTS

COMMISSIONER PEERMAN apologized for missing something in the backup. She stated that back on August 20, 2014, the Commission had a consensus to put signs up for the Lady Titans Champions of 2014, and home of the Inferno Champions for 2014. She noted that the money was to come from the Resident Project Fund. She added that there was also discussion about putting banners up over the concession stand. She asked that the City Manager look into the matter.

COMMISSIONER TALERICO stated that Fannie Finno, a long time City resident who would have been 100 years old next month, passed away. He said that she was always helping the City and will be missed. He stated that services would be on Friday from 5:00 p.m. to 9:00 p.m. at Kraeer Funeral Home on State Road 7.

COMMISSIONER BRYAN thanked the City Clerk and his Staff for keeping her informed about the meetings, seminars and trainings. She stated that last Thursday, she, Mayor Simone and Commissioner Peerman attended the required Ethic's course, which gave her the opportunity to meet several Broward County Officials. She added that last Friday, she attended the fourth and final session of the Broward Leaders Water and Climate Academy. She noted that one speaker was the Director of Everglades Restoration Initiatives, U.S. Department of the Interior. She said that the presentation given pertained to Florida's water being a critical component of the past, present and future. She noted that she asked the Director to come to Margate to provide a presentation and referred her to the Director of Environmental and Engineering Services (DEES) Reddy Chitepu. Commissioner Bryan said that she attended a Coral Springs Commission meeting this morning. She noted that February 6th was National Wear Red Day pertaining to heart disease, which was the #1 killer of women. She asked that everyone wear red on February 6th. She added that February was also Black History Month, and mentioned her cousin Monte Irvin from the Baseball Hall of Fame. She stated that she was very proud and honored that Monte Irvin was her cousin. She showed a video, which she thanked the City Clerk for providing. She thanked Director of Public Works Sam May for the exceptional Christmas decorations this year.

VICE MAYOR RUZZANO also commented on Fannie Finno, and sent prayers to the family. He thanked the Director of Public Works Sam May for his assistance this week, as well as Director of DEES Reddy Chitepu.

MAYOR SIMONE reminded everyone that the Sounds at Sundown event was scheduled for this Saturday, and the band playing was Orange Sunshine.

3) PUBLIC DISCUSSION

REBECCA CASE, Chamber of Commerce, thanked the Commission for sponsoring the January Membership Breakfast. She noted that the Chamber of Commerce now had their new logo. She said that the Chamber's Government Affairs Committee partnered with the Economic Development to promote the City's new Guide to Business Success. She noted that the Committee was working very closely with the Director of Economic Development Ben Ziskal, and she thanked him for donating his time, as well as coming up with a stunning guide. She said that the Chamber of Commerce was reaching out to commercial property owners in order to encourage them to utilize the guide via the City and the Chamber website. She provided a sample draft of the letter that was being mailed, which was signed by Rick Riccardi and Ben Ziskal. She said that she would update the Commission as responses were received.

COMMISSIONER BRYAN stated that she met with the City Manager Douglas E. Smith and Director of Economic Development Ben Ziskal regarding her request to Scott Fiske, Principal of Coconut Creek High School, requesting to have the information in the guide to be translated into Creole and Spanish.

COMMISSIONER PEERMAN thanked everyone involved with the guide.

RICH POPOVIC, 6066 Winfield Boulevard, said that he did not believe in making things available in Creole or Spanish. He felt that people coming to America should learn to read and write English as the national language. He mentioned the workshop meetings and felt that the City should not be giving away money. He said that people should be personally involved in charities, but not use taxpayer money. He also commented on the amount of money being given to charities. He commended Director of Economic Development Ben Ziskal for his Redevelopment Workshop, which was the best thing done in the City.

4) CONSENT AGENDA

No items on Consent Agenda.

5) CITY MANAGER'S REPORT

CITY MANAGER DOUGLAS E. SMITH apologized for the signage that was not completed and said that it would be handled quickly. He said that the Parks and Recreation Master Plan Public Input Phase was prepared to start. He noted that there were three meetings scheduled for next week. He stated that the first meeting was scheduled for Wednesday, February 11th at 7:00 p.m. at two different locations, Calypso Cove and the Community Center. He said that the next meeting would be February 12th at 7:00 p.m. at the Northwest Focal Point Senior Center (NWFPS). He added that there would be an online community engagement tool available at ourparkplan.margatefl.com. He explained that the website would provide residents the opportunity to participate in surveys, submit ideas, comment on other ideas and vote in a poll. He stated that those participating could accumulate points to be traded in for rewards, such as free passes to Calypso Cove.

CITY MANAGER SMITH mentioned that the Water Safety Awareness Event was this Saturday from 11:00 a.m. to 4:00 p.m. at Calypso Cove. He noted that registration for free swimming lessons through the McGovern Foundation was full for March and April; however, there was a waiting list established for other residents.

CITY MANAGER SMITH said that an inquiry was received from the Florida Department

of Health requesting that the City advertise a program to help with free or reduced cost testing for early detection for Breast and Cervical Cancer. He stated that because it was a governmental entity, the City would support advertising the services that qualifying individuals were eligible for. He said that the City would handle flyers or website materials directing individuals who qualified to those resources.

