



City of Margate

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Meeting Minutes

City Commission Workshop

Mayor Tommy Ruzzano

Vice Mayor Joyce W. Bryan

Commissioners:

Lesa Peerman, Joanne Simone, Frank B. Talerico

City Manager Douglas E. Smith

City Attorney Eugene M. Steinfeld

City Clerk Joseph J. Kavanagh

Wednesday, January 20, 2016

6:00 PM

Commission Chambers

CALL TO ORDER

Present: 5 - Commissioner Joanne Simone, Commissioner Lesa Peerman, Commissioner Frank B. Talerico, Vice Mayor Joyce W. Bryan and Mayor Tommy Ruzzano

In Attendance:

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

1) PRESENTATION(S)

A. ID 16-0045 BROWARD COUNTY ORDINANCE REGARDING CIVIL CITATION FOR CANNABIS POSSESSION

MAYOR RUZZANO explained that this workshop pertained to a Broward County Ordinance that was passed regarding the possession of Cannabis. He noted that by February 5, 2016, the City had to decide whether to opt in or out of what the County wanted.

COMMISSIONER PEERMAN asked whether there was a cost to the City.

MAYOR RUZZANO replied that there was a Rehabilitation Program required.

CITY ATTORNEY GENE STEINFELD said that he called the County Attorney's office; however, they never called him back.

MAYOR RUZZANO said that he heard the County had to approve the Rehabilitation Program, which would have to be in the City and would need to be regulated. He was not aware of whether it would cost the City money.

COMMISSIONER PEERMAN felt that more information was needed from the County Attorney with an explanation of the Rehabilitation Program.

COMMISSIONER SIMONE said that it did not make a difference to her and she felt that the City should opt out. She stated that her opinion was that illegal was illegal. She said that currently Marijuana was illegal, unless it was 20 grams or less. She expressed

concern with what was being taught to the children who previously were taught to "Just Say No to Drugs", and were now being taught it was okay if you only have a little bit. She asked what would come next and mentioned shoplifting being illegal, but if only shoplifting a little, would it be okay?

COMMISSIONER PEERMAN mentioned the Promise Program at the School Board, which gave a slap on the hand if caught doing something illegal for three chances before doing anything. She felt that the School Board was already teaching the children that there were no consequences to doing something illegal.

COMMISSIONER SIMONE said that people who used Marijuana knew the risks of using it and getting caught, but apparently it was worth it to them. She did not feel that what the County Commission did was okay, and that a big mistake was made in their judgment. She said that people made their own choices and she did not feel that the rules should be softened.

VICE MAYOR BRYAN questioned whether this originated by the Broward Sheriff's Office.

COMMISSIONER PEERMAN said that it was the County Commission and the Sheriff's Office because there were a lot of people who could not pass background checks.

CITY ATTORNEY STEINFELD said that the indication of who would pay for this was in the Ordinance. He stated that Ordinance section 21-6 (D) on the second page under (b) (1) read as follows:

"Alternatively, in lieu of paying the fine specified in Chapter 8½ or performing the public service specified above, a person in violation of this section may elect to participate in a drug Treatment or Educational Program. Any cost of participation in such a drug Treatment or Educational Program shall be paid by the person cited at fees approved by the County Administrator or designated representative."

CITY ATTORNEY STEINFELD clarified that the City would not be paying.

MAYOR RUZZANO understood and asked who the individuals would be paying and where were they going for rehabilitation. He was concerned that the City would have to have a Rehabilitation Center for minors.

CITY ATTORNEY STEINFELD disagreed, because there would be people in Cities that did not have a Rehabilitation Center, but other Cities might have them. He referred to (d) Enforcement – Third Violation, and read the following:

"The recipient also must consent to pay for the cost of participation in Treatment and Educational Programs, if warranted by the Screening."

CITY ATTORNEY STEINFELD stated that the County was going to designate.

COMMISSIONER PEERMAN noted that the Ordinance read, "Regardless of what agency issues a Citation under this section, the County shall administer adjudication."

CITY ATTORNEY STEINFELD said that he would obtain confirmation, but he doubted that every City would have a facility within its municipal limits. He said that if so, there will be facilities and entrepreneurs who would be willing to provide the facilities.

COMMISSIONER TALERICO asked what the current penalty was and what it was

punishable by.

CITY ATTORNEY STEINFELD said that it was a misdemeanor and he would find out the punishment.

VICE MAYOR BRYAN said that when she was a Department of Children and Families (DCF) Advocate, it was hard getting people into these programs because there was no room.

COMMISSIONER SIMONE stated that she did not want to put the City's Police Department and Officers in jeopardy, because they would have to make the determination.

CITY ATTORNEY STEINFELD noted that the punishment was a \$500 fine and 60 days in jail.

