



# City of Margate

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

## Meeting Minutes

### Regular City Commission Meeting

*Mayor Tommy Ruzzano*

*Vice Mayor Joyce W. Bryan*

*Commissioners:*

*Lesa Peerman, Joanne Simone, Frank B. Talerico*

*City Manager Douglas E. Smith*

*City Attorney Douglas R. Gonzales*

*City Clerk Joseph J. Kavanagh*

---

Wednesday, May 4, 2016

7:00 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 Douglas R. Gonzales

City Clerk Joseph J. Kavanagh

#### PLEDGE OF ALLEGIANCE

A. ID 2016-250 DYLAN KEMP, 7TH GRADE, ABUNDANT LIFE CHRISTIAN ACADEMY

#### 1) PRESENTATION(S)

A. ID 2016-254 CITY OF MARGATE'S 2016 DROP SAVERS CONTEST WINNERS

MAYA SOTO - ABUNDANT LIFE CHRISTIAN ACADEMY - DIVISION 1 CITY WINNER

MRIDULA RAM - MARGATE ELEMENTARY - DIVISION 1 SCHOOL WINNER

RAPHAELA HENRIQUES - ABUNDANT LIFE CHRISTIAN ACADEMY - DIVISION 2 CITY WINNER

COURTNEY VANMEERTEN - MARGATE ELEMENTARY - DIVISION 2 SCHOOL WINNER

KATIA MAURICETTE - ABUNDANT LIFE CHRISTIAN ACADEMY - DIVISION 3 CITY WINNER

MAXIMUS LAPUERTA - MARGATE ELEMENTARY - DIVISION 3 SCHOOL

WINNER

AARON KURZWEIL - ABUNDANT LIFE CHRISTIAN ACADEMY - DIVISION  
4 CITY WINNER

STUDENT AND TEACHER OF THE MONTH PRESENTATIONS WERE HEARD PRIOR  
TO THE NEW CREEK TECHNICAL ACADEMY PRESENTATION.

**STUDENTS AND TEACHERS OF THE MONTH**

ATLANTIC WEST ELEMENTARY SCHOOL TEACHER, MS. BETH MILLER WAS NOT  
PRESENT.

- C. ID 2016-276 ABUNDANT LIFE CHRISTIAN ACADEMY: STUDENT, SAVANNAH KEMP;  
TEACHER, MR ELIJAH SYLVESTER  
(Mrs. Stacy Angier, Principal and/or Mrs. Renate Ramirez, Assistant Principal)

ATLANTIC WEST ELEMENTARY: STUDENT, NATALIE BURMEISTER;  
TEACHER, MS. BETH MILLER  
(Mrs. Diane Eagan, Principal and/or Ms. Jounice Lewis, Assistant Principal)

HEBREW ACADEMY: STUDENT, AHUVA GUTNICK; TEACHER, MRS.  
MARISSA VAIL  
(Mrs. Rivka Denberg, Head of School)

LIBERTY ELEMENTARY: STUDENT, J'NYAH BROOKS; TEACHER,  
NATHANIEL LAUAR  
(Mr. David J. Levine, Principal and/or Donna Styles, Assistant Principal)

MARGATE ELEMENTARY: STUDENT, SIERRA FERRO; TEACHER, MRS.  
ALICIA TARDIF  
(Mr. Thomas Schroeder, Principal and/or Ms. Vicki Flournoy, Assistant Principal)

MARGATE MIDDLE: STUDENT, JEMSEY AMBROISE; TEACHER, MS.  
ELIZABETH JOSEPH  
(Mr. Rod Daniel, Assistant Principal)

RISE ACADEMY SCHOOL OF SCIENCE AND TECHNOLOGY: STUDENT,  
KAYLA BIVOUAC; TEACHER, BEVERLY STONE  
(Dr. Carmella Morton, Principal and/or Ms. Adriana Guerra)

THE MEETING RECONVENED FOLLOWING A BRIEF RECESS.

**PRESENTATION(S) CONTINUED**

- B. ID 2016-266 NEW CREEK TECHNICAL ACADEMY (Presented by Coconut Creek High School  
Principal Scott Fiske)

**PROCLAMATION(S)**

- D. ID 2016-243 NATIONAL SMALL BUSINESS WEEK - MAY 1-7, 2016 (presented to Rebecca Case, Margate Chamber of Commerce)
- E. ID 2016-244 EMERGENCY MEDICAL SERVICES WEEK - MAY 15-21, 2016 (presented to Dan Booker, Fire Chief and Luis Villar, Division Chief)
- F. ID 2016-245 NATIONAL PUBLIC WORKS WEEK - MAY 15-21, 2016 (presented to Sam May, Director, Public Works)
- G. ID 2016-273 NATIONAL DAY OF PRAYER - MAY 5, 2016 (presented to MICAH)

**2) COMMISSION COMMENTS**

COMMISSIONER SIMONE reported that she attended the Greater Fort Lauderdale Alliance Seminar last week regarding Economic Development. She shared a quote by Babe Ruth, "Yesterday's home runs don't win today's games", which she felt was powerful for Margate moving forward with its development. She stated that companies wanted to make announcements and decide when the announcement was made with regard to when they were coming to the City, and did not want the word out before they were able to announce it. She noted that many Cities lost companies because of someone making the announcement prior to the company. She stated that companies would not look at the community if it would not be a win for them, and it could take from six months to six years to complete a project. She said that sustainability was critical economically, environmentally and socially. She explained that companies should be asked what three things were driving the company's decision. She noted that a chart was shown with the different generation's attitude towards careers and decision making preferences including face to face, online, digitally crowd sourced or communication media. She stated that Broward County had a great millennial population and she added that there was also a generation that included those born from 1995 and up; therefore, the City needed to keep those generations in focus when going forward with the developing. She noted that it was not just for this generation that the development was being done, but it was for future generations as well. She stated that it was a good seminar. Commissioner Simone said that she previously mentioned in January that she wanted to change the colors on the wall at Atlantic Boulevard. She said that she spoke with two paint designers who recommended the colors. She handed out color swatches and said that the paint and materials would cost approximately \$6,500 with three weeks labor with a crew of two men. She asked whether the Commission was in agreement to paint the wall.

COMMISSIONER PEERMAN clarified that it would be the entire wall and stated that she had no problem with painting the wall.

VICE MAYOR BRYAN asked whether Commissioner Simone was not happy with the color.

COMMISSIONER SIMONE agreed and said that it was drab and unappealing. She felt that while moving forward with many project, there was no beauty in the wall.

VICE MAYOR BRYAN said that prior to the wall painting, she wanted something to be done with the community on Rock Island Road with regard to broken fences and fences down. She noted that it was a mess down in the Southgate Boulevard area. She wanted

to investigate putting up a wall there, prior to painting the wall on Atlantic Boulevard.

COMMISSIONER TALERICO stated that the wall at Oriole Gardens was green in color, and he asked whether Commissioner Simone wanted to change the whole wall.

COMMISSIONER SIMONE clarified that she wanted the green wall with the dark brown trim on Atlantic Boulevard painted.

COMMISSIONER TALERICO said that he had no problem with the current wall.

MAYOR RUZZANO stated that the wall was painted two years ago with one color, which was then changed to another color. He felt that unless the paint was fading or chipping, he agreed with Vice Mayor Bryan that there were other projects that should be looked at other than repainting a wall that was just painted two years ago.

COMMISSIONER PEERMAN said that the paint color on the walls was Jerry Blough's decision. She said that building a wall on Southgate Boulevard was discussed when the trees were removed, and she suggested directing the City Manager if that was possible. She stated that when the wall was installed in North Lauderdale on Southgate Boulevard the residents had to give part of the property to the City. She noted that there were a lot of issues regarding that. She again suggested having the City Manager look into the ability, logistics and the cost of putting up the wall. She said that she did not care what color the wall was, but she would go with painting the wall.