CITY MANAGER SMITH stated that the Fire Department team that participated in the medical ALS competitions had the opportunity to participate in the International ALS Competition in Prague at the end of May. He noted that they would be fundraising for the event. He said that the projected Budget for the event was \$7,900. He noted that the Fire Chief requested that the team be funded from the Fire Department Budget in the amount of \$4,000. He explained that the event was two days with an Olympic Style Award Ceremony. He said that Margate's team was currently the only United States Team participating. He stated that he supported the \$4,000 amount from the Fire Department Budget providing there were no concerns from the Commission.

COMMISSIONER TALERICO asked what time the February 11th event at Calypso Cove was.

CITY MANAGER SMITH said that it was at 7:00 p.m.; however, there was also a meeting on February 12th.

COMMISSIONER PEERMAN had no problem giving the Fire Department the money and asked for a consensus to take \$1,000 to \$2,000 from the Resident Fund for the team's expenses. She noted that there was currently \$7,000 in the Resident Fund.

A motion was made by Commissioner Peerman, seconded by Vice Mayor Ruzzano to donate \$1,000 from the Resident Project Fund to the ALS Team for their trip to Prague. The motion carried by the following vote:

RICH POPOVIC, 6066 Winfield Boulevard, commented on giving money to charities.

COMMISSIONER PEERMAN explained that this money was the difference between what she was paid and what the rest of the Commission was paid, which went into a special fund called the Resident Project Fund. She noted that the fund was used to benefit the residents.

COMMISSIONER TALERICO stated that he was proud of the Fire Department representing the City in an International Competition.

COMMISSIONER BRYAN agreed that the Fire Department would make Margate proud.

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

6) RESOLUTION(S)

A. ID 14-890

APPROVING WAIVING OF BIDDING FOR THE PURCHASE OF AN UNTITLED 2013 DEMONSTRATION MODEL SINGLE AXLE KNUCKLEBOOM TRUCK W/CLAMSHELL, FROM MIKE DAVIDSON FORD, IN AN AMOUNT NOT TO EXCEED \$100,000, PROVIDING FOR FULL EQUIPMENT AND VEHICLE WARRANTIES.

Resolution 15-012

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

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

7) RESOLUTION(S) - QUASI-JUDICIAL HEARING**A. ID 14-892**

CONSIDERATION OF A SPECIAL EXCEPTION USE, TO PERMIT A GAS STATION WITHIN THE TOC-G GATEWAY DISTRICT, LOCATED AT 505 NORTH STATE ROAD 7.

All those wishing to speak were sworn in.

COMMISSIONER PEERMAN, COMMISSIONER BRYAN, VICE MAYOR RUZZANO and MAYOR SIMONE stated that they had exparte communication with City Manager Douglas E. Smith and the Director of Economic Development Ben Ziskal.

DIRECTOR OF ECONOMIC DEVELOPMENT BEN ZISKAL was excited to talk about 505 North State Road 7, which was vacant property for 13 years. He said that the proposed project was to reopen the property as a gas station using the existing structure with the existing canopy with upgrades to both. He said that the structure and canopy would be left in the current location and site configuration. He noted that the Commission previously held a workshop to discuss revising the Code regulations for the Transit Oriented Corridor (TOC) Gateway properties within the City, which included the subject property. He explained that the reason for the workshop was that the prior Code required all new construction or redevelopment projects result in a building being brought to the front of the property adjacent to the roadway and that a minimum height of two stories be established. He said that as a result of that Code, property such as this property were left with the decision of tearing down the structure and conforming to the Code or being forced to reopening the existing structure, which was the proposed project. He stated that the result of the workshop was to re-evaluate the regulations to find a happy medium that worked for the economy, the developers and promoted the City's vision of the redevelopment area. He noted that the workshop had not yet resulted in a Code to be brought before the Commission, the direction was to work with the current Code and make the concessions. He explained that this property had already begun the approval process through the Development Review Committee (DRC) before the workshop; therefore, the petition before the Commission was to reopen the property in its current condition. He noted that Section 22.10 of the Zoning Code specifically provided the Commission review criteria to consider when granting a special exception. He said that many of those criteria regard the location of the building, the setbacks, landscaping and other site conditions. He noted that because the criteria had not changed, many of the criteria were not met with this proposal; however, based on the results of the workshop, Staff believed that the gas station use was what the economy and the market would support at the location. He stated that the Staff supported the use of the gas station; however, Staff recommended that the petitioner revise the plan to construct a new building structure that would provide a state of the art building on the property.

COMMISSIONER TALERICO asked whether the new proposal was discussed with the petitioner.

DIRECTOR ZISKAL said that the attorney representing the petitioner was at the workshop; therefore, the petitioner was aware of the recommendation. He noted that at

the workshop, the attorney asked that the item be tabled to this meeting to discuss the proposals moving forward.

