



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 Arlene R. Schwartz
Commissioners:
Anthony N. Caggiano, Lesa Peerman, Joanne Simone

Interim City Manager Samuel A. May
City Attorney Douglas R. Gonzales
City Clerk Joseph J. Kavanagh

Wednesday, August 30, 2017

7:00 PM

Commission Chambers

CALL TO ORDER

Present: 4 - Commissioner Anthony N. Caggiano, Commissioner Joanne Simone, Vice Mayor Arlene R. Schwartz and Mayor Tommy Ruzzano
Absent: 1 - Commissioner Lesa Peerman

In Attendance:

Interim City Manager Samuel A. May
City Attorney Douglas R. Gonzales
City Clerk Joseph J. Kavanagh

PLEDGE OF ALLEGIANCE

[ID 2017-542](#) GIRL SCOUT TROOP 10269

1) PRESENTATION(S)

- A. [ID 2017-559](#) PRESENTATION OF 6TH ANNUAL ACADEMIC SCHOLARSHIPS BY CITY OF MARGATE, IN PARTNERSHIP WITH WASTE MANAGEMENT (Awarded to Brandon Fogleman, enrolled at University of Florida Gulf Coast , and Payton Mulkey, enrolled at University of Florida)
- B. [ID 2017-563](#) HOME OF THE MONTH - AUGUST 2017

ATHLETES OF THE MONTH

- C. [ID 2017-536](#) BASEBALL: ANGELO PAINTER
(Margate Pony Elite Baseball and Softball, Mustang White Sox)
- SOCCER: DAMIEN MARAJ
(Margate United FC Travel)
- SWIM: ADAM THOMPSON
(Margate Motion Swim Team)

EMPLOYEE RECOGNITION FOR YEARS OF SERVICE

- D. [ID 2017-514](#) VINCENT WAYNE HENDRICKS, TREATMENT PLANT OPERATOR -
DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES - 5
YEARS

MAYOR TOMMY RUZZANO advised that Vincent Wayne Hendricks was unable to attend and therefore, he will be recognized at the next Commission meeting.

2) COMMISSION COMMENTS

COMMISSIONER ANTHONY N. CAGGIANO said that as school is back in session, people should be extra vigilant when driving through the neighborhoods and not be distracted by talking and texting at the wheel of their cars. He hoped everyone had a good summer.

COMMISSIONER JOANNE SIMONE said that everyone should be aware of the devastation in Texas and asked everyone to keep the thoughts and prayers for the family and friends in Texas including a Police Officer, who on his way to work, was swept away in his car. She advised that Mullin's Park in Coral Springs is taking donations which would be greatly appreciated. She everone there is a Neighbors Meeting Neighbors meeting on Thursday, August 31, 2017, and they will be showing the movie "New York Street Games". She advised those who were interested can register with the Parks and Recreation Department and said that it is a good opportunity for neighbors to meet with other neighbors and build rapport in the community.

VICE MAYOR ARLENE R. SCHWARTZ said that she sympathized with the people in Texas and said that those who reside in South Florida who experienced Hurricanes Andrew and Wilma can understand what they are going through. She advised that people can make monetary donations to the Red Cross as they do not have any storage facilities to house goods. She also welcomed various Boy Scout Troop members in the audience.

MAYOR TOMMY RUZZANO proposed streamlining presentations for Students, Teachers and Athletes of the Month. He said the estimated budget, including the bags, is \$6,300 per year. He said that he would prefer to give Students and Athletes a Fire Department t-shirt, four Calypso Cove passes and a \$10 gift card. He said he would like to give Teachers a Fire Department t-shirt and a \$20 gift card and two Calypso Cove passes. He estimated that this would save the City approximately \$2,150 and asked for feedback.

There was general consensus from the Commission to agree to Mayor Ruzzano's proposal.

MAYOR TOMMY RUZZANO wished his daughter Sophia a happy 6th birthday. He said that he is receiving a high volume of calls for the entrance signs at Paradise Gardens I, II, III, and IV. He asked the City Manager if they could set up a meeting at each site and said that they have already discussed redoing entrance signs and using Paradise Gardens as their project. He indicated that he had spoken to Ms. Sanchez and explained to her that the City wanted water cascading illuminated sign to the effect of "Welcome to Paradise Gardens". He also advised that Ms. Sanchez had already installed a new sign at Paradise III.

VICE MAYOR SCHWARTZ referred to the road construction on 31st and 441 and asked what it was for.

DIRECTOR OF ENVIRONMENTAL AND ENGINEERING SERVICES (DEES)
DIRECTOR REDDY CHITEPU advised that it was a Department of Transport (DOT) project going from 31st to the County line.

VICE MAYOR SCHWARTZ said she read that they were widening the sidewalks to 10 feet and putting in a bike line and asked if that was correct.

DEES DIRECTOR CHITEPU said that the work would not encroach onto the pavement and the area of work is on the right of way in the swale area. He also advised that they are running a new fiber optic cabling for the signal system and making other improvements, some of which will be on the surface and some of it will be installed underground. He said he was unaware of the frame time but could find out that information.

MAYOR RUZZANO asked if it was the bike line project from Commercial Boulevard.

DEES DIRECTOR CHITEPU confirmed it was not for this project.

MAYOR RUZZANO asked DEES Director Chitepu if he was aware of the Commercial Boulevard project.