MAYOR RUZZANO asked whether there was a limit.

CITY ATTORNEY STEINFELD said that there certainly must be a limit.

COMMISSIONER PEERMAN did not think there was a limit, because you could get caught with a smaller amount and it would automatically be on record.

MAYOR RUZZANO felt that the County was trying to give people a second chance.

POLICE CHIEF DANA WATSON clarified that having less than 20 grams of Marijuana was a misdemeanor, which could be punished by up to a year in prison. He showed what 19 grams of Marijuana looked like rolled into joints, which was equivalent to 25 to 30 joints. He said that this program would allow someone with that amount of Marijuana on them to potentially receive a citation up to three times.

COMMISSIONER TALERICO asked what the present penalty was for 30 or 60 days.

POLICE CHIEF WATSON explained that the Statute for Marijuana was a misdemeanor or felony. He said that a misdemeanor crime was punishable up to a year, and a felony crime was punishable for a year or more. He reiterated that less than 20 grams was a second or third degree misdemeanor, which was a relatively minor charge. He said that for both misdemeanor and felony possessions, the degree was determined by weight and incrementally increased the felony up to a first degree felony when trafficking large quantities of Marijuana. He said that he believed a large quantity was being in possession of more than a user amount.

COMMISSIONER PEERMAN questioned what the street cost was.

POLICE CHIEF WATSON said that it depended on the grade of the Marijuana and he estimated about \$40 to \$50 for a mid-grade Marijuana.

COMMISSIONER PEERMAN asked what the Police Chief's feelings were about the Ordinance.

POLICE CHIEF WATSON said that as a Chief of Police he was here to serve the community. He stated that there were Statutes and Marijuana had been proven to be a drug that affects capabilities to make sound judgments. He said that because it was a crime, a lot of discretion was used when catching someone in possession of a small

amount of Marijuana. He noted that sometimes they were not arrested.

CITY ATTORNEY STEINFELD clarified that a misdemeanor of the second degree was a term not to exceed 60 days in jail or a \$500 fine, and a misdemeanor of the first degree was a term not to exceed one year.

COMMISSIONER PEERMAN asked whether this Ordinance allowed the City to make its own determination providing the amount was less than 20 grams if opting out of the County.

CITY ATTORNEY STEINFELD agreed and asked if that was what the City wanted to do.

COMMISSIONER PEERMAN noted that Coconut Creek was going to do that.

COMMISSIONER TALERICO questioned the rationale for the Ordinance.

CITY ATTORNEY STEINFELD said that it was being done because they did not want to put people in jail for a small amount of Marijuana.

POLICE CHIEF WATSON explained that he reached out to the Assistant County Administrator Alphonso Jefferson, who would be handling the program. He said that he questioned what the Ordinance would do, and Mr. Jefferson replied that Broward County developed the Ordinance to issue a civil citation for a person found in possession of Cannabis less than 20 grams in lieu of an arrest. He questioned why the civil citation was needed, and he replied that the Board of County Commissioners believed that the Ordinance provided individuals an opportunity to avoid receiving a criminal record for a minor offense, which could impact them further in life. He agreed with Commissioner Simone that if an individual was aware that Marijuana was illegal and was in possession, it was a criminal act that the individual could be arrested for.

COMMISSIONER PEERMAN questioned whether Police Officers had discretion when stopping drunk drivers.

POLICE CHIEF WATSON said that technically they could chose not to arrest someone for drunk driving, which was rarely done. He noted that Margate had a policy whereby they arrest people that were suspected of being drunk because of the impact it would create on the community.

COMMISSIONER PEERMAN asked whether the individual would lose their license after three times.

POLICE CHIEF WATSON said that the license could be lost after one time.

COMMISSIONER PEERMAN felt it should be left up to the Margate Police Department. She stated that she was on the fence about calling Marijuana a drug when Alcohol was legal; however, it became illegal when in a car.

POLICE CHIEF WATSON clarified that Alcohol was a legalized drug, and was not legal when operating a vehicle.

COMMISSIONER TALERICO felt that if catching someone with two joints, there might be less likelihood to arrest, versus someone caught with a bag full of joints. He questioned how many people were arrested for a Driving under the Influence (DUI) versus how many were arrested for possession of Marijuana.

POLICE CHIEF WATSON said that it was about even and probably about the same amount.

COMMISSIONER TALERICO noted that currently, the more severe penalty was for the DUI.

POLICE CHIEF WATSON agreed.

COMMISSIONER TALERICO stated that he trusted the judgment of the Police Department and it should be left up to them.

MAYOR RUZZANO agreed with Commissioner Simone. He said that it was an illegal drug and he did not understand how Colorado got away with it being legalized. He asked whether it could be deemed legal in Margate.