ROD FEINER, Attorney with Coker and Feiner, 1404 South Andrews Avenue, Fort Lauderdale, represented Petro Solutions, the contract purchaser who was reopening the gas station. He clarified that at the DRC meeting Director Ziskal said that Staff was thinking of changing the Code and would go to workshop. He noted that his client was under contract for \$1.5 million dollars. He stated that while using the existing facilities, the facilities would be refurbished, cleaning them up, providing nice elevations and installing new landscaping to meet the current Code. He said that the site was going to get a substantial upgrade with over \$2 million dollars that would be invested into the City of Margate. Attorney Feiner explained that the petitioner was using the existing structure because there was a provision in the Code called a legal non-conforming structure, which allowed the structure to be reopened providing the structure was built properly and guidelines of the Code were met. He felt that under that provision of the Zoning Code, the structure met the requirements for a special exception. He mentioned asking for a draft of the Zoning Code and was told it was not completed yet and would go before the Planning and Zoning (P&Z) Board in late February or early March and then would go before the Commission. He stated that the purchaser was under a contract that required a closing in five business days from the day governmental approval was received. He noted that the due diligence period expired on February 11, 2015. He said that if the governmental approval was not obtained by February 11, 2015, the purchaser would walk away, as he could not take the risk of investing \$1.5 million dollars when he did not know if he could reopen the station or what would be required to be done. Attorney Feiner stated that the seller was difficult and was unwilling to negotiate additional extensions. He stated that he was doing the title work for the property. He noted that this was a slum and blight property in Margate with trash accumulations, Code violations and homeless people. He said that he was ready to submit building plans to the City and the County tomorrow to begin renovations and bring the site up to Code. He stated that he was willing to work with Staff on upgrading the elevation; however, there needed to be a cap on the money required to do that. He understood that if approved, it was subject to the legal non-conforming use, and would build to the new standards if a natural disaster happened. He reiterated that the purchaser was under a contract deadline. He requested that the special exception be approved today with a condition to work with Staff on elevations. He noted that the purchaser could not agree to put more than \$10,000 into additional changes to the elevation, but would work with Staff to resolve. He said that though the building would remain the same, the entire outside was getting a face lift. He noted that a ton of landscaping would be added and it would look very nice and work well with the tanked truck circulation.

CITY ATTORNEY EUGENE STEINFELD asked whether the property complied with the criteria provided for the special exception as it sat right now.

DIRECTOR ZISKAL stated that it did not comply with the Section 22.10 review criteria. He said that those criteria did not comply with current Code; however, the structure did exist as a legal non-conforming use at the time it was built.

COMMISSIONER PEERMAN understood that the petitioner needed to know if it could be a gas station and was under the boundaries of the City's Code directing that the old building be used. She felt that the building was small and putting in a new building would provide more space.

ATTORNEY FEINER noted that the existing building, not including the car wash, was approximately 800 to 1,000 square feet. He noted that the industry was changing and the function depended on the size of the property.

COMMISSIONER PEERMAN questioned whether the petitioner could purchase the property and work with Staff on the changes the Commission wanted to make pertaining to taking down the old buildings and putting up new buildings.

ATTORNEY FEINER said that could not be done because it affected the contract purchase price and the seller was not willing to amend the purchase price. He said that he had not received a draft of the Code and did not know what Staff would propose. He stated that he did not know where the building would be located or how many pump islands would be used. He said that the petitioner was not aware of how the site would function if complying with the Code requirements of knocking it down and doing a new Site Plan. He felt that the criteria for the special exception was met and said that the petitioner was going through the process since October. He said that the petitioner was willing to change elevations or add a nice little overhang. He stated that the petitioner was under strict contract, and that breach of contract would cause him to lose the deposit.

COMMISSIONER PEERMAN asked whether the contract was dependent on using the existing building.

ATTORNEY FEINER agreed that the contract was linked to getting government approval to use the Site Plan as it was right now. He noted that the special exception was linked to the Site Plan presented. He noted that there was no additional time left in the approval period.

COMMISSIONER TALERICO questioned what else could be done besides tearing the building down.

DIRECTOR ZISKAL stated that the petitioner could work with the footprint. He explained that prior to this purchaser coming to Staff there were other interests in the property wanting to tear the building down to build a new one. He said that at that time, the Code stated that if tearing the building down, two stories would have to be built up by the road. He noted that was not a feasible option for the other interests. He further explained that when other interests wanted to tear the building down they were given two options; build two stories by the road or work within the existing structure. He said that those interests were what led Staff to start discussions of having a workshop to give the ability to tear down the building and build new. He clarified that ability was never given to another developer prior to this one. He noted that the petitioner had a contractual situation that presented a decision for the Commission as to whether or not to move forward with this petitioner or not approve it and see if this petitioner or another could tear the structure down and rebuild. He stated that the petitioner was before the Commission tonight because tearing down the building was not an option until two weeks ago at the workshop that authorized Staff to make that an option. He reiterated that there was no other gas station or developer that came to the City and was willing and able to tear the building down and rebuild a two story building. He understood this was a slum and blight condition and Staff did want to see the property open. He noted that prior to tonight, the Staff and petitioner had not discussed the feasibility of tearing down the building. He added that Staff was not previously aware of how the petitioner's contract read.

COMMISSIONER TALERICO asked what the negative impact would be if they renovated the existing building.

DIRECTOR ZISKAL said that it would not be as much of an improvement; however, he did not say it was a negative impact. He noted that it would further the plans of the Community Redevelopment Agency (CRA) by eliminating slum and blight; however, it

was not 100 percent of the vision Staff wanted moving forward. He said that it would not meet the revision of the Codes or the result of the workshop. He stated that the Code change was not yet drafted, because the workshop was only two weeks ago. He noted that another petitioner went through the variance process; however, that was not an option for this petitioner because of the contract.

COMMISSIONER TALERICO understood that the footprint was limited.

DIRECTOR ZISKAL stated that previous proposals reviewed by Staff included a larger one story structure. He clarified that the basis for the recommendation was because a new structure would maximize the square footage to have a higher taxable property for the City. He noted that it would be more aesthetically pleasing moving the building away from the back property line and providing the landscape buffers with increased pedestrian safety. He stated that the timing that it takes to make Code revisions and the timing of the contract presented a problem. He explained that the project before the Commission could open and provide plans tomorrow; however, if the Commission wanted a larger newer structure, he could not predict when that would happen.