DEES DIRECTOR CHITEPU said that there is another project coming from Commercial Boulevard to Glades Road.

MAYOR RUZZANO asked if the City was involved.

DEES DIRECTOR CHITEPU advised that DOT was responsible for that project, but it will go through the City's review process for potential conflicts such as water or sewer lines.

MAYOR RUZZANO asked if one of the cities did not want to participate, would that affect the project.

DEES DIRECTOR CHITEPU said that as it was the DOT's right of way, they can do it. He referred to a different project and explained that the reason why Rock Island Road was rejected was due to the fact that it belonged to the City.

MAYOR RUZZANO asked if the only way they can conduct the project was by shortening the road.

DEES DIRECTOR CHITEPU said that it depended on whether they have room towards the swale, they can push the curb out or they reduce the lanes. He also advised that there is a Complete Streets program which allows for the requirement of additional lanes and pedestrian walkways. He said Broward County and other counties are participating in that program.

MAYOR RUZZANO said he did not understand the rationale of installing a bike lane with cars doing 50 miles per hour and questioned whether there is a high demand of bike riders in the area.

DEES DIRECTOR CHITEPU explained that this is a regional concept designed to

encourage people to move away from their cars by using bikes.

MAYOR RUZZANO said the hot weather conditions may prove too difficult to encourage additional bike use.

DEES DIRECTOR CHITEPU said that this challenge is discussed at many of the traffic meetings that he attends.

COMMISSIONER CAGGIANO explained that the Interim City Manager took on the role of the Community Redevelopment Agency (CRA) Director as he felt that it was very important to gain the experience and have the ability to make changes in the entire City. He asked the pros and cons of dismantling the CRA, the legal ramifications and economic value of putting everything under the City and how this would avoid a division. He said that it would make sense for the City Manager be in charge of managing the City.

INTERIM CITY MANAGER MAY said that as this is a broad question, he would have to look into it and come back to the Commission with a report.

MAYOR RUZZANO said he was previously advised that the CRA received Tax Increment Financing (TIF).

COMMISSIONER CAGGIANO questioned whether the TIF would be the same amount to run the CRA Department.

INTERIM CITY MANAGER MAY indicated that the TIF was being reduced.

MAYOR RUZZANO said that if they got rid of the TIF money and got rid of the CRA, it would revert back to the City running the City.

3) PUBLIC DISCUSSION

JULIE JONES, 7871 NW 1st STREET, said she agreed with Commission Caggiano 100% about the CRA and would like to see it dismantled and put under the City. She also thanked the Police Department who helped immensely with her car accident. She also thanked Mayor Ruzzano, his wife, Vice Mayor Schwartz and Commissioner Peerman who listened to her when she was stressed out and needed a friend. She also referred to an article on human trafficking by Mitch Pellecchia. She asked whether posters could be put up in the City for that charity.

MARGATENEWS.NET EDITOR, MITCH PELLECCCHIA said that he was contacted by Shoes For Freedom which is a division of ARK of Freedom. He explained that Shoes For Freedom collects new and reasonably used shoes, receives 40 cents per pound and send that money to developing countries to help with poverty. He said the organization states that poverty is the number one cause or at the root of human trafficking. He said he did research on human trafficking and said it is difficult to talk about as it affects people of all ages and they are trafficked like products which is a real problem. He said that although Ms. Jones did not ask him to speak on behalf of the charity, she is asking for some support from the City. He said that 2% of the containers which are received at Port Everglades are inspected and said that there may be humans stuck in those containers.

MAYOR RUZZANO said that he will arrange for someone to contact Ms. Jones.

MITCH PELLECCCHIA, 6890 NW 9TH STREET, said that he gave the City Clerk a letter to distribute endorsing him to represent Paradise Gardens I. He said the sign on

Margate Boulevard for Paradise Gardens I, which is considered the milestone of the City, is ugly. He said that the sign was replaced some years ago and he had a black and white picture which showed cracking in the back paint. He said that the sign sits on a median which is leased for \$1 per year from the City. He also noted that the City has a budget of \$25,000 to help Homeowners Associations (HoA) to improve on signage as the Commission has discussed over many years to make improvements to the entry ways for HoA. He said that his proposal was for the City to engage on a \$1 for \$1 matching grant to have a new beautiful sign. He requested a sign different for Paradise Gardens III and he provided examples and said that the sign would have an estimated cost of between \$3,000-\$5,000. He mentioned a quote from the HoA President of \$5,300 and would appreciate some contribution from the City's budget.

MAYOR RUZZANO asked whether the budget pertains to the City or the CRA. He said he agrees with Mr. Pellecchia 100% as the Paradise Gardens sign situated on Margate Boulevard is one of the biggest monument signs in Margate. He also said that discussions for signs and entry ways have been occurred over the last five years but he has yet to see one. He said the City has over \$1,000,000 as they put it into a separate account a Resource Recovery Board which was supposed to go back to the residents of Margate so if they need to pull \$10,000 from that account, he cannot foresee a problem.

MR. PELLECCCHIA said there is \$25,000 budgeted for this particular initiative in the City of Margate's budget and they would be looking anywhere between \$1,000 - \$2,500 and Paradise Gardens I would put in the other half.

INTERIM CITY MANAGER MAY said that they are in the final phase of processing the wayfinding project for neighborhood signs and is looking for consistency throughout. He hopes his project will be finalized within the next month and said that the median sign at Paradise Gardens I is a top priority as he realizes that it is in bad shape.