VICE MAYOR BRYAN wanted to direct the City Manager look into what could be done for the area of Southgate Boulevard and Rock Island Road, which was a disgrace. She reiterated that other issues should be addressed and homeowners should be helped in that part of the community.

CITY MANAGER DOUGLAS E. SMITH said that he would look into that and report back.

COMMISSIONER SIMONE said that she would bring back the issue in a couple of years when the wall did need repainting. She noted that she would keep the colors suggested by Sherman Williams. She clarified that the darker color was for the wall and the lighter color was for the trim.

COMMISSIONER PEERMAN wished the Teachers a Happy Teacher's Appreciation Week. She stated that Yom HaShoa was beginning tonight at Sundown. She explained that in Israel and abroad in England, this was the Holocaust Remembrance Day and was observed as Israel's day of commemoration for the approximate five million Jews and six million others who perished in the Holocaust as a result of the actions carried out by Nazi Germany and its accessories, and for the Jewish resistance in that period. She stated that in Israel it was a National Memorial Day and a public holiday, which was inaugurated in 1953, anchored by a law signed by the Prime Minister of Israel and the President of Israel. She noted that it was held on the 27th of April or May, unless the 27th was adjacent to Sabbath, in which case the date was shifted by a day.

COMMISSIONER PEERMAN thought that the City purchased a team for the Fellowship Golf Class from the Resident Project Fund, but apparently the City did not; therefore, she asked for a consensus to take \$800 from the Resident Project Fund for a team of four people to play in the Fellowship Golf Classic, which was a great organization that deserved the City's support.

A motion was made by Commissioner Peerman, seconded by Vice Mayor Bryan, that \$800 be taken from the Resident Project Fund to sponsor a team for the



**Fellowship Foundation Golf Classic. The motion carried by the following vote:**

**Yes:** 4 - Commissioner Peerman, Commissioner Talerico, Vice Mayor Bryan and Mayor Ruzzano

**No:** 1 - Commissioner Simone

*COMMISSIONER PEERMAN explained that on May 21st, Margate was having its first Tennis Tournament at Firefighters Park for the younger children.*

**A motion was made by Commissioner Peerman, seconded by Commissioner Talerico, that \$2,500 be taken from the Resident Project Fund to sponsor the first Tennis Tournament in the City of Margate.**

*COMMISSIONER PEERMAN explained that Game Set Match (GSM) had great tennis instructors who paid money to the City so they could teach, and this would help to purchase the trophies. She noted that they also asked if the Commission would come out and be part of the Trophy Awards ceremony.*

*MAYOR RUZZANO noted that the Tennis Program was a jewel and the residents should be encouraged to try it.*

*RICH POPOVIC, 6066 Winfield Boulevard, said that he was involved with many youth organizations and noted that they would make money. He said that he did not know why Margate had to finance it because they should make money. He stated that a Baseball and Soccer Leagues that had Tournaments made money, which was why that was done.*

*MITCH PELLECCIA, 6890 NW 9th Street, said that he was not familiar with the Tennis Courts at Firefighters Park, but he assumed some things might have to be accommodated for in terms of viewing. He noted that there would be families and fans that would need a sitting area and he was not sure there was a viewing area, which should be considered.*

*COMMISSIONER PEERMAN noted that it was possible that the \$2,500 could help with putting up benches, etc. She explained that the Tennis Program paid the City of Margate to use the Tennis Courts per student; therefore, they were part of Margate, paid to teach our students and made money. She explained that the money was already paid as her salary, and that it was up to the Commission to decide where it went. She noted that all of the Commissioners cared about the residents of Margate.*

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

**Yes:** 4 - Commissioner Peerman, Commissioner Talerico, Vice Mayor Bryan and Mayor Ruzzano

**No:** 1 - Commissioner Simone

*COMMISSIONER TALERICO welcomed the new City Attorney Douglas R. Gonzales. He mentioned current discussions about covering a field off of Banks Road. He said that there was an unused portion of the Soccer field at Firefighters Park that would be getting*

a concession stand in the future. He mentioned the possibility of putting in a miniature golf course there, which Parks and Recreation Director Mike Jones agreed was the perfect place for one. He asked that the City Manager look into the matter with Mr. Jones. He remembered that years ago there might have been a law pertaining to someone having to replace a portion of fence when someone removed a portion. He said that people were taking down fences and putting up their own fence up, which looked tacky. He asked whether there was still a law stating that fences had to be replaced with the same type of fencing.

CITY ATTORNEY DOUGLAS R. GONZALES said that he would look into that and report back to the Commission.

VICE MAYOR BRYAN welcomed the new City Attorney. She said that she was humbled and honored by the opportunity to read the Proclamation for the Police Memorial in Davie last week, because it was a phenomenal service and she was overwhelmed by the many parts of the ceremony, such as the end with the Motorcycle Officers. She noted that they not only honored the slain officer from each branch of Law Enforcement, but also the dogs. She added that there was the horse without the rider and she said that hundreds of officers were standing in unity and she thanked the Police Chief for inviting the Mayor, who allowed her to fill in.

MAYOR RUZZANO thanked the Vice Mayor for filling in at the event. He noted that last Friday was the Chamber of Commerce Golf Tournament that was awesome. He reminded everyone that the Fourth of July Parade was coming and reminded everyone to enter with the applications that will be coming on the website. He stated that the Mayor's Fitness Challenge was going to be at Margate Elementary School for the Third Graders. He noted that the shirts were not completed yet, and he thanked School Resource Officer Amalin, Principal Schroeder and Mrs. Ruzzano for their help. He stated that the event would be on June 2nd and would have 7 different Third Grade classes in 7 different events with boys and girls. He explained that after the event, the boys and girls would be provided certificates from the school, and the three highest scores from each event would receive a First, Second and Third Place medal. He welcomed the new City Attorney to the City. He explained that he read a story about sexual predators in Margate. He said that he did some research and determined that sexual predators and sexual molesters had to register, and he noted that one City made the predators post a sign on their property. He understood that having a sign up might present a problem when someone was trying to sell their home. He said that he spoke with the City Attorney about the possibility of putting something in an ordinance stating that if moving to Margate, a sign must be installed stating that the person was a sexual predator or molestor, which would allow people to know what was going on.

CITY ATTORNEY DOUGLAS R. GONZALES explained that he was involved in the drafting of the Sexual Violator Ordinances that were adopted throughout Broward County. He said that a lot of them were then poached in Miami/Dade County, and the ordinances were challenged at the Third District Level in Miami and were upheld as Constitutional. He said that the ordinances were on the books and were not challenged very often in court. He stated that Bradford County enacted a policy or ordinance that allowed the Sheriff to post a red sign on each of the sexual predator's properties that says that a sexual predator lived there with the name of the predator. He explained that although the Statute required the City and County to provide notice to residents of the area that there was a sexual predator living there, the Sheriff decided that the residents be constantly notified by putting up a sign. He stated that looking at the Statute would determine whether or not that was appropriate to do. He said that the Statute's intent was to provide for community and public notification concerning the presence of sexual predators. He noted that the

Statute then listed several manners in which that could be done, such as through the Internet, or the State maintaining a database and sometimes Cities had web links to the database so residents could look at the State database to determine where the predators were living. He noted that the Cities also had that type of database, often through the Internet, and it was also posted on the Bulletin Board. He referred to the Section of the Statute regarding Community and Public Notification, which stated that upon notification of the presence of a sexual predator, the Sheriff of the County or the Chief of Police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence, shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the Sheriff or the Chief of Police. He clarified that the Chief of Police had discretion in determining what manner was appropriate to provide notification. He said that as this was a new development in Bradford County, that had not yet been challenged, the Sheriff announced his justification for the notification requirement as a sign. He stated that he was not sure the court would uphold that because he questioned what allowed someone to post a sign on somebody's private property, but it very well may be upheld. He added that the person could then remove the sign from their private property; however, that had not been judicially determined yet. He said that it had not yet been determined if the City could adopt an ordinance or make a policy statement that allowed the posting of a sign on the property of the predators moving into the City, in addition to the continued website and posting on the notice board; therefore, it would probably be permissible, but would be discussed in detail.