COMMISSIONER TALERICO stated that the City had been waiting a long time for the property, and he questioned when the gas station closed down.

DIRECTOR ZISKAL stated that it closed down in 2002; therefore, it was closed 13 years.

ATTORNEY FEINER noted that Petro Solutions owned various gas stations between Miami, Dade and Broward County that all looked great. He said that they just opened a new one in Cooper City. He stated that the gas station would appear as a Class A facility for Margate with lights providing a safer environment.

VICE MAYOR RUZZANO said that he appreciated Attorney Feiner's honesty and questioned who Petro Solutions was.

MARWAN SHAHADA, Orion Fuels, 5200 NW 77th Court, replied that Petro Solutions and the gas stations were Orion Fuels. He mentioned the branded gas stations in Margate, such as Valero and Marathon; however, he noted that his gas stations looked nothing like those. He explained that the canopy would have LED lights. He noted that he opened locations in Boynton Beach and Cooper City and told the Commission they could view pictures online.

VICE MAYOR RUZZANO questioned how old the gas station was.

ATTORNEY FEINER said that the structures were at least 20 to 25 years. He noted that his Engineer surveyed the structures, which were completely safe and sound and met the Building Code. He stated that the underground storage tanks were removed and there would be new tanks and lines.

VICE MAYOR RUZZANO questioned whether having this workshop would benefit the owner of the property rather than the purchaser.

ATTORNEY FEINER stated that there was no debt service on the property and the property was not currently platted to meets and bounds description. He said that if the building was knocked down, the property would have to go through the platting process, which would take six to eight months of time. He said that adding those expenses and time would not help the seller.

VICE MAYOR RUZZANO stated that was one of the City's busiest corners and

entranceways. He noted that the Commission was expecting something grand on the property and he wished an architectural drawing was provided. He said that re-facing or re-facading was a hard sell for him.

ATTORNEY FEINER understood and stated that it was going to look very nice and he suggested looking at the Landscape Plan and all of the additional landscaping being added.

VICE MAYOR RUZZANO felt that now that the owner had free will to knock the structures down and rebuild, he might put something more grand on the property.

ATTORNEY FEINDER said that with the platting issues and the purchase price, he did not see that happening. He mentioned prior environmental contamination on the site.

VICE MAYOR RUZZANO asked whether the petitioner was totally against knocking down the structure.

COMMISSIONER PEERMAN did not understand what buying the property from the seller had to do with the building.

ATTORNEY FEINER stated that the petitioner was not going to purchase the property unless he could get the building permits. He noted that because it was too speculative, the petitioner did not know what he was buying. He explained that the TOC always allowed a gas station by special exception. He said that if the building was knocked down, the TOC requirements of having two stories near the curb would have to be met, unless requesting a variance. He clarified that the petitioner would not purchase the property unless building permits could be obtained right away. He clarified that if the petitioner wanted to knock down the buildings, the Site Plan had to comply with the TOC Gateway zoning requirements or a variance was requested. He added that the CRA was subject to the Zoning Code, which stated that the special exception criteria must be met.

COMMISSIONER PEERMAN stated that City Staff felt the petitioner currently did not meet the Zoning Code criteria, but ATTORNEY FEINER believed that the criteria were met.

ATTORNEY FEINER said that the City was asking the petitioner to wait on what may be coming up in three or four months from now; however, it might not work. He stated that a valid business decision could not be made based on that.

COMMISSIONER TALERICO questioned the Photometric requirements.

ATTORNEY FEINER explained that Code had a requirement for Photometrics if the building was open after 7:00 p.m. with a minimum of 2.0 foot candles. He stated that when the original Photometric Plan was submitted, part of it did not show the 2.0 foot candles. He said that after making some adjustments and changes the Code requirements were met.

COMMISSIONER TALERICO clarified that the big hang up was the size of the building, which Staff recommended tearing down and building a new building.

ATTORNEY FEINER said that because of economic conditions, that was not feasible.

MAYOR SIMONE asked which special exception use was not being fulfilled.

DIRECTOR ZISKAL explained that the Commission was provided with Section 22.10,

which indicated the review criteria for consideration. He noted that Letter D referred to the ingress and egress to the proposed structure. He noted that tearing down the existing structure and constructing the building closer to the road, minimizing the amount of parking between the structures and providing full circulation around the building would enhance the pedestrian safety. He stated that Letter F referred to having a new larger structure shifted towards the middle of the building and getting closer to the intersection while providing traffic circulation and fuel pump circulation. He added that Letter G referred to setbacks, buffers and amenities. He said that the intention was to not have the building setback to the rear of the property and to minimize the setback from the front property while still providing the amenities. He said that Item I referred to adequacy of landscaping, and he noted that the Landscaping Code must be met. He mentioned Letter J and Letter K that referred to compliance with the Margate Comprehensive Plan and the Community Redevelopment Agency (CRA) Plan. He noted that activating the property promoted both plans and the intent was to maximize square footage, maximize the taxable value and bring the buildings closer to the road. He stated that everything Attorney Feiner said tonight was correct. He stated that the petitioner did start the process, the Code was not determined and Staff was unaware of whether or not the petitioner could modify the building. He said that it was a fluid process of trying to get the ability through the workshop to make the recommendation; however, due to the contract, the petitioner was not able to do what was necessary.

COMMISSIONER TALERICO asked when the revelation came when working with Staff.