MR. PELLECCCHIA asked what he could bring back to the Board of the HoA and asked whether there is any potential of obtaining any money from the budget.

INTERIM CITY MANAGER MAY said they are very proactive to bring neighborhood signs to Margate.

MAYOR RUZZANO said that Mr. Pellecchia is probably requesting clarification that the City would pay for at least half of the sign.

INTERIM CITY MANAGER MAY confirmed at least half or maybe more.

VICE MAYOR SCHWARTZ suggested that the City should partner with the HoA in some aspect.

MR. PELLECCCHIA requested a \$1 for \$1 match and they do not require a fountain.

INTERIM CITY MANAGER MAY said they would consider a water feature for some of the Paradise Gardens locations.

MR. PELLECCCHIA said that the HoA also requires a "No Parking" sign and if the Board is willing to pay 100% for that sign as it is a City street.

INTERIM CITY MANAGER MAY said that the City will take care of that.

MR. PELLECCCHIA asked who would work with the HoA's Board President for the

placement of the "No Parking" sign.

INTERIM CITY MANAGER MAY confirmed that he will request Public Works to work with either Mr. Pellecchia or the HoA Board President. He also advised that the City Engineer and the Police Department would need to be involved.

MR. PELLECCCHIA thanked the Commission and asked about the cost of repairing a curb/soil area within the City. He said that they improved the life of the family that was in that location and the whole community by taking on that project. He thanked Ms. Jones' contribution to helping others.

INTERIM CITY MANAGER MAY said that he is not in receipt of the invoice but thanked Mr. Pellecchia for bringing it to his attention.

VICE MAYOR SCHWARTZ said that for many years, they had a matching program with HoAs and Condos to make improvements with signage with a grant of a 50/50 match.

INTERIM CITY MANAGER MAY said they are very close to finalizing the neighborhood signs which will be brought to the Commission. He said once approved, they can discuss and reach out to all the neighborhoods if they want to be involved.

CARLOS GERHARDT, 7441 SW 1ST STREET, said he has been a proud resident of Margate since 2010 and has increased the value of his property by 250% since his arrival. He said that he has already undergone four projects and is aware of the permit procedure within the City. He said he applied for a variance as his property is adjacent to C-14 canal and has an Easement on that part of his property which is 180 feet. He said he wants to build a pool but the problem is that his property is further back than any other property on the block. He asked the Commission to refer to page 5 which illustrates a graphic. He also asked the Commission to refer to page 3 and read a letter from Associate Planner, Mr. Andrew Pinney, which is also directed to one of the FPL officers. He said that when he applied for the variance, he already submitted the FPL approval. He said that when he contacted Mr. Pinney a few weeks ago, he advised him that everything was fine but received a telephone call from him last week advising that FPL had an objection. He said he believes that Mr. Pinney's email had an influence on the FPL's officer's response and cannot understand why the City officials are obstructing his variance. He explained that his variance was supposed to take place next week but due to the FPL's objection and said that he will probably not be there. He further explained that on page 4 which is the FPL's agreement, it only says FPL whereas the other letters on page 7, it has the name of a person. He said he has yet to receive a letter from Comcast.

CITY ATTORNEY DOUGLAS R. GONZALES advised that this item would come before the Board of Adjustment (BoA) pursuant to the City's rules and it has not been properly advertised.

VICE MAYOR SCHWARTZ asked for clarification from City Attorney Gonzales that this matter is premature as it has not yet come before the BoA.

CITY ATTORNEY GONZALES confirmed that the lack of jurisdiction from this Committee is the issue.

VICE MAYOR SCHWARTZ asked Mr. Gerhardt if he understood that the City Attorney advised that this matter should not be discussed due to the fact that he does not want the Commission to influence the decision before it has been heard by the BoA.

MR. GERHARDT advised that he has not been granted attendance to the Variance Committee meeting.

VICE MAYOR SCHWARTZ advised that the Variance Committee meeting scheduled for September was cancelled due to a lack of Agenda items and believed that the meeting will be rescheduled in the coming weeks.

MR. GERHARDT asked the Commission for an opinion.

VICE MAYOR SCHWARTZ advised Mr. Gerhardt that the Commission would be unable to provide an opinion until after the Variance Committee meeting.

INTERIM CITY MANAGER MAY explained that on previous FPL Easement Agreements, it contained the utility customer, the district's representative and a signature. He said the current Easement which was presented to Mr. Pinney did not detail any of that information. He believed that Mr. Pinney was just clarifying that he had not seen anything but he was not trying to influence FPL one way or the other.

MR. GERHARDT said that if Mr. Pinney wanted clarification, a simple email would have sufficed asking for verification concerning the agreement from FPL. He also asked why the City has a Code on land that does not belong to them.

INTERIM CITY MANAGER MAY confirmed that the City has a Code that can approve a resident's application to build on an Easement and the only way this can be processed is by going through that process. He also referred to the FPL representative, Frank Silva's email stating that the City of Margate had an objection, which is factually incorrect as that information was not detailed in the correspondence that he had received.

MR. GERHARDT said that some documents were missing and he also indicated that Mr. Pinney may have spoken with an FPL representative on the telephone which could have influenced their decision.

INTERIM CITY MANAGER MAY said that it documents that Mr. Pinney tried to speak with the FPL representative but he was unsure whether any conversation took place.