MAYOR RUZZANO said that he wanted to know how the Commission felt about it.

COMMISSIONER TALERICO asked the City Attorney to define sexual predator.

CITY MANAGER GONZALES said that the definition was involved, but basically it was a person convicted of a certain egregious violation of Florida Statutes and a crime against an underage person. He explained that regardless of whether the adjudication was withheld or not withheld, and when the victim of the offense was less than 16 years of age, the predator may not reside within 1,000 feet of any school, childcare facility, park or playground. He noted that each of those places was further defined in the Statute. He clarified that someone was a sexual predator if they had been convicted of a violation against a person 16 years of age or younger, whether in the State of Florida or any other State. He reiterated that once convicted, the predator must register with the Florida Department of Law Enforcement (FDLE) and would not be allowed to live within the statutory distance. He added that there were other restrictions that the City was allowed to add in pursuant to the City's ordinance.

COMMISSIONER TALERICO mentioned the Romeo and Juliet Law and said that there were 16 and 18 year old kids in the community whose lives were ruined because they were labeled sexual predators. He stated that a few years back it was found that there were old retired men soliciting sex who were caught and considered sexual predators at that time. He asked what would happen if someone lived in a condo and whether they would have to have a sign on their front door. He felt that a line needed to be drawn and he questioned whether there was a gray area. He questioned whether people would be kept from renting an apartment as well.

MAYOR RUZZANO asked whether the standards could be set for homeowners.

CITY ATTORNEY GONZALES said that the person being regulated was the person defined as a sexual violator. He explained that if wanting to post a notice, limitations would need to be discussed.

MAYOR RUZZANO said that his objective was to deter people from coming to Margate that did not fit the City's standards and were not the types of people wanted.

COMMISSIONER TALERICO replied that he felt bad for those affected by the Romeo and Juliet Law and someone that had consensual sex with someone in high school, but they were considered sexual predators. He questioned when and if the line was drawn.

CITY ATTORNEY GONZALES said that legislation answered that by stating that if the person was of age and had been convicted of a violation against a person less than 16 years of age, that person was a sexual predator.

COMMISSIONER TALERICO noted that rental apartments and condominiums did not allow signs anywhere.

MAYOR RUZZANO said that he was looking for a consensus to move forward with something.

COMMISSIONER PEERMAN said that she would never agree to the sign, because it was her house and her yard.

MAYOR RUZZANO said that the sign could go on the swale.

COMMISSIONER PEERMAN asked whose standards the Mayor was referring to when he said he did not want anybody living in Margate according to standards. She felt that the Mayor did not understand the definition of a sexual predator. She explained a situation with a 18 year old with a 15 ½ year old girlfriend and how the 18 year old could be labeled a sexual predator for the rest of his life.

MAYOR RUZZANO reiterated that he was trying to prevent those people from coming to Margate.

VICE MAYOR BRYAN understood what the Mayor was trying to do; however, she said that the words she was hearing were, "those people", which was slippery slope. She said that when she was with the Department of Children and Family Services, she had to utilize the online system. She stated that she found it hard to understand the concept of what the Mayor was saying.

MAYOR RUZZANO said that he would bring the matter back at another time.

MAYOR RUZZANO stated that he received a letter from the Broward Supervisor of Elections about Abundant Life being a polling place. He noted that the Saint Vincent's polling place would be taken away.

COMMISSIONER PEERMAN clarified that the new location for Precinct 002 was Abundant Life, but it was not all of Saint Vincent's. She said that North Springs and South Springs were moved to Saint Vincent's.

CITY CLERK JOSEPH J. KAVANAGH clarified that he contacted the Supervisor of Elections today after receiving notice, and there seemed to be some confusion as to exactly how this would impact Margate.

MAYOR RUZZANO asked whether the Supervisor of Elections stated that Saint Vincent's was not going to be a polling area.

CITY CLERK KAVANAGH believed that was the interpretation, but it might not be. He said that this was an issue that needed to be researched and looked into, because the notice provided a lack of information.

VICE MAYOR BRYAN noted that there were two polling places at Saint Vincent's.

CITY CLERK KAVANAGH said that working with the City Manager and the City Attorney, Broward Supervisor of Elections could be contacted to obtain a crystal clear interpretation of the impact to Margate for every aspect sometime this week.

MAYOR RUZZANO wished everyone a Happy Mother's Day.

CITY ATTORNEY GONZALES thanked the elected officials for their confidence and the honoring of representing them. He said that he worked very closely with Mr. Steinfeld and hoped to keep things going in a positive direction. He also thanked the City Manager, Nancy and all the Staff for welcoming him. He mentioned that during the Quasi-Judicial items tonight there would be a little change in that he would be reading a script summarizing the obligations under Quasi-Judicial proceedings. He said that if those items were repealed and went to the Circuit Court, he wanted the record to be clear that the Commission was reminded of their obligations under the law.

### 3) PUBLIC DISCUSSION

ARLENE SCHWARTZ, 7800 NW 1st Street, wished everyone a Happy Mother's Day. She stated that she was present on behalf of her neighbors on NW 1st Street. She said that her community had parking issues because the streets were too narrow for both sides of the street to be parked on. She noted that for over 30 years that she lived in her house, she never parked in front of it. She stated that the problem was that there were now "No Parking" signs in the City swale. She provided photographs of the signs and explained that the signs were not visible because of the trees on the City swale, which belonged to the homeowner. She stated that Code Compliance Officer Buchanan showed her that the homeowner was cited in November. She said that in the end of February, a \$250 per day fine was being assessed. She did not think anybody was going to pay \$17,500 to comply. She suggested that Public Works cut the limbs, because it was very dangerous to have parking on both sides of the street. She said that the property owner could then be assessed on their water bill, which would be a smaller amount to pay. She stated that for the neighborhood, it was a life safety issue when people parked there with no penalty because they did not see the signs.

CITY MANAGER DOUGLAS E. SMITH said that he would have Staff look into the matter to assess and determine the correct course of action.

RICK RICCARDI, 4829 South Hemingway Circle, Past President of the Chamber of Commerce, thanked everybody for their participation and support in the Chamber of Commerce Golf event. He also thanked everyone who supported the opening of the Fellowship Recovery Center, which went well. He mentioned that the Prayer event tomorrow was going to be a beautiful night. He thanked everyone for what they were doing for the community.

COMMISSIONER SIMONE added that there were shrubs on Coconut Creek Parkway that were completely covering the "Welcome to Margate" sign.

CITY MANAGER SMITH said that he would have Public Works look into that area as well as NW 1st Street.



MITCH PELLECCIA, 6890 NW 9th Street, passed around a photograph. He stated that there were parking problems all over the City on the narrow streets, because people parked the wrong way on the side of the street and parked right under the "No Parking" signs, which he felt was a police matter. He explained that the photograph was the view outside the window of his home. He stated that he was not complaining, but was pointing out the trees planted on the north side of the Waste Water Plant. He mentioned the project that impacted about 10 homes on the north side of the plant and said that the Department of Environmental and Engineering Services (DEES) worked well with the homeowners and kept them informed of the plans. He added that Director of DEES Reddy Chitepu was very communicative. He showed trees that had never been watered since installed. He said that the plan was to have the trees grow for a barrier of light. He noted that attached to the photograph was what the City paid for approximately 200 yards of trees. He said that he was exasperated with the whole project and began to plant his own trees as a barrier, and was not sure the rain would cure the existing trees because they were in shock. He felt that this was a lesson for the future.

COMMISSIONER SIMONE asked whether there was a warranty for what was planted.