ATTORNEY FEINER stated that tonight was the first he heard of the Staff's recommendation of wanting this to be tabled. He said that since the beginning it was told to Staff that it could not be open ended. He stated that he and Director Ziskal had a very cordial relationship; however, tonight was the first time he heard that Staff was not in support. He said that he was shocked, because he had stated that he would work with the City pertaining to architectural changes. He noted that knocking down the building and going through a Site Plan process was an issue, which he would have walked away from previously because of the platting issue and other issues associated with the process. Attorney Feiner disagreed with Director Ziskal's assertions with regard to criteria that was not met, such as ingress and egress with regard to automotive and pedestrian safety. He noted that there were sidewalks and pedestrians could adequately and safely access the facility. He stated that his client wanted to be a good citizen and not litigate with Margate.

COMMISSIONER TALERICO asked whether Director Ziskal wanted to add any conditions if it was approved tonight.

DIRECTOR ZISKAL stated that this was as the result of the workshop. He noted that had the workshop never took place, Staff would have been recommending approval tonight. He clarified that Staff's recommendation was not to deny this, but to have the petitioner take advantage of the additional square footage and flexibility. He stated that if they did not, the recommendation would be that it be approved and not to let the petitioner walk away.

COMMISSIONER PEERMAN did not understand why the property could not be purchased and build a building later on. She felt that the petitioner did everything they could possibly do to have this business.

COMMISSIONER TALERICO hoped that if this passed, the petitioner would do so much business they would have to tear the building down in the future.

VICE MAYOR RUZZANO noted that everyone was in agreement at the workshop, but now there was new policy in place.

COMMISSIONER PEERMAN noted that there was no new policy in place yet. She said that it was discussed but had not come before the Commission yet.

VICE MAYOR RUZZANO felt that it could wait another month.

COMMISSIONER PEERMAN said that it was not the petitioner's fault that the workshop was four years too late. She stated that she would love to see the building torn down; however, the fact was there was no Code for them to follow. She did not think it was fair to make a business wait for a possible plan.

VICE MAYOR RUZZANO said that he did not want Margate to be known as Gas Station City. He noted that there were six gas stations within one mile.

COMMISSIONER PEERMAN noted that people have been asked to come to that property, such as Sonic.

VICE MAYOR RUZZANO said that the Commission should wait for the workshop presentation. He felt that the owner would be able to sell the property a lot easier and would have a lot more people looking into it.

COMMISSIONER BRYAN felt that Vice Mayor Ruzzano was trying to do the right thing for the City; however, she wanted to also look at it from an economic standpoint for the petitioner. She reiterated that the concern was the contractual time and that the variance could take a long time. She stated that the City was trying for 13 years to have something done on that property and now there was someone who had plans and the money to make the project a go.

MAYOR SIMONE noted that Director Ziskal did not recommend doing this.

DIRECTOR ZISKAL clarified that he said Staff understood that the property would be developed as a gas station. He noted that the recommendation was that Staff wanted to see a new structure. He mentioned a previous gas station that wanted to build a new structure, but could not do so without changing the Code. He added that the Wendy's property was forced to stay into their existing square footage. He said that Staff's intention was to market the properties to get people to develop and to give them the flexibility to add more to the property. He said that for this property, we were forcing them into the existing structure. He reiterated that ideally, Staff's recommendation would be to have something different built; however, that statement was made prior to the petitioner stating that contractually that was not an option.

MAYOR SIMONE questioned how long it would take to change the Code to have the property advertised and to find a possible new interest in the property.

DIRECTOR ZISKAL stated that because of the approval process of a Zoning Code, any change to the Code would need to be reviewed by the DRC, P&Z Board and the City Commission for multiple readings. He said that it was on average, a three month approval process from the time the draft was completed. He stated that it was a gamble waiting for someone else to want to build something bigger on the property.

VICE MAYOR RUZZANO explained that previously, Director Ziskal mentioned multiple interests in the property that were turned away because of the conditions of the prior workshop.

DIRECTOR ZISKAL agreed and there were prior interests in the property; however, once they were told they could not tear down the building to build a new structure, the

interest was not pursued.

VICE MAYOR RUZZANO said that the City should put its workshop policy into play.

ATTORNEY FEINER said that he could have his client provide pictures of some of the stations on the phone. He stated that they could supplement the record to the City Clerk tomorrow. He said that there were other prior interests; however, there were not any prior contracts that had been entered into, because the seller asked a very high purchase price. He said that the Code might make something more available to someone, but Staff had no way of knowing whether they would enter into a contract with the sell, especially considering the platting and environmental issues.

CITY ATTORNEY STEINFELD read the decision statement into the record.

Resolution 15-013

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

Yes: 4 - Peerman, Bryan, Talerico and Simone

No: 1 - Ruzzano

B. ID 14-882

CONSIDERATION OF A SPECIAL EXCEPTION USE, TO PERMIT A BANK FACILITY IN THE TOC-G GATEWAY ZONING DISTRICT, LOCATED AT 5700 COCONUT CREEK PARKWAY

All those wishing to speak were sworn in.

COMMISSIONER PEERMAN, COMMISSIONER BRYAN, VICE MAYOR RUZZANO and MAYOR SIMONE stated that they had exparte communication with City Manager Douglas E. Smith and the Director of Economic Development Ben Ziskal.