CITY ATTORNEY GONZALES said that they are not being faced with evidence or testimony.

MAYOR RUZZANO asked why they could not discuss this matter further.

CITY ATTORNEY GONZALES said that it was anticipated that the matter could come before the Commission and the discussion should not continue as it was not based on anything that has been noticed properly or testimonial evidence which would be in front of the BoA. He said that he would allow the underlying discussion to occur but advised that the BoA was the entity with the jurisdiction and not the City Commission.

MAYOR RUZZANO questioned why the City was highly recommending FPL not to approve it. He also said that a call needs to be made to Mr. Silva to find out whether he okayed this.

INTERIM CITY MANAGER MAY said that it was the BoA's decision and not the Commission.

DEES DIRECTOR CHITEPU said that the initial agreement from FPL is used for temporary structures such as fences and sheds which go on the Easement. He said that when they were in receipt of that agreement and without the name of the person approving the agreement, they sought clarification as it pertained to a swimming pool which is a permanent structure. He explained that they contacted the FPL Service Engineer for the area in question and asked for his opinion and requested the authenticity of the agreement. He said that there had been a lot of back and forth and before they received the approval from FPL, they tried to schedule that item for September 5th BoA meeting, but subsequently, received a letter of rejection from FPL. He said that he believed that there was a conversation between Mr. Pinney and the FPL representative and Mr. Pinney advised that the City does not allow permanent structures in Easements. He said that the properties along that line that had swimming pools are outside the Easement. He explained that when FPL learned the facts about this application, the FPL representative sent the email stating that they object. He said that when he read the further email from Mr. Gerhardt saying that the City is influencing FPL's decision, the City had no rule as they go by the Code. He said that in those type of circumstances, Mr. Pinney would refer the matter to the BoA.

MAYOR RUZZANO asked what the problem would be if Mr. Gerhardt was to inform FPL he could receive an approval.

DEES DIRECTOR CHITEPU said he sent an email to Frank Silva advising him that they do not have a role in it and sought clarification on FPL's position. He said that if FPL agree, they will schedule this item at the next BoA.

MAYOR RUZZANO said that he did not think it was right for a member of the City to say that they do not permit it.

DEES DIRECTOR CHITEPU explained that the Code does not permit it.

MAYOR RUZZANO said that the Code could be changed. He also asked how someone would feel if they were advised that this Code was against the City and what impact it would have on their decision making.

DEES DIRECTOR CHITEPU said that they provided the facts and they advised FPL that the petitioner was going through the process by obtaining a variance. He also advised that as a staff member, they have to present the facts to the BoA and they have to establish if the owner of the Easement is acceptable to the proposal and in that circumstance, they did not have a definitive answer to present, which caused the delay. He said he will contact them the day after the meeting to seek clarification if they have any further objection and if that was the case, they will schedule that item for the next BoA meeting. He said that if they do not agree to it, then they cannot issue a permit.

MAYOR RUZZANO advised that Mr. Pinney could have asked FPL in a different manner for clarification by asking that a resident wants to build on their Easement and if that is okay with them.

VICE MAYOR SCHWARTZ asked whether FPL had any objections for construction of the underground pool and if the City required FPL's official position on this request.

INTERIM CITY MANAGER MAY said that he does not believe that there are any other cities that can build on Easements and it will always need to go through a BoA and they have to stand behind them in their decision. He said that he is also unaware of the actual conversation with Mr. Pinney and the FPL representative.

DEES DIRECTOR CHITEPU said that the first correspondence to FPL was the email from Mr. Pinney. He said that when the call was received, there was a lot of back and forth concerning the process and Mr. Pinney had to explain the City's position.

MAYOR RUZZANO said that by going back in history of the Commission, he had concerns that many projects are not coming to the Commission's attention and the City had been refusing those projects.

INTERIM CITY MANAGER MAY said that they are just following the Code procedure.

MR. GERHARDT explained that his previous two projects involved Easements which included fencing and he followed the usual procedure but this is the first time he experienced a problem.

INTERIM CITY MANAGER MAY said that they could look into changing that Code by allowing people to build on Easements but the whole point of the process is that you cannot build on an Easement.

VICE MAYOR SCHWARTZ said that at this point, it is irrelevant what the City said as the decision is down to FPL.

MR. GERHARDT said that he is still waiting on a detailed explanation as to why his petition was rejected as he has only received an objection. He was also concerned by the delay as the BoA meeting was cancelled.

VICE MAYOR SCHWARTZ said she would expect FPL to provide that response.

INTERIM CITY MANAGER MAY said that the item was not Agenda.

MR. GERHARDT explained that after a discussion with Mr. Pinney, he was informed that he was going to be scheduled for September but there was an objection from FPL.

DEES DIRECTOR CHITEPU explained that when the item was initially submitted, they were planning to have the item on the September Agenda but when they received the information from FPL, it fell outside the timeline of 10 days so that was the reason why it was not on that Agenda.

INTERIM CITY MANAGER MAY asked if Mr. Gerhardt would be somewhat satisfied if the City called Mr. Silva again to explain the City's process.

MR. GERHARDT said that he would appreciate any effort the City can do for him although he is a little hesitant of what Mr. Silva's response would be. He said that he is unsure when the next meeting will be and he believed that the City was working against him.