CITY ATTORNEY STEINFELD noted that Colorado was a sovereign State under the Constitution; however, the City of Margate was and organized existing under the laws of the State of Florida. He noted that any Statute the State enacted took precedent over Margate's government, if it intended to do so.

COMMISSIONER PEERMAN noted that the State was controlling who could grow and sell Medical Marijuana.

MAYOR RUZZANO felt that the County was setting up the Cities for the legalization of Marijuana.

VICE MAYOR BRYAN stated that the Ordinance allowed any municipality to opt out and read the following:

"The Ordinance allows any municipality to opt out if by majority vote of the governing body of the municipality, has enacted a conflicting Ordinance or has formally elected not to be subject to the Ordinance."

CITY ATTORNEY STEINFELD suggested that the City could opt out to see how it worked and adopt its own Ordinance at a later date.

COMMISSIONER PEERMAN thought that the Commission did want to opt out, leave it to the Police Department's discretion, and revisit it at a later date.

MAYOR RUZZANO questioned whether someone would be arrested if pulled over with one joint.

POLICE CHIEF WATSON said that it depended on the circumstances and it was up to the Officer's discretion. He explained that it depended on why the individual was pulled over and what else was going on. He said that the individual might be arrested for the Marijuana because the Officer suspects something else was going on and it would be a tool to take custody. He said that sometimes more drugs or paraphernalia might then be found, as well as evidence from another crime. He believed the Officers were fair and the discretionary tool worked fine. He added that the discretionary tool could be used for the good of the community as well, when making an arrest of that nature, though it was time consuming and tied up the courts and jail. He stated that if a certain location had people mingling, hanging out and doing drugs but only had one joint, they could be arrested, or a rapport could be built with that group to provide better ideas of what they could be doing.

CITY ATTORNEY STEINFELD questioned whether Notices to Appear could be distributed rather than being arrested.

POLICE CHIEF WATSON agreed and explained that technically, a Notice to Appear was an arrest because they had to appear before a Judge. He said that the individual was not actually going to jail; however, they were being arrested and would have to appear before the Judge. He noted that for a misdemeanor, the individual would probably wind up in a Referral Program.

MAYOR RUZZANO asked whether it was the same discretion for Cocaine.

POLICE CHIEF WATSON stated that possession of Cocaine was a felony.

MAYOR RUZZANO felt that an illegal drug was an illegal drug. He agreed with opting out and asked whether the City could impose a fine for a specific amount of Marijuana.

CITY ATTORNEY STEINFELD said that he would research that, but the City could probably provide for a lesser penalty than the State Statute for a misdemeanor, but that would be done by Resolution.

CONSENSUS was to opt out.

POLICE CHIEF WATSON said that Mr. Jefferson indicated to him that the County put the letter out to see the level of interest throughout the County. He said that it was not important whether or not the City opts out or not, because Broward County was going to proceed with their program. He said that those Cities that wanted to participate could. He stated that he could request something in writing from Mr. Jefferson. He was not sure a Resolution was needed.

CITY ATTORNEY STEINFELD said that the unincorporated area of Broward County encompassed about 18,000 people. He stated that if a BSO Deputy stopped someone in Margate they would have the program available. He clarified that Broward County was saying that wherever the BSO was a primary police force, and wherever there was a contract, such as in Tamarac or North Lauderdale, unless the City specifically opted out, it would happen anyway.

POLICE CHIEF WATSON agreed, but stated that he did not believe that Margate had to opt in or out at this point.

CITY ATTORNEY STEINFELD said that the City needed to opt out, because the Charter of Broward County said that if there was no conflict; County Ordinances were available in municipalities. He said that in essence, if Margate did not opt out the Police Department would have the program, because there was no ordinance in conflict under the County Charter.

COMMISSIONER PEERMAN read from the Ordinance as follows:

"The Ordinance allows for any municipality to opt out if by majority vote of the governing body of the municipality, has enacted a conflicting ordinance or has formally elected not to be subject to the Ordinance."

COMMISSIONER PEERMAN said that by a majority vote, the Commission needed to vote on it.

CITY ATTORNEY STEINFELD agreed and suggested that it be done by Resolution.

COMMISSIONER TALERICO suggested putting it on the next Agenda to opt out.

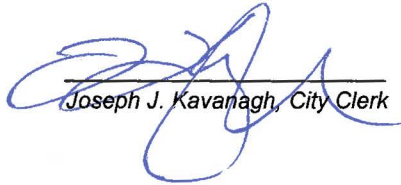
CONSENSUS was given to opt out 5-0.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:36 PM.

Respectfully submitted,

Transcribed by Carol DiLorenzo



Joseph J. Kavanagh, City Clerk

Date: 3/2/16