DIRECTOR OF DEES, REDDY CHITEPU said that there was a warranty on the trees; however, he was not sure of the duration and would get back to the Commission.

COMMISSIONER SIMONE stated that it appeared that the dead foliage in the front were shrubs and not trees.

DIRECTOR CHITEPU stated that there was no irrigation in the yard and he would look into the matter. He explained that when the larger trees grew they left an open space on the bottom, which was where a hedge was planted. He noted that it was expected that a certain percentage of those shrubs would die, because there was no irrigation system at the Waste Water Plant. He said that there was an irrigation system around the operations area where the offices were, but not all over the yard. He stated that the winter was wet and there were no rains within the last few weeks. He said that he would look into the matter and take care of it.

MAYOR RUZZANO stated that the trees were dead. He asked how a \$53,000 contract was approved to put in trees when there was no irrigation.

DIRECTOR CHITEPU said that when the trees were planted, the contractor was required to water them for a specific duration. He noted that the contractor had not been paid for some of the trees that died. He added that the contractor replaced the dead trees and they died again; therefore, he reiterated that the contractor was not paid for the trees that died. He stated that the project was not closed out with the contractor because of those issues. He noted that he did not have the details with him to discuss the matter, but would get back with the Commission after looking into the issue.

MAYOR RUZZANO asked who would be liable to replace them, if the City replaced them and they died again.

DIRECTOR CHITEPU agreed that it would be the City.

MAYOR RUZZANO suggested putting in a sprinkler system.

DIRECTOR CHITEPU stated that installing a sprinkler system was being looked into. He explained that there was an old system that was not maintained or used because of the

water conservation issues. He stated that currently, the old system was tied to potable water; therefore, because of water conservation issues, the potable water was being limited for irrigation purposes.

MAYOR RUZZANO asked about the canal.

DIRECTOR CHITEPU said that he was now looking at bringing in a new system, putting a pump on the canal side and changing where the water came in.

MAYOR RUZZANO felt that it was ironic that the Water Plant had dead plants because there was no water.

DIRECTOR CHITEPU understood; however, he reiterated that the irrigation system was not used because of the limiting of the use of potable water.

COMMISSIONER PEERMAN said that the trees in the back had five different trunks coming out of the bottom of them, and she asked if those were the types of trees the City purchased.

DIRECTOR CHITEPU replied that those were the multi-trunk trees, which were native of south Florida and were very common. He noted that they would provide a nice green buffer.

COMMISSIONER PEERMAN said that it looked like bushes rather than a tree because of the trunks, and she felt it was absurd that the City had a water truck that could have watered the trees. She stated that if a resident had dead trees on their property, they would receive a violation. She noted that the problem was the City half started projects. She felt that the project should have been started and completed with the irrigation system being put in at the same time as the trees. She noted that the grass was dead too.

DIRECTOR CHITEPU said that it was Bahia grass, which was used instead of Saint Augustine grass because there was no irrigation system.

COMMISSIONER PEERMAN reiterated that if a resident had dead grass, they would be cited. She noted that prior to the City obtaining the property it was well maintained by the residents.

DIRECTOR CHITEPU explained that once it rained, the grass would come back.

CITY MANAGER SMITH suggested that Director Chitepu be allowed to get details and provide a full report.

RICH POPOVIC, 6066 Winfield Boulevard, mentioned the Community Redevelopment Agency (CRA) and commented on painting and time spent picking colors. He commented on the \$500,000 with regard to the Alzheimer's Family Center and zero accountability.

COMMISSIONER PEERMAN explained that the color paint was chosen by the CRA Board. She replied to Mr. Popovic that there was an investigation being done with regard to the Alzheimer's Family Center. She noted that he was provided with the same explanation at the past meeting, and that the City was being transparent.

ANTHONY CAGGIANO, 7856 NW 1st Street, stated that he had not been given an



answer as to why nothing was said until the debt was \$500,000, rather than when it was \$200,000.

COMMISSIONER PEERMAN replied that from \$200,000 to \$500,000, the City was in negotiations with the Alzheimer's Family Center trying to arrive at a payment plan.

#### 4) CONSENT AGENDA

ITEM 4A was pulled from the Consent Agenda by Mayor Ruzzano.

B. ID 2016-263 MOTION - APPROVAL OF CITY COMMISSION MINUTES

C. ID 2016-260 RESOLUTION - APPROVING THE RELOCATION REIMBURSEMENT AND HOLD HARMLESS, INDEMNIFICATION AGREEMENT WITH FLORIDA POWER & LIGHT COMPANY FOR ELECTRICAL SERVICE TO LIFT STATION 22.

RESOLUTION 16-205

#### Approval of the Consent Agenda

A motion was made by Commissioner Peerman, seconded by Commissioner Talerico, to approve the Consent Agenda. The motion carried by the following vote:

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

THE FOLLOWING IS ITEM 4.A., WHICH WAS PULLED FROM CONSENT AGENDA BY MAYOR RUZZANO FOR DISCUSSION.

4.A. ID 2016-242 MOTION - ACCEPTING THE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED SEPTEMBER 30, 2015.

A motion was made by Commissioner Talerico, seconded by Commissioner Peerman, to approve the motion.

*RICH POPOVIC, 6066 Winfield Boulevard, said that previously the City would receive rewards for Financial Reporting, which were hung on the wall in City Hall. He mentioned the City paying attention to that reporting award, because of losing money. He asked how many Commissioners read the Comprehensive Annual Financial Report (CAFR) and mentioned secret money.*

COMMISSIONER TALERICO explained that the CAFR stated exactly where everything went and there was no secret money.

VICE MAYOR BRYAN added that the CAFR defined everything in plain English. She stated that the Commission did read the CAFR and welcomed the residents to view the CAFR. She commended everyone in the Finance Department, as well as the Finance Director Mary Beazley for their work on the CAFR.

COMMISSIONER PEERMAN also noted that she read the CAFR and was asked questions about it, which she wanted to clarify that the City was not hemorrhaging money.

The motion carried by the following vote:

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

## 5) CITY MANAGER'S REPORT

CITY MANAGER DOUGLAS E. SMITH welcomed the new City Attorney Douglas R. Gonzales. He reported that the no fare bus service showed April's statistics which indicated that overall ridership was up 30 percent. He said that he would follow up with a breakdown of the routes, but noted that all the routes were currently up and over 7 passengers per hour, with the exception of the Saturday A Route. He stated that information was available on the website for the Annual Academic Scholarship Program, supported by Waste Management. He noted that the applications were due by June 9th. He congratulated Fire Battalion Chief Sheila Bennett on her 30 year retirement. He asked for a consensus for supporting the Parks and Recreation Free Fishing Clinic for ages 12 and under, which was in conjunction with the Community Emergency Response Team (CERT) and the Youth Environmental Alliance (YEA). He noted that the event was planned for 9:00 AM to 11:00 AM at Veterans Park. He said that a Hold Harmless and Indemnification would be sought with the outside group. He stated that no money was needed as it was a very low cost event.

CONSENSUS was given and all agreed 5-0.

## 6) RESOLUTION(S)

- A. ID 2016-291 APPROVING SERVICES FROM E SCIENCES, INCORPORATED (E SCIENCES) FOR DEVELOPMENT OF AN ASSESSMENT STRATEGY AND SAMPLING PLAN AND ADDITIONAL SERVICES FOR EAGLE LAKES/PALM LAKES GOLF COURSE IN AN AMOUNT NOT TO EXCEED SEVENTY THOUSAND DOLLARS (\$70,000).

A motion was made by Commissioner Talerico, seconded for discussion by Commissioner Peerman, that this Resolution be approved.

A motion was made by Commissioner Talerico, seconded by Commissioner Peerman, to table this item and direct the City Attorney and the City Manager to find out what needed to be done to get the property,

Commissioner Talerico then withdrew his motion and Commissioner Peerman withdrew her second.