INTERIM CITY MANAGER MAY said that during the process, they will do everything they can to stay neutral and they will get them on the first BoA hearing in October 2017 subject to FPL's answer.

MAYOR RUZZANO said that he would like to speak to Mr. Silva.

DEES DIRECTOR CHITEPU said he will follow up with Mr. Silva and talk to the Interim City Manager May.

MAYOR RUZZANO asked Mr. Chitepu to email him if FPL rejects the application.

ELSA SANCHEZ, 6930 NW 15TH STREET, explained that she is the President of the Board at Paradise Gardens III. She explained that a couple of years ago, there was a problem with the roof at the clubhouse and they were experiencing problems with the roofer which subsequently lead to litigation. She said that she was advised that they required a permit to repair the roof. She said that she wanted to thank Mr. Nixon as he granted a permit within 24 hours and instructed Mr. Valentino to work with a roofer. She said they have put new signs up at Paradise III and wanted to know whether there would be any consideration to receive some money for their expense.

DENISE PEREZ, 6073 NW 3RD STREET, said teh Boy Scouts are working on their Citizenship in the Community Merit Badge. She read an extract from one of the Committee's requirement that they should choose an issue that is important to the citizens of Margate. She explained that on the roads, the stop line is setback and you cannot see oncoming cars from the stop line. She said that a year ago, she sought advice from the Police Department. She mentioned a problem with overgrown bushes which blocks her vision of ongoing traffic and pedestrians and asked advice on how to bring this to someone's attention.

MAYOR RUZZANO said that he is aware of this problem and asked about new development adhering to the Sight Triangle.

INTERIM CITY MANAGER MAY confirmed the Sight Triangle and advised that Mr. Chitepu will send an engineering inspector to identify those areas. He also asked Ms. Perez to meet with Mr. Chitepu to identify some of those areas pertaining to bushes and road signs.

4) CONSENT AGENDA

Items listed under Consent Agenda are viewed to be routine and the recommendation will be enacted by one motion in the form listed below. If discussion is desired by the Commission, the item(s) will be removed from the Consent Agenda and will be considered separately. Anyone wishing to comment on any item on the Consent Agenda should approach the podium now. Each speaker is limited to three (3) minutes.

A. [ID 2017-562](#) MOTION - APPROVAL OF CITY COMMISSION MINUTES.

APPROVED

A motion was made by Commissioner Caggiano, seconded by Commissioner Simone, that this be approved on the Consent Agenda. The motion carried by the following vote:

Yes: 4 - Commissioner Caggiano, Commissioner Simone, Vice Mayor Schwartz and Mayor Ruzzano

Absent: 1 - Commissioner Peerman

5) CITY MANAGER'S REPORT

INTERIM CITY MANAGER MAY congratulated the Finance Department for receiving the 2016 Government Finance Officers Association (GFOA) Certificate Achievement for

Excellence in Financial Reporting for Comprehensive Annual Financial Report (CAFR). He mentioned activities taking place in Margate during the month of September:

- Dive-in Movie, "Wild Life" at Calypso Cove on September 9th at 7:00pm*
- Patriot Day Ceremony at Fire Fighter's Parks on September 11th at 9:00am*
- Police Department's Open and Empty Program at Pete's Barbershop re-scheduled for September 12th at 5:00pm*
- DEES Household Hazardous Waste and Electronics Collection and Document Shredding event at Oriole Park on September 23rd from 9:00am – 2:00pm.*

He said there was an allocation of \$7,500 for 2017's Mayor Fitness Challenge and the balance stood at \$3,085.62. He advised that Mr. Schroeder is the representative of three elementary schools; Liberty, Atlantic West and Margate and read an extract from his email. He explained that Mr. Schroeder asked how he should proceed with the remaining balance.

COMMISSIONER CAGGIANO said that the events were awesome and that they should get the remaining balance and roll it over to the following year.

MAYOR RUZZANO said that as a small token of Margate's appreciation, the balance could be divided between the three elementary schools.

INTERIM CITY MANAGER MAY asked if they would want the funds to be utilized for any particular areas or items.

VICE MAYOR SCHWARTZ suggested they take the money and give mini-grants to each one of the three schools. She said that teachers could buy something that is required for the classroom that specifically benefits students and the school. She also indicated that the funds could go towards a particular project which the student or school would not be able to fund for them.

MAYOR RUZZANO mentioned a Teacher of the Year concept to award \$1,000 each.

VICE MAYOR SCHWARTZ said she would prefer a mini-grant to be set up for the schools or for their classroom. She suggested that the funds could be used for a trip to a museum. She said that according to School Board policy, they cannot hold the City's money and recommended they should return the money and then the City should set aside \$1,000 for each of the three respective schools and coordinate with the Principals.

INTERIM CITY MANAGER MAY explained that Mr. Schroeder asked for clarification as to whether the funds should remain for the current year or would the City prefer the funds to be distributed to the three area schools and said that the funds are in the internal accounts.

COMMISSIONER CAGGIANO said that the point is that Mr. Schroeder just wants to know what he should do with the money.

VICE MAYOR SCHWARTZ suggested that for grant applications, the Principals from each respective school should screen the top three and forward them to the City for them to make a decision.

A motion was made by Vice Mayor Schwartz, seconded by Commissioner

Simone, to have Mr. Schroeder return the money to the City, have the City set aside equal funds for each school, coordinate with the Principals to set up a mini-grant program and have it come back to the City Commission for approval.