DIRECTOR OF ENVIRONMENTAL AND ENGINEERING SERVICES BEN ZISKAL explained that this item was for the vacant corner of Coconut Creek Parkway and U.S. 441. He said that this was an abandoned gas station sitting vacant for a number of years. He explained that the petition was to open a brand new BB&T Branch Bank. He noted that the petitioner appeared before the Development Review Committee (DRC), received comments and made the necessary adjustments. He stated that because a new building was proposed, nothing met the Code. He said that the petitioner sought a number of variances and as a result, there were only some minor tweaks to the plan. He stated that there was a true partnership between the developer and the City for what the City envisioned while meeting the needs of the branch bank. He noted that a two story building did not work and a bank with no drive-through did not work. He added that with a drive-through circulation was needed around the entire property, as well as parking on all portions of the entrance to the building. He stated that the variances were granted and Staff was happy. He further explained that the project would include an "In only" off of Coconut Creek Parkway. He said that it was located too close to the intersection at U.S. 441 for an "Out." He stated that "In" would be off of U.S. 441, as well as a right turn only out onto U.S. 441 and a Cross Access Agreement with the property to the north to be able to access each other's property. He noted that the project would include three drive-through lanes, two of which would be full service with Teller service and one would be an ATM only. He said that as part of the agreement with the drive-through facility, the petitioner agreed to close the drive-through only across the street once the facility was up and running. He added that while the building was not by the road, the petitioner did everything to make it face the street and accent the

intersection. He noted that at the Southwest portion of the building there was no hard corner. He said that the double doors were turned to face the intersection so both frontages seemed like a front. He stated that Staff fully supported this project and recommended approval. He noted that there was an elevation available for viewing.

COMMISSIONER TALERICO asked whether approval would be without the drive-through facility, because the next item was regarding the drive-through facility.

DIRECTOR ZISKAL explained that the Commission would be approving the special exception for the drive-through facility for the bank. He noted that there would need to be an amendment made to the plat if this item was approved, which was what the next item on the Agenda referred to. He stated that regardless of how this item was decided, the next item became a housekeeping item or a null and void item.

RICHARD SOLOMAN, Architect representing BB&T Bank, was present.

JOHN VOID, Attorney representing the seller, was also present.

MR. SOLOMAN said that he and Mr. Void had no formal comments. He stated that they enjoyed working with Director Ziskal and Staff. He said that they made every attempt to meet the intent of the zoning and felt it would be a win, win situation for the bank and the City.

VICE MAYOR RUZZANO asked what would take place with the BB&T down the street and at Lakewood.

MR. SOLOMAN said that he did not know. He noted that the only drive through facility would be across the street, because the other would be closed; however, he was not sure of the other locations.

CITY ATTORNEY EUGENE STEINFELD read the decision statement into the record.

Resolution 15-014

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

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

C. ID 14-886

CONSIDERATION OF A PLAT NOTE AMENDMENT ALLOWING A BANK DRIVE-THRU FACILITY AT 5700 COCONUT CREEK PARKWAY

CITY ATTORNEY EUGENE STEINFELD asked the applicant if he agreed to waive a formal Quasi-Judicial determination of this matter, and the applicant agreed.

Resolution 15-015

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

Yes: 5 - Peerman, Bryan, Talerico, Ruzzano and Simone

8) DISCUSSION AND POSSIBLE ACTION

A. ID 14-894 SOLID WASTE AND RECYCLING COLLECTION.

CITY ATTORNEY EUGENE STEINFELD stated that this was not for disposal. He clarified that whoever the City had for a franchise hauler, they must dispose of it as provided in the present agreement. He said that no matter what company the City chose as a franchisee, they would have to dispose it as they currently were doing with Wheelabrator.

COMMISSIONER PEERMAN said that she did not want to toss out the RFP. She said that an amendment could be made to negotiate with Waste Management while the RFP was getting finalized. She stated that it sounded to her like the Commission was throwing the RFP out because there were things they did not like on it.

MAYOR SIMONE said that the RFP could change after meeting with Waste Management.

DIRECTOR CHITEPU said that the Commission could make a decision at any time to change anything they wanted on the RFP. He said that he could proceed with negotiating with Waste Management and the RFP and come back to the Commission with the Waste Management and RFP options.

A motion was made by Commissioner Peerman, seconded by Mayor Simone, that this Discussion and Possible Action be approved.

An amendment was made by Mayor Simone, seconded by Vice Mayor Ruzzano, to allow Waste Management the opportunity to speak with the City and simultaneously tweak the RFP.

MAYOR SIMONE stated that because Waste Management was not heard at the Workshop, she felt they should have the opportunity to address the Commission.

LUIGI PACE, Waste Management, said that there were competitors in the room that would also want to speak with the Commission about the importance of going out for a Request for Proposal (RFP) He stated that at the past Workshop Staff provided some options. He noted that one option was to opt out of the Waste Management contract; however, he presented a third option. He explained that the current contract had an option for an extension. He said that Staff's concern was the time limitation, because the current contract term ends on September 30th. He said that he did not have the opportunity to speak with Staff, but suggested that Staff let him know what they wanted so an extension could be negotiated with Waste Management. He stated that if Waste Management was not happy or could not reach a mutual agreement, the City could still go out for an RFP. He asked that Waste Management be allowed 60 days to negotiate, which would be added to the end of the current term to allow the City and Staff to go through the RFP process. He noted that this had been done in other Cities and he hoped to have the opportunity to continue the relationship.

MAYOR SIMONE asked the Director of Environmental and Engineering Services (DEES) Reddy Chitepu whether there would be any harm in talking to Waste Management.