A motion was made by Commissioner Talerico, seconded by Commissioner Peerman, that the Commission direct the City Attorney and City Manager find out exactly what the City had to do to acquire this property.

An amendment was made by Commissioner Simone, seconded by Commissioner Peerman, to include information for both the front and back properties. The amendment carried by the following vote:

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

The motion as amended carried by the following vote:

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

- B.**     ID 2016-119   AUTHORIZING THE RECLASSIFICATION OF THE FUNDING FOR THE ACCOUNTANT POSITION WITHIN THE FINANCE DEPARTMENT; PROVIDING FOR ACCOUNTANT SERVICES TO THE NORTHWEST FOCAL POINT SENIOR CENTER DISTRICT (NWFP), MARGATE COMMUNITY REDEVELOPMENT AGENCY (CRA), AND CITY OF MARGATE.

*RESOLUTION 16-206*

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

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

- C.**     ID 2016-220   RESOLUTION APPROVING THE AWARD OF BID NO. 2016-009 - HOLIDAY SPRINGS BOULEVARD MEDIAN IRRIGATION PROJECT TO SUPERIOR LANDSCAPING & LAWN SERVICE, INC., FOR THE PARKS & RECREATION DEPARTMENT; IN AN AMOUNT NOT TO EXCEED \$76,621.00

*RESOLUTION 16-207*

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

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

- D.**     ID 2016-270   REJECTING BID RECEIVED FOR BID NO. 2016-015 - FURNISH AND DELIVER CIBA ONLY ZETAG AND MAGNAFLOC LT25 FOR THE DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES; PROVIDING FOR REBID FOR THE PRODUCTS AT A FUTURE DATE.

*RESOLUTION 16-208*

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

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

- E. ID 2016-271 AWARDING CITY HALL SECURITY ENHANCEMENT PROJECT TO SHIFF CONSTRUCTION AND DEVELOPMENT, INC. BASED ON THEIR NATIONAL JOINT POWERS ALLIANCE (NJPA) COOPERATIVE CONTRACT NUMBER FL06-022912-SCD, UTILIZING THE COOPERATIVE'S JOB ORDER BOOK PRICING CONTRACT NUMBER 071415-GGI AWARDED TO THE GORDIAN GROUP, INC., NOT TO EXCEED \$41,780.

*RESOLUTION 16-209*

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

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

- F. ID 2016-272 APPROVING PAY GRADE AND RANGES FOR NON-BARGAINING POSITIONS OF TREASURY MANAGER AND CUSTOMER SERVICE SUPERVISOR.

*RESOLUTION 16-210*

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

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

- G. ID 2016-283 APPROVING COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, FLORIDA STATE LODGE (POLICE OFFICERS AND SERGEANTS) FOR THE PERIOD FROM OCTOBER 1, 2015, THROUGH SEPTEMBER 30, 2018.

*RESOLUTION 16-211*

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

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

- H. ID 2016-290 IMPOSING A ONE-CENT PER DOLLAR LOCAL GOVERNMENT INFRASTRUCTURE SURTAX ON ALL AUTHORIZED TAXABLE TRANSACTIONS OCCURRING WITHIN BROWARD COUNTY, FLORIDA, AS AUTHORIZED BY FLORIDA STATE STATUTES AND APPROVED AT A REFERANDUM ELECTION; EFFECTIVE BEGINNING JANUARY 1, 2017.

*RESOLUTION 16-213*

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

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

THE MEETING RECONVENED FOLLOWING A BRIEF RECESS.

## 7) RESOLUTION(S) - QUASI-JUDICIAL HEARING

A. ID 2016-289 RESOLUTION TO APPROVE AUTO USES AT 1690 BANKS ROAD AND 1700 BANKS ROAD

RESOLUTION 16-212  
(Resolution to Deny)

MAYOR RUZZANO stated that this item was a Quasi-Judicial Hearing. He said that if an affected party wished to provide testimony in this matter, they must stand, raise their right hand and be sworn in by the City Clerk. He asked that any Commissioner that engaged in Ex-Parte communications regarding this Quasi-Judicial Agenda item disclose that information.

COMMISSIONER SIMONE stated that she spoke with City Staff.

COMMISSIONER TALERICO stated that he spoke with Mr. Chess and had to recuse himself from this item because he was a tenant and could not discuss this item at all. He stepped away from the dais at 11:45 PM.

VICE MAYOR BRYAN stated that she received a phone call from Mr. Chess, but she told him she could not converse with him if it was anything to do with something coming before the City Commission, and the phone call ended at that point.

MAYOR RUZZANO stated that he had conversation with Mr. Chess and with City Staff.

CITY CLERK JOSEPH J. KAVANAGH noted that he would have Commissioner Talerico fill out the proper paperwork. He then swore in those affected parties wishing to provide testimony.

CITY ATTORNEY DOUGLAS R. GONZALES explained that Item 7.A. was comprised of two possible resolutions; a resolution to approve and resolution to deny. He stated that the following applied to both of those items. He stated that Florida courts have determined that are certain types of matters, including the following applications, which are to be treated differently than other issues considered by the Commission. Most decisions of the Commission are legislative in nature, which means that the City Commission is acting as policy making body. In contrast, in Quasi-Judicial matters, the Commission is applying existing rules and policies to a factual situation, and is therefore, acting like a Judge or Jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. The City of Margate's procedures for Quasi-Judicial Hearings are as follows: All who wish to speak have been collectively sworn in by the City Clerk. The hearing shall be conducted in an informal manner. He stated that he would read the title of the item to be considered, which he already did, and City Staff shall present a brief synopsis of the

application and make a recommendation. He said that next there would be a presentation by the applicant. He stated that the Commission would then hear from participants in favor of and in opposition to the application. He noted that all witnesses were subject to cross examination by the City Staff, City Commission and the applicant, and a participant may request that the Commission ask questions of a witness. He said that the applicant and Staff will make concluding remarks and no further presentations or testimonies shall be permitted, and then the public hearing will then be closed. He stated that all decisions of the Commission must be based on competent substantial evidence presented to it at the hearing. He said that all backup materials provided to the City Commission as part of the Agenda, will automatically be made a part of the record of the hearing, and all approvals will be subject to Staff recommended conditions, unless otherwise stated in the motion for approval.

DIRECTOR OF ECONOMIC DEVELOPMENT BEN ZISKAL explained that this item was for consideration of automobile uses at 1690 to 1700 Banks Road, which was the result of a voluntary restriction on the property. He noted that this item was not a special exception or a rezoning, but a consideration of an amendment to a restriction on the property, as a result of a prior rezoning hearing. He noted that the subject property was two buildings located on the east side of Banks Road, both north and south of NW 17th Street. He stated that the buildings were directly across the street from the Margate Sports Complex and the Banks Business Park. He showed the current zoning map and different zoning configurations. He noted the yellow square in the center of the map, which was the Sports Complex. He pointed out that the Industrial District had two different color codes. He said that one was the M-1 Zoning District, which was red, and the other was the M-1A Zoning District, which was blue. He explained that while a majority of the land on Banks Road had an Industrial Land Use to it, the zoning designations were different in relation to the Sports Complex. He noted that most of the land directly adjacent to the Sports Complex was the blue M-1A Zoning District, which had a limited number of uses in comparison to the M-1 Zoning District. He stated that the subject properties were the two small red squares encircled by the blue M-1A Zoning District. He noted that was a result of a 2005 Rezoning of the two properties from the blue M-1A to the red M-1 Zoning District. He explained that this was done to allow a multitude of different uses on these two properties that previously were not allowed in the M-1A Districts. He mentioned some of the uses included a sign company, printing and photographing companies, contractor's offices and a number of others. He said that during the 2005 Hearing, there was concern about the M-1 red District allowing automobile uses; whereas, the blue Districts did not allow automobile uses. He noted that during that rezoning, the property owner made a voluntary agreement and restriction that no automobile uses would be conducted on this site including automobile repair, small engine repair, body shops and automobile sales agencies. Director Ziskal said that pursuant to City Code, that restriction became a condition of the property owner's approval from that moment. He noted that currently the automobile uses were still prohibited, though all other uses were allowed in the red District. He explained that the existing configuration of the buildings and the existing façades of the building for both the north and south buildings were both warehouse types of buildings, which was very fitting with the industrial uses of the area. He noted that they did not have any garage door rollups for auto repair, sales for auto signs or any evidence of auto uses on either one of the two properties. He stated that directly across the street, the view was the entrance to the Margate Sports Complex and the second view was of a vacant piece of land directly adjacent to the Margate Sports Complex. He noted that the vacant piece was currently owned by the Margate Community Redevelopment Agency (CRA) and was slated for future development of additional recreation opportunities and expansion of the Sports Complex. Director Ziskal stated that Staff's findings were that there were potential impacts of auto uses discussed in 2005. He noted that the discussion weighed heavily