Yes: 4 - Commissioner Caggiano, Commissioner Simone, Vice Mayor Schwartz and Mayor Ruzzano

Absent: 1 - Commissioner Peerman

6) DISCUSSION AND POSSIBLE ACTION

A. [ID 2017-565](#) CHAPTER 19 - SOLID WASTE AND RECYCLABLES COLLECTION, PROCESSING AND DISPOSAL REVISIONS.

MAYOR RUZZANO explained that this refers to the bulk pick up and the duration as to how long it should be left out at the curbside. He said that some Commissioners were in favor of 24 hours while others were in favor of no more than three days.

DEES DIRECTOR CHITEPU explained that this Ordinance was approved at First Reading but failed at Second Reading. He said the issue was due to the number of days they wanted to keep the items at the curb. He said that they reviewed the Ordinance and it said that the maximum number of days to put out yard waste is seven days. He indicated that from the Code Enforcement point of view, this was not a major concern but the problem was with bulk waste which was being left for up to three weeks. He said that in the current Code, there is no provision in that Ordinance to enforce it so that was the reason why they added the time limit of one day.

COMMISSIONER SIMONE said that she would prefer to leave it as one day.

A motion was made by Commissioner Simone, seconded by Vice Mayor Schwartz, to leave bulk waste as one day.

COMMISSIONER CAGGIANO said that if you cannot put the waste out until 7:00am, this would equate to less than 24 hours for a pick-up time. He said that in the first instance, they need to get the times right and work out what the parameters are.

MAYOR RUZZANO said that the only problem he could foresee was if firemen worked 20/24 hour shifts which would prevent them being available on the collection day and if they put it out two days before, they could possibly receive a fine.

DEES DIRECTOR CHITEPU said that it would not be a fine, it would be a citation. He said that if something was put in the Code, this would assist the Code Officers by notifying the residents. He also said that he would take it from 7:00am the previous day to 7:00am the day of the pick-up so that the residents have 24 hours.

KEVIN CROW, 6820 NW 8TH STREET, said that he recently closed on a property in Margate. He said that he had an issue with the 24 hour bulk day and referred to the waste from trimming a tree.

VICE MAYOR SCHWARTZ advised that tree trimming waste is not considered bulk and this was picked up on the first day of the pick-up for that week. She said that bulk

collection was usually the second pick-up of the beginning of the full first week of the month.

MAYOR RUZZANO asked if yard waste can be placed in the garbage pail.

DEES DIRECTOR CHITEPU said that although they do not recommend it, there was nothing to prevent it.

The motion carried by the following vote:

Yes: 4 - Commissioner Caggiano, Commissioner Simone, Vice Mayor Schwartz and Mayor Ruzzano

Absent: 1 - Commissioner Peerman

THE MEETING RECONVENED FOLLOWING A BRIEF RECESS.

B. [ID 2017-568](#)

DISCUSSION ON CURRENT AND POTENTIAL NEW IMPACT FEE CATEGORIES.

DEES DIRECTOR CHITEPU gave a presentation about Impact Fees and potential government fees. He said that they were going to review what they currently have in comparison to other neighboring cities and the current fee schedule options of picking up additional Impact Fees. He mentioned the following:

- Coconut Creek has Affordable Housing, Public Art and Underground Placement of Utilities
- Coral Springs has Public Art, Water/Sewer
- North Lauderdale has Fire, Parks and Recreation, Water/Sewer and Road and Infrastructure
- Tamarac has Water/Sewer
- Pompano Beach has Parks and Water/Sewer

He explained that going forward, the current schedule for Margate's Water/Sewer fees total \$3,710 and this was last changed in 2008. He said that Police and Fire have a different unit for Residential that were never changed and Non-Residential was changed in 1995 after an Impact Fee study. He mentioned the Public School fee that Margate previously had in their Code which dissolved in 2013. He explained that sunset dates were extended with additional Resolutions. He advised that during this program, the City charged \$100 per unit for one developer and \$110 per unit for two other developers for Residential units only. He said that the \$1600 collected went to Atlantic West, Margate Elementary and Margate Middle. He said that after Liberty Elementary was built, an additional \$9,000 was given to four schools and this was processed through Margate School Advisory Committee and said that consideration could be given to reinstate this.

MAYOR RUZZANO asked for a breakdown of how the money would be used for Affordable Housing.

DEES DIRECTOR CHITEPU explained that other state and federal housing programs supplement the money to the State Housing Initiative Program (SHIP) and Community Development Block Grant (CDBG) program.

MAYOR RUZZANO asked about the Community Redevelopment Agency (CRA) property.

DEES DIRECTOR CHITEPU said he was unsure.

MAYOR RUZZANO asked who determined Underground Placement of Utilities.

DEES DIRECTOR CHITEPU advised that as part of the Code, the developer has to do that as part of the project.

INTERIM CITY MANAGER MAY said that FPL determines this amount or they can get an engineer's cost estimate to expedite the process.

MAYOR RUZZANO asked how the City's fees compares against other cities. He also referred to Public Art.

DEES DIRECTOR CHITEPU said Margate fees are comparable.

CITY ATTORNEY GONZALES explained that when it was first adopted in 1995, it was based upon studies that were carried out in the City of Miramar and they based their fees upon that report. He said that as Miramar updated their study in 2016, he recommended that the City go back to review their rates as according to the American Planning Association policy guide on Impact Fees, this should be updated every two years. He said that as for Public Art, there is a City in Arizona where the developers have sued that particular city for a public art requirement and it is now in the Supreme Court.