DIRECTOR OF DEES REDDY CHITEPU said that he saw no harm in talking with

Waste Management. He noted that two options were given during the Workshop; to opt to renew with Waste Management or go with the RFP. He explained that the time frame was the deadline of September 30, 2015, and he felt that the process needed to start right now to meet that deadline. He said that if the Commission wanted him to speak with Waste Management and Waste Management was willing to extend the time beyond September 30, 2015, that could be done.

MAYOR SIMONE said that the Commission was in the driver's seat. She stated that if Waste Management did not meet the City's requests, the City could go out for an RFP. She understood that there was the risk of an increase in price; however, she did not feel Waste Management wanted to lose a six year contract over just a few thousand dollars. She felt that the right thing to do was to speak with Waste Management to negotiate and if the City did not like the results, the RFP could still be done. She noted that she still had some issues with going out for the RFP right now, such as not having six days for collection. She said that currently collections were Wednesday and Saturday; Tuesday and Friday; and Monday and Wednesday. She stated that if only collecting five days, extra cost to the City might be incurred because an extra truck would have to be added. She stated that she did not want the RFP going out today because she was not sure it would cost the City more money or affect the employees.

VICE MAYOR RUZZANO stated that because the City currently had a contract with Waste Management, he felt that they were entitled to negotiate. He agreed that the RFP was not ready and he would rather get with the condominiums and find out what was best. He said that after negotiating, if not happy the City could proceed with the RFP.

COMMISSIONER TALERICO mentioned concerns regarding the landfill and Wheelabrator North. He stated that he was a proponent of Waste Energy, which was efficient, clean and did not smell. He noted that the competitors did not buy into Waste Energy, because they wanted to haul the trash to landfills in Central Florida. He stated that he was against that plan and wanted to continue with what the City was doing; therefore, he agreed with negotiating with Waste Management.

TIM BOWERS, Waste Pro, said that he was a competitor of Waste Management. He stated that he wanted the City to go out for bids. He explained that Waste Pro was a privately held corporation based in Orlando, Florida. He noted that they did about \$500,000,000 worth of business and was in seven Southeastern States. He said that in Broward County, Waste Pro served about 150,000 residents in Lauderdale, North Lauderdale, Coral Springs, Hollywood, West Park, Miramar and Pembroke Pines. He added that Waste Pro also served Hillsboro Beach and unincorporated Broward. He noted that the company was here approximately five years and built that base quickly. He explained that in a majority of Cities served, those Cities put out an RFP. He said that when the City put out an RFP all the competitors wanted to provide the best possible service. He stated that when developing an RFP there were options; however, the hauler could be asked to quote the first option for five days a week service with all the identified services wanted. He mentioned option two for six days a week service and noted that all of the haulers will compete and put their prices in; therefore, giving the City the opportunity to look at each option to determine what was specifically wanted in the RFP. He stated that the City would have the opportunity to build the RFP and design it to meet specific needs. He noted that this would be a hauling contract and the haulers would take it where the City wanted. He added that additional services could be built into the RFP, such as awards programs for residents. He stated that multi-family could also be added. He encouraged the City to look at the RFP and the options.

COMMISSIONER TALERICO questioned whether Waste Pro dealt with multi-family.

MR. BOWERS replied that the majority of the contracts included multi-family, and that there was no problem negotiating independently.

CARLOS FERNAND, Progressive Waste Solutions, 2860 State Road 84, Fort Lauderdale, Florida, stated that Progressive Waste was the third largest company in North America. He explained that his company provided solid waste and recycling collection services, as well as material recycling, processing and disposal services in Florida and nationwide including Canada. He encouraged the City to go out to bid and solicit proposals. He said that the most transparent method for this City to get the lowest price and best quality of service was to allow competition. He stated that the City could shape the RFP to how they wanted it structured by setting the parameters and providing options. He said that the City knew what it was getting, but did not know what could be offered. He noted that Progressive Waste Solutions could offer the best quality service for the lowest price.

VICE MAYOR RUZZANO felt that the City was in a good position with the businesses making offers.

COMMISSIONER BRYAN asked what other Cities his company provided service for.

MR. FERNAND said that he handled Broward County Schools, Miami Beach, Bal Harbor, Key Biscayne and Hillsboro County.

JOANNE STANLEY, Republic Services, stated that Republic was the second largest Waste Company in the United States, as well as being a Fortune 300 company. She also encouraged the City to go out to bid for an RFP. She noted that her company provided service in Coconut Creek, Sunrise, Weston, Fort Lauderdale, Lauderhill, Pembroke Park and Palm Beach County. She said that it was a great process to go for an RFP. She noted that Cities across the board and across the country received service rate decreases.

MAYOR SIMONE stated that the City could still go out for an RFP; however, she was asking to give Waste Management a chance to give their pitch.

COMMISSIONER TALERICO mentioned that Mayor Simone did not like some things in the RFP.

MAYOR SIMONE stated that she needed more information; therefore, she wanted to speak with Staff for clarification.

VICE MAYOR RUZZANO said that another Workshop was needed.

COMMISSIONER BRYAN asked whether the Workshop was to have Director Chitepu provide the options of the RFP or to hammer out the RFP.

VICE MAYOR RUZZANO stated that the Commission should tweak the RFP and provide the numbers they wanted.

DIRECTOR CHITEPU said that the Commission could tweak the options and the contractors would come back to the City with the numbers.

MAYOR SIMONE stated that for the multi-family options, the RFP was changed from two 96 gallon carts to one 96 gallon cart for every eight units for recycling. She asked whether it was possible for the multi-family units to have as many containers as they need.