with the Development Review Committee (DRC), the Planning and Zoning (P&Z) Board and the City Commission's determination of whether or not to rezone this property. He explained that the prohibition of the auto uses in the minutes provided in the backup were a determining factor in granting the M-1 uses, and without that prohibition the rezoning might not and should not have been granted, per Staff's recommendation. He added that the restriction on auto uses was a significant part of that rezoning. He stated that the subject property received a little relief in 2013, where additional office uses were granted to the M-1 Zoning District. He said that the property was rezoned to give additional uses and then added office uses, but the automobile restriction was still held as a prohibition. He explained that Staff found that the Margate Sports Complex was one of the most successful and most well-known recreational amenities within the City. He added that the Parks and Recreation Department recently conducted a Master Plan, which called for Sports Complex enhancements and expansion with beautification of the Banks Road corridor. He noted that the CRA Plan promoted additional recreational opportunities while focusing on reducing and eliminating slum and blight conditions. He said that adding additional auto uses to properties that currently did not have those as allowable uses, would be contradictory to the efforts of the City and the CRA Plan. He stated that as a result of those findings, Staff was recommending denial of this petition, and that the property should continue to be prohibited from automobile uses.

STEVEN CHESS, Petitioner and Property owner, being duly sworn, stated that he had no desire to have automobile repair, body work or anything else related. He said that when he received the phone call to lease the space, he initially said no auto sales. He then listened and determined that the company was from Canada and they did only indoor sales. He said that they sent him information and explained that they were not exotic cars, but were regular cars that were of medium to lesser value; however, they were cleaned up beautifully. He noted that the cleanup would not be in his shop or on his property. He stated that he did not want to put his property at risk of losing value, because he was a landlord and wanted to build value. He said that Mr. Ziskal referred back to obtaining the M-1 and M-1A, which was because a company called Progressive Insurance came to him for the same building at 1690 Banks Road wanting to put a drive through inspection station in the space and invest over \$1 million dollars of their money. He noted that their attorney called the City and it was denied, which he found bad business if looking to make Margate a place where you want people to come to do business. Mr. Chess felt what would be better than a Progressive Auto, which was built on Commercial Boulevard and Fort Lauderdale won, while Margate lost. He explained that he rebuilt the building in 2011, and it was empty. He stated that he put \$1.2 million dollars into the building. He explained that there was a component of the building that had 5,000 square feet upstairs, which would not be able to be configured with the downstairs flex space. He said that he and his family then decided to put an Executive Office Center upstairs; whereby, he would have to invest in an elevator, which was part of the \$1.2 million dollars. He said that offices were placed upstairs and people came there to start their business for \$400 a month inclusive except for sales tax. He noted that it was very successful and he was very proud that so many people in the City were starting their businesses there. He said that with regard to the cars, it was auto sales. Mr. Chess read aloud from the past minutes that, "voluntarily putting on the record that we would not have any automobile uses. No paint shops, no automobile shops, no shop and fix uses on the property." He noted that it did not say sales. He noted that recently FedEx was not allowed in to do repairs, which he understood because the City did not want any repairs. He said that he now stood before the Commission asking for auto sales from a Canadian company with an unbelievable plan. He noted that there were no For Sale signs outside and he did not want any For Sale signs in front of his building, which he would police. He explained that there was a car sales company at the other building located at 1700 Banks Road, and had a certificate from the City to operate under the name of CMS Auto.



He noted that the company did not have any cars outside and was permitted by the City. He stated that he was here to straighten out a situation; whereby, he would continue to bring business to Margate. Mr. Chess stated that Cross Fit was there for 2 ½ years but could not make it. He said that as a landlord, he asked them how they wanted to solve the problem because they could not pay rent. He noted that they wanted to get out of the lease. He said he gave them the right to market it themselves because they were still responsible for the lease. He said that he was doing some things, such as trying to help someone who was not doing well in the sports arena, as well as getting a healthy tenant in place that could pay rent and be a good citizen for the City. Mr. Chess asked why the City would want this on 441, when they could have it on Banks Road, which was a secondary road. He reiterated that he did not want to have what was seen across the street from him on Banks Road.

COMMISSIONER PEERMAN questioned how the cars would get into the building.

MR. CRESS said that there was a front door and a back door, which were garage doors because it was a drive through building.

COMMISSIONER PEERMAN noted that it was previously stated by Mr. Ziskal that there were no overhead doors.

MR. CRESS said that was wrong and further explained that the building located at 1700 Banks Road had garage doors in front and back. He noted that the place that had cars had a garage door in the back, but not in the front; however, the building had garage doors in the front. He noted that the tenant was doing exactly what his lease said and he was conducting his business; therefore, Mr. Chess had no problem with him. He asked why the City wanted to prohibit someone who was going to be paying taxes. He noted that Broward Alliance was in favor of this. He said that what was intended was no car repair or car sales outside, which was being proved on 1700 Banks Road, where the company had 3,000 square feet and was doing very well.

COMMISSIONER PEERMAN referred to the map and questioned where the automobile use was.

DIRECTOR ZISKAL replied that the two properties owned by Mr. Chess were the two small red squares in the blue area of the map.

COMMISSIONER PEERMAN clarified that Mr. Chess had somebody who was selling cars in one of the red areas, which he said that he would not have.

MR. CRESS explained that the tenant at 1700 Banks Road came to the City and obtained a business license prior to signing his lease. He clarified that he previously said there would be no automobile repair, but never said automobile sales.

COMMISSIONER PEERMAN asked that Mr. Chess re-read what he read aloud when he first started to speak.

MR. CRESS read, "No automobile uses."

COMMISSIONER PEERMAN noted that automobile sales were an automobile use. She asked how Mr. Chess had automobile sale usage in another building where he said he would not have one in.

MR. CRESS said that before signing a lease, he sent tenants to the City to get

permission. He stated that the City had the last right to say yes or no. He noted that he conferred with Andrew, who did a great job. He said that he was not involved, and that until he signed a lease he had nothing. He stated that if the City said no, it was no.

COMMISSONER PEERMAN asked why Mr. Chess did not say no if stating there would be no automobile uses.

MR. CRESS clarified that it said uses, but did not say sales. He said that he read it to say repairs. He read aloud again, "Automobile uses, no paint shops, no automobile shops, no shop fix uses at all on the property."

COMMISSIONER PEERMAN said that Mr. Chess was saying repairs, but repairs were included when stating no shop fix uses. She stated that automobile uses covered rental, sales and the whole gamut that had to do with automobiles.

MR. CRESS said that it was up to the City, yes or no. He noted that at the end of the day he would rent it to somebody else, because this was not the end of his life. He said that he came to put his case on the table so if he told someone no, and they went further as it was their choice, he did not want to be in the way. He explained that the last time he brought this to the table the answer was no without the opportunity to talk. He said that he did appreciate the opportunity to talk; however, he felt strongly about what he said and felt.

COMMISSIONER PEERMAN said it was probably put on the wrong way.