MAYOR RUZZANO asked how the City would react to something similar to that nature.

CITY ATTORNEY GONZALES said that he would provide the City with a legal update but advised it would be a matter for the Commission to decide. He said that if the Supreme Court felt it was an inappropriate fee which they adopted, they could be sued and asked to return those fees to any entities that they received the money from and he would advise adding that in.

DEES DIRECTOR CHITEPU explained that on the current fee schedule, they have not undergone a study and is seeking advice from the Commission whether they should. He said that as for Water/Sewer, they undertook a comprehensive study in 2008 and the rates were increased at that time. He said that with Police and Fire, they have not done a study since 1995. Herecommended hiring a rate consultant, look at what they have existing and also, if they want to adopt new categories into Impact Fees, do a study and identify the rates.

MAYOR RUZZANO said that at a meeting around six months ago, they looked into an Impact Fee for development charged by square footage and thought that they just required to find a fund to put the money in.

DEES DIRECTOR CHITEPU said that there were many back and forth discussions and also with the advice of the City Attorney, the City could not establish a rate.

CITY ATTORNEY GONZALES explained that they do not have anyone in the City who is an expert in that field and that it needs to be included in the study subjected to favorable treatment should there be a legal challenge. He said the Planning Department does not have sufficient expertise in the City to determine whether the Impact Fee would satisfy the dual rationale nexus test or the levels of the fees which should be imposed and are

required by law. He mentioned road infrastructure that North Lauderdale has as a Developmental Fee and the same applied to Coconut Creek's Underground Placement of Utilities.

MAYOR RUZZANO recommended that a policy should be put in place rather than wait for the study which could take the government approximately a year to produce and potentially, they could lose the opportunity of new developments.

CITY ATTORNEY GONZALES said that it could subject the City to potential liability as it would not be justifiable. They could get sued and pay attorney fees which would be an expensive proposition. He also indicated that a study would be an expensive proposition. He advised that Miramar took 3 – 4 months before they got their report back.

MAYOR RUZZANO asked if they missed the boat concerning additional Impact Fees for Celebration Pointe.

INTERIM CITY MANAGER MAY said that he believes that they would be receiving Parks and Recreation Impact Fees.

DEES DIRECTOR CHITEPU said that they may have missed the opportunity at Celebration Pointe as the Code makes them look at it at the time of the plat.

VICE MAYOR SCHWARTZ asked about the new townhouses.

MAYOR RUZZANO said that they previously spoke about the unit fees for the townhouses and how much they may have lost out on.

DEES DIRECTOR CHITEPU advised that when it was a boundary Plat for both Phase I and Phase II and said that the Planning Unit Development (PUD) was changed but the Plat remained the same. He said that the Impact Fees are typically collected at the time of the Plat and in this circumstance, was done up to five years ago before Phase I was planned.

VICE MAYOR SCHWARTZ referred to when this was sunsetted and she said that if this was five years ago, this would have applied to them as it would still be in existence under the regulations.

CITY ATTORNEY GONZALES said that he is unsure if that would have been the case as the particular Ordinance which was drafted only applied to three particular developments.

VICE MAYOR SCHWARTZ asked that if it referred to the advisory sunset in 2013 as the Ordinance sunsetted in either 2006 or 2007.

CITY ATTORNEY GONZALES said that was correct and it would have been on completion of them doing the work. He explained that was the reason why no study was done for that one as it was a limited application addressing three different properties.

MAYOR RUZZANO asked how they came up to the \$100 amount.

CITY ATTORNEY GONZALES indicated that it was not an Impact Fee but a fee charged to those particular entities that they agreed upon.

VICE MAYOR SCHWARTZ said that they piggybacked on an Ordinance from another

city.

COMMISSIONER SIMONE mentioned she looked at the City of Oakland where the real estate developers are suing the City over a new law that requires them to set aside funds to Commissions to install Public Art in new residential and commercial builds.

CITY ATTORNEY GONZALES indicated that it may be the same argument being used for the Arizona case and advised that it seemed to be the general argument that is being used about the Public Art requirement. He advised that the underlying issue would be what would be put in the study which would have to address and benefit the community and to a specific piece of property.

COMMISSIONER SIMONE said she thinks Coral Springs received donations from residents for their Public Art and not it was done through fees.

INTERIM CITY MANAGER MAY said that they can do the Underground Utility without a study and can go ahead and draft it up.

CITY ATTORNEY GONZALES said that the reason why that would be justifiable was that the developer would be confronted with a particular cost dollar value of what it would cost to bury the utilities. He said that would be a shifting of the burden of burying utilities onto the developer for the cost of that which he said would be appropriate. He also confirmed that new residents will have to drive on Margate's roads and Broward County would require road way Impact Fees paid directly to them. He also advised that North Lauderdale did that as an additional fee and it also applied to certain developments which took place within their city.

VICE MAYOR SCHWARTZ asked about Celebration Pointe

CITY ATTORNEY GONZALES referred to Celebration Pointe and said that they would be a good community partner and observed the facts and suggested that they could ask them to contribute and help out with the roadways. He said that although he does not expect them to pay an additional fee, he could ask them to.