DIRECTOR CHITEPU said that Staff was recommending the minimum, which was more than the two carts. He noted that some complaints were received stating that there was overflowing in the recycling carts. He stated that the communities could contract with the contractor to come up with an arrangement.

RICH POPOVIC, 6066 Winfield Boulevard, noted that the City had never gone out to bid before. He said he had nothing against Waste Management, but he did not like when companies made promises and offering to give things to get the business. He felt that was what Waste Management did and he did not want scholarships and campaign contributions. He said that the process should be open for everyone else.

COMMISSIONER PEERMAN stated that in 2012, the City extended the contract with Waste Management because the City was having five new possible Commissioners that the City did not want to be stuck with the 2012 decision. She said that Waste Management was given a three year contract and was told that the City would go out to bid in 2015. She said that 2012 to 2015 was a long time for Waste Management. She stated that the RFP had some good things. She said that good things in the proposal would cause the other people bidding to go above and beyond that. She noted that she was in support of going out to bid.

CITY MANAGER DOUGLAS E. SMITH explained that in the RFP, the City could create multiple types of options for services. He stated that the companies would then provide the City with pricing for those options. He said that in fairness to Waste Management, they did express an interest in taking with Staff. He stated that he indicated to Waste Management that he would provide them an opportunity to sit down and talk.

PATRICK LAFFEY, 7305 NW 5th Place, asked whether having one company representing the City included the condominium associations that were able to go to bid on their own. He noted that they were previously able to go out to bid their own prices and was concerned that would change.

DIRECTOR CHITEPU said that those were the options being looked into for the RFP. He explained that one option would provide a different rate sheet for single-family units with another rate sheet including the condominiums so that the price comparison could be seen. He noted that there would be multiple options that all the contractors would bid on. He stated that Staff would then evaluate and come back to the Commission to provide information on different options. He said the City could then pick and choose, but only one contractor would be selected. The City would also then decide whether or not to bring in the condominiums.

VICE MAYOR RUZZANO questioned whether the condominiums would be mandated to come in.

DIRECTOR CHITEPU said that it would be up to the Commission to mandate the condominiums to come onto the franchise. He stated that currently, Staff was looking to test the market to determine the rates. He noted that the condominiums would benefit from the City volume while the City would benefit from the condominium volume; therefore, making both rates decrease. He said that if the rates were higher he did not expect the condominiums to join.

VICE MAYOR RUZZANO questioned whether Director Chitepu knew the percentage of multi-family was, and DIRECTOR CHITEPU said that it was approximately 65 percent of the volume.

COMMISSIONER TALERICO asked about commercial hauling.

DIRECTOR CHITEPU said that it was currently handled by the Franchise Agreement with Waste Management. He clarified that the condominiums would pay the same way, but the rate would be defined in the contract. He said that the communication and the billing would remain the same. He added that if going with the RFP, there would still be a single hauler for commercial and residential.

VICE MAYOR RUZZANO questioned how the condominiums would know what they were bidding on when the City sent out the RFP.

DIRECTOR CHITEPU explained that when the rates were received, the City would reach out to the condominiums. He noted that the City was currently talking with the condominiums. He stated that the City already knew how many units were involved if they all joined. He said that if they all did not want to join, the Commission had the option to mandate them to join.

CITY ATTORNEY STEINFELD noted that the City could take some but not all.

VICE MAYOR RUZZANO said that would change the price.

DIRECTOR CHITEPU agreed and explained that during the prior Workshop, numbers were provided as a threshold. He explained that if a certain percentage of condominiums joined, which met the threshold, the City would start with the higher numbers that would defer to the lower rates if the condominiums joined.

CITY ATTORNEY STEINFELD stated that most other municipalities include the condominiums in their Franchise Agreements, which was done by ordinance.

MR. LAFFEY stated that his company had a great rate, and he felt that it was not right to force people to join.

COMMISSIONER TALERICO questioned whether the condominiums negotiated with anyone or just with Waste Management.

DIRECTOR CHITEPU explained that previously Waste Management was the majority hauler. He said that currently some of the communities have different contracts. He clarified that commercial businesses had to be with Waste Management, but the recycling was with the State.

VICE MAYOR RUZZANO said that he never wanted to see the condominiums pay more so everyone else could get a lower rate.

BERTHA SMITH, 569 Banks Road, felt that the City should go out to bid to allow other companies to provide their information.

MAYOR SIMONE agreed with going out to bid; however, she also felt that the City should allow Waste Management an opportunity to speak with the City.

COMMISSIONER TALERICO mentioned extending the contract.

COMMISSIONER PEERMAN said that it was extending the contract, because of the deadline.

VICE MAYOR RUZZANO clarified that it would be extended for two months.

CITY CLERK JOSEPH J. KAVANAGH added the extension time to the amendment, which read as follows:

An amendment was made by Mayor Simone, seconded by Vice Mayor Ruzzano, to allow Waste Management the opportunity to speak with the City by extending the contract for two months while simultaneously tweaking the RFP.

Yes: 4 - Bryan, Talerico, Ruzzano and Simone

No: 1 - Peerman

The roll call on the original motion as amended passed by the following vote:

Yes: 4 - Bryan, Talerico, Ruzzano and Simone

No: 1 - Peerman

ADJOURNMENT

There being no further business, the meeting adjourned at 10:44 p.m.

Respectfully submitted,

Transcribed by Carol DiLorenzo



Joseph J. Kavanagh, City Clerk

Date: 3/19/15