MR. CRESS said that he felt strongly about the fact that he would not have automobile repair of any type, but why would he not want to have automobile sales, as long as they were not doing repair, which he did monitor. He stated that his lease governed that.

COMMISSIONER PEERMAN asked whether both buildings were under the agreement of no automobile uses.

DIRECTOR ZISKAL agreed.

COMMISSIONER PEERMAN questioned how an automobile sales place was there.

CITY ATTORNEY DOUGLAS R. GONZALES thought that Mr. Chess was saying that the tenant in the other building, that was now conducting automobile sales, obtained a Business Tax Receipt (BTR) from the City. He explained that when an entity received a BTR, it was for the privilege of conducting business in the City. He said that it was not an approval of the particular use that the underlying business was or the location of where that underlying business was. He stated that it was a tax, which was clarified by legislature, for the pleasure of doing business in the municipality.

COMMISSIONER PEERMAN said that the tenant was now doing business in a zoned area where he was not allowed to do business.

DIRECTOR ZISKAL said that this was the first he heard of auto sales there and he would check the BTR records on Monday.

COMMISSIONER PEERMAN noted that if Mr. Chess said no automobile uses, and he was now allowing an automobile use, he would lose two businesses.

COMMISSIONER SIMONE noted that the resolution stated that the conditions of

approval were that vehicles offered for sale or were awaiting repairs shall not be permitted outside. She stated that she had a problem approving this because the approval only stated that they could not be outside, but did not say they were not allowed at all.

MR. CHESS asked whether inside would be okay, but outside was a problem.

COMMISSIONER SIMONE agreed that was what the condition of approval read.

MR. CHESS noted that the resolution should have said auto sales and not auto uses, because he was not doing auto uses, but was doing auto sales.

COMMISSIONER PEERMAN said that the Industrial Zoning District allowed auto uses, such as sales, repair, body shop and painting.

MR. CHESS stated that he did not want auto repair, which could be excluded in the resolution, because he just wanted auto sales.

COMMISSIONER PEERMAN noted that auto sales, was under the umbrella of auto uses.

MR. CHESS understood, but it was excluded the last time based on the fact that there would be no repairs. He reiterated that he had no interest in repairs, because it was a family investment and was a very nice building he invested a lot of money in. He noted that the rent was the same as received by anybody else and was not an inflated amount. He felt that there was no harm in having the auto sales, because it was a good company that guaranteed their sales for a year.

COMMISSIONER PEERMAN said that she had an issue because an exception was made for Mr. Chess to do something else, providing he did not have auto uses, which she felt covered everything.

MR. CHESS explained that the whole world changed. He understood the rules, but the game changed and was now about doing business. He said that to say no was to impede businesses coming to Margate. He asked why people would come to Margate if they could not do business. He noted that people did come to Margate because there was a very good employment district; therefore, he did not understand why there could not be an exception based on the fact that it was a clean business. He said that taxes would be paid and maybe this was the first of many stores from Canada. He asked that the Commission listen, but if they disapproved he would find someone else. He noted that the company did want to come to Margate.

VICE MAYOR BRYAN said that Mr. Chess was advocating for this business so strongly, which she appreciated. She felt that it was clearly stated that auto uses were prohibited. She said that the company could be another Auto Max, but it was too questionable.

MAYOR RUZZANO thanked Mr. Chess for being a business owner in Margate. He understood that things changed and he questioned why the City was so against this. He asked if it was because of what Mr. Chess previously stated.

DIRECTOR ZISKAL explained that the two major findings and the basis for Staff's recommendation of denial was based on its relationship to the Sports Complex. He noted that the blue and red industrial areas were different. He said that anywhere in the red area, besides the two properties owned by Mr. Chess, could have automobile uses. He noted that the blue area portion of Banks Road near the Sports Complex and near the

*Banks Road Business Center had a different zoning specifically prohibiting automobile uses. He said that the rationale for the recommendation of denial was its relation to the Sports Complex, the Margate Parks and Recreation Plan and enhancements at the Sports Complex, and the proposal of adding auto uses to areas that currently did not have auto uses was contrary to the Community Redevelopment Plan.*

*MAYOR RUZZANO noted that the area in red that could sell automobiles encompassed more than 50 percent of the Sports Complex. He asked whether it was an industrial area.*

*DIRECTOR ZISKAL agreed and explained that these were the two different Industrial Districts within the Industrial Land Use. He said one was limited in blue, M-1A.*

*MAYOR RUZZANO understood but said that car sales were expected in an industrial area.*

*DIRECTOR ZISKAL explained that they both had an Industrial land Use, but had two different Zoning Designations with separate lists of permitted uses.*

*MAYOR RUZZANO asked where the City would want to sell automobiles. He felt that this was an industrial area, which was surrounded by other car sales; therefore, he could not understand how the City could deny Mr. Chess the same thing. He questioned whether it was being done because of what he said in the past.*

*DIRECTOR ZISKAL said that the map was zoomed in to the industrial section, but the zoning pattern had abutting properties. He noted that there were commercial properties abutting this property as well. He explained that within the long range Land Use Plan and Zoning Plan, the auto sales would go into the existing red. He said that with an existing long range zoning vision, the two red dots that were Mr. Chess' property would have never been red, but would have stayed blue. He stated that the Zoning map and the list of zoning issues was not a daily decision, but was a long range vision the City had designated for certain Zoning Districts throughout the major corridors whether Atlantic Boulevard, 441, or Banks Road. He noted that this particular section of Banks Road was set aside as the only industrial area within Margate, and within that area there were two separate Zoning Districts. He stated that this would prevent any industrial uses from being directly in the middle of a single family residential neighborhood. He said that there were two very unique and different Zoning Districts within the Industrial.*

*MAYOR RUZZANO asked whether an area on the map near the proposed Downtown area and behind Marathon Gasoline was industrial.*

*DIRECTOR ZISKAL clarified that the area Mayor Ruzzano referred to was 8th Street. He replied that 8th Street was not industrial and had been rezoned to the Transit Oriented Corridor (TOC) City Center Zoning District, but the uses that currently exist were able to continue to operate until such time as the City Center was built.*

*MAYOR RUZZANO said that contradicted the statement of not having housing next to industrial. He stated that 1,200 units were to be approved in the Downtown area that would be on top of industrial.*

*DIRECTOR ZISKAL clarified that 8th Street can continue to be industrial, until the City Center was built.*

*MAYOR RUZZANO asked whether the buildings would have to close down when the City Center was built.*

*DIRECTOR ZISKAL said that there would be no new businesses allowed to enter.*

*MAYOR RUZZANO clarified that there would be no new businesses, but they could continue; therefore, there would be housing next to industrial.*

*DIRECTOR ZISKAL said that some would be grandfathered in; however, he was referring to new businesses.*

*MAYOR RUZZANO did not understand what was wrong with having industrial sales in industrial areas.*

*DIRECTOR ZISKAL stated that this was a policy decision for the Commission to make. He said that there were two distinct Zoning Districts in the industrial area, which were very different. He stated that one allowed auto uses and one does not. He reiterated that the blue properties on the map could not have auto sales on them today. He said that if changing the ordinance and the list of approved uses, it could be changed; however, he reiterated that there were two very distinct Zoning Districts.*

*MAYOR RUZZANO said that he saw Mr. Chess' properties, which were some of the nicest in Margate. He did not feel Mr. Chess would bring garbage into the City. He felt that the decision needed to be made going by the owner of the property and what could and could not be had in that section. He said that Mr. Chess' track record indicated that he kept a great piece of property.*

*DIRECTOR ZISKAL asked the City Attorney to weigh in because the discussion was about what the landlord would regulate based on his tenants. He said that if the landlord was allowed, and the resolution passed for automobile uses, there was nothing that would allow the City from preventing Mr. Chess from having the signage, because the Sign Code allowed signage.*

*MAYOR RUZZANO questioned what was bad about that.*

*DIRECTOR ZISKAL said that he was asking the City Attorney to weigh in on the legality of having a voluntary restriction for one tenant that legally the City may not be able to enforce, such as the Signage Code.*

*MAYOR RUZZANO said that there were Human Signs and asked where the line was drawn. He felt that Mr. Chess was a great asset to the City and to deny him was ridiculous when going by the facts.*

*COMMISSIONER PEERMAN stated that the reason the buildings were red because Mr. Chess asked for the buildings that were in blue at the time, to be turned into red.*

*MAYOR RUZZANO asked whether the City would deny the next person if Mr. Chess sold the property.*

*COMMISSIONER PEERMAN stated that it was in the agreement that Mr. Chess signed.*

*MR. CHESS said that he never signed anything.*

*COMMISSIONER PEERMAN said that Mr. Chess was clear on how he wanted to change the zoning to put what he wanted in the building.*

MR. CRESS said that he had to pay \$100,000 in real estate taxes. He noted that he did nothing wrong but keep the buildings alive. He stated that he did nothing wrong and he kept putting his money where his mouth was.

COMMISSIONER PEERMAN clarified that she did not say he did anything wrong, but was discussing what he said to get the buildings from the blue to the red. She noted that he said no auto uses and no auto repairs.

MR. CRESS agreed.

COMMISSIONER PEERMAN stated that under those conditions, they went to the DRC, P&Z and the City Commission with the condition that Mr. Cress stated that he would not have auto uses, because he wanted to use it in the red area. She said that Mr. Cress now gave permission for auto use in the building, which he said that he would not do.

MR. CRESS said that he understood; however, he did not govern that. He said that he only governed it to the extent of going to the City for the BTR. He noted that the BTR was then reported back to Mr. Ziskal.

MAYOR RUZZANO agreed that when he did his BTR he had to state what type of business he had in his house and was told what he could or could not have at his house. He said that if it got overlooked, he did not blame Mr. Cress for that.

MR. CRESS agreed and said that he did not sign the lease until the tenant had the BTR.

COMMISSIONER PEERMAN stated that Mr. Cress made an agreement to not allow auto uses in the two buildings.

MAYOR RUZZANO agreed, but noted that Mr. Cress was now asking to change that.

COMMISSIONER PEERMAN said that she was basing her decision on what was said in the past. She stated that the only reason he was allowed to have his buildings in the red, was because of what he agreed to.

MR. CRESS asked whether something that happened in 2005, was carved in granite for the rest of his life. He said that he was asking to change. He stated that his two buildings were valued at \$6 million dollars, which made it a widget with a lot of risk involved. He noted that as an owner, investor and a person who did not sleep at night because if the building was not producing income, he would suffer. He stated that he was requesting the change for the goodness of business. He mentioned keeping people from doing business.

COMMISSIONER PEERMAN asked why keeping his word to the proposed tenant was more important than keeping his word to the City.

MR. CRESS stated that he kept his word, because the tenant received the BTR first.

VICE MAYOR BRYAN felt that there was a fine line Mr. Cress was crossing. She reiterated that he agreed that the use would not be there.

MR. CRESS noted that there were no outside sales.

MAYOR RUZZANO stated that automobile use and automobile sales were two different things to him. He felt that it was ridiculous that a man that owned a million dollar business in Margate had to beg and be denied based on something he said in the past.



A motion was made by Mayor Ruzzano to pass Mr. Chess and allow the auto uses on the property, which died for lack of a second.

A motion was made by Commissioner Peerman, seconded by Commissioner Simone, to deny.

*MITCH PELLECCCHIA, 6890 NW 9th Street, being duly sworn, stated that he had no special interest in this project whatsoever. He felt that everyone on the dais made very good points. He said that when discussing changes and decisions made five years ago, with regard to auto-oriented uses, the Commission made those same changes themselves. He spoke the Commission making special exceptions to the Code with regard to other businesses. He noted that the Commission had allowed for auto-oriented uses, though not along Banks Road. He stated that changes happened and the Commission had been known to change with the flow. He felt that the business owner was being denied based on the same philosophy that the Commission allowed others to have. He asked that the Commission examine their philosophy moving forward and to be consistent in that philosophy.*

*MAYOR RUZZANO noted that the public hearing portion of this item was now closed.*

The motion carried by the following vote:

Yes: 3 - Commissioner Simone, Commissioner Peerman and Vice Mayor Bryan

No: 1 - Mayor Ruzzano

Abstain: 1 - Commissioner Talerico

## 8) ORDINANCE(S) - FIRST READING

- A. ID 16-0050 AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$25,000,000 OF THE CITY OF MARGATE, FLORIDA GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016 FOR THE PURPOSE OF REFUNDING A PORTION OF THE ISSUER'S GENERAL OBLIGATION BONDS, SERIES 2007.

A motion was made by Commissioner Simone, seconded by Commissioner Peerman, that this Ordinance - 1st Reading be approved. The motion carried by the following vote:

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

- B. ID 2016-277 AN ORDINANCE TO INTRODUCE THE 11CG ALCOHOL LICENSE FOR GOLF COURSES.

A motion was made by Commissioner Simone, seconded by Commissioner Peerman, that this Ordinance - 1st Reading be approved. The motion carried by the following vote:

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



- C. ID 2016-278 AN ORDINANCE FOR A CITY-WIDE MORATORIUM ON CHARTER SCHOOLS.

A motion was made by Vice Mayor Bryan, seconded by Commissioner Peerman, that this Ordinance - 1st Reading be approved. The motion carried by the following vote:

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

## 9) ORDINANCE(S) - SECOND READING

- A. ID 2016-279 AN ORDINANCE TO PROVIDE PARKING STANDARDS FOR BOLLARDS AND WHEELSTOPS.

ORDINANCE 2016-1500.619

A motion was made by Commissioner Peerman, seconded by Commissioner Simone, that this Ordinance - 2nd Reading be approved. The motion carried by the following vote:

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

- B. ID 2016-280 PROVIDING FOR AUTHORIZATION OF PURCHASES, BID AWARDS, AND CONTRACTS BY THE CITY MANAGER; PROVIDING FOR APPROVAL OF CONTRACTS BY THE CITY COMMISSION; PROVIDING FOR NONAPPLICABILITY TO COOPERATIVE BIDDING, PROVIDING FOR SEVERABILITY; PROVIDING FOR RETROACTIVE APPLICATION; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2016-3

A motion was made by Commissioner Peerman, seconded by Vice Mayor Bryan, that this Ordinance - 2nd Reading be approved on second reading. The motion carried by the following vote:

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

## ADJOURNMENT

*There being no further business, the meeting adjourned at 12:45 PM.*

*Respectfully submitted,*

*Transcribed by Carol DiLorenzo*

  
Joseph J. Kavanagh, City Clerk

Date: 6/1/16

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME TALERICO, FRANK B.		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE MARGATE CITY COMMISSION	
MAILING ADDRESS 5790 MARGATE BLVD, MARGATE, FL 33063		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY MARGATE	COUNTY BROWARD	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED MAY 4, 2016		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

## APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, FRANK B. TALERICO, hereby disclose that on MAY 4, 20 16:

(a) A measure came or will come before my agency which (check one)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_;
- ☐ inured to the special gain or loss of \_\_\_\_\_, by  
whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which  
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

7A) Quasi-Judicial Hearing - Two Resolutions to Consider:

A RESOLUTION OF THE CITY OF MARGATE, FLORIDA, APPROVING AUTOMOBILE USES AT  
1690 BANKS ROAD AND 1700 BANKS ROAD.

OR

A RESOLUTION OF THE CITY OF MARGATE, FLORIDA, DENYING AUTOMOBILE USES AT 1690  
BANKS ROAD AND 1700 BANKS ROAD.

I have a current lease with this landlord for my business.

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.