VICE MAYOR SCHWARTZ suggested if they could make phone calls to other cities and enquire as to how much they charge as opposed to paying for a rate consultant. She also asked about the cost for a rate consultant.

CITY ATTORNEY GONZALES said that Miramar's demographics were different and the 20 year projection will be very different from Margate. He said that he has also looked at other cities pertaining to the same size of Margate but he was not able to identify any that had done a recent study of any of the things that Margate do not have. He said the cost would depend on how many Impact Fees they would be looking to have done but he said that one City paid \$65,000 and another cost about \$45,000. He advised that Government Services Group (GSG) did the City's Fire Assessment and he could ask them for a quote on a study.

VICE MAYOR SCHWARTZ said she thought it would be a driving force as there was so little left to develop apart from the City Center and she would be interested to see if was cost effective. She said that it was a real shame that the City missed the boat on a number of projects.

COMMISSIONER SIMONE said they asked Celebration Pointe to provide a beautiful entrance way with water features and the Commission were told it would be done.

MAYOR RUZZANO referred to Lennar Homes and said that they had a verbal commitment which included a beautiful elaborate water feature entrance way but they misinterpreted it to be inside the building.

VICE MAYOR SCHWARTZ said if that was the case, why did they not pursue it legally.

MAYOR RUZZANO said that they could if it pertained to the same property and they should be getting what they were promised. He also asked that if they had a study done, would it be binding.

CITY ATTORNEY GONZALES said that they could still be sued but part of the evidence in court would show that they went ahead and commissioned the study and that they were in the range of the study.

MAYOR RUZZANO asked about residential property for the Underground Impact Fee.

CITY ATTORNEY GONZALES advised that Coconut Creek's fee did include residential if the value of the property increased by virtue of the improvements by 50% or more, then they are required to bury their utility lines.

MAYOR RUZZANO explained that if a resident improves their home by 50% and then they were informed to make the underground connection that could cost up to \$50,000, this may discourage them away from the project and said that it may not be in good faith to residents.

CITY ATTORNEY GONZALES advised that they could draft up an Ordinance that mirrors Coconut Creek but the Commission can direct them to do a different percentage. He said that a cost shifting fee was different to an Impact Fee and advised that there was a lot of litigation if matters pertained to this. He advised that there was a fine line between a Development Fee and an Impact Fee.

VICE MAYOR SCHWARTZ asked if residents had a right to choose whether FPL buried their power line.

MAYOR RUZZANO said that FPL provided the power line overhead, but if the transformer was on the corner of Atlantic, the resident will have to walk to the end of the street connect to the existing transformer for a substantial fee.

COMMISSIONER CAGGIANO said that it would be wise to fix the property at the time as it is unknown what the final cost would be.

CITY ATTORNEY GONZALES read an extract from the Coconut Creek's Ordinance. He stated that if you are going to demolish more than 50% of a structure, then you would have to comply with the fee payment but if you are demolishing less than 50% of the structure, you are not subject to the fee requirement.

MAYOR RUZZANO recommended that they take it away from residential.

CITY ATTORNEY GONZALES said that they can do that.

VICE MAYOR SCHWARTZ asked for clarification concerning naming a development and whether they can make it a developer fee as it is specific to the development and asked if they would have to come back and insert a name if somebody wanted something

developed.

CITY ATTORNEY GONZALES advised that would be determined to be an improper Impact Fee or a tax. He also said that it has to be consistent with all kinds of planning issues to development of the Impact Fees similar to the Miramar study. He also said that a court may determine the name element as they would be discussing things that would be coming up in the future subject to it being challenged.

VICE MAYOR SCHWARTZ said that the two that Coconut Creek has of not Impact Fees but are development fees because they named the development.

CITY ATTORNEY GONZALES explained that they would identify the development and the cost to bury the utility lines underground for that development and that developer would have to pay that amount to the City or bury their lines and therefore, it was particular to a particular developer due to the cost. He said that they can advise that the City's Code requires that they place their utilities underground. He further said that the approval would be to have an Ordinance in place for that particular development to bury their lines.

VICE MAYOR SCHWARTZ asked if her understanding was that if a particular piece of property was developed, they would now have something that applied regardless of whom and what it was before it was developed.

CITY ATTORNEY GONZALES also said that may actually apply to the CRA property and said that the money can only be used for underground which is subject to audit.

INTERIM CITY MANAGER MAY said that Coconut Creek has a restriction on expending funds and referenced and Ordinance.

CITY ATTORNEY GONZALES stated that an Impact Fee is permitted under a Home Rule authority. He said that he will require direction to go ahead and bring forward an Ordinance similar to Coconut Creek's for Underground Placement and Utilities, without residential component in it, they can look at the Roads and Infrastructure and refer to the one which was done in North Lauderdale and they could also consider Street Lighting.

MAYOR RUZZANO asked about the \$100 per unit for the schools.

CITY ATTORNEY GONZALES explained that if they were going to have an Impact Fee, he recommended that they have a study that advises what the impact would be on their schools. He said that one of the problems they faced was with the education fee, they had excess money and did not know what to do with it and would therefore need to justify it. He said that he could ask GSG to provide a quote for a study.

VICE MAYOR SCHWARTZ asked if they missed out on someone who was interested in building on Banks Road and Coconut Creek Parkway

DEES DIRECTOR CHITEPU said that no application has been received by the City but he would look it up.

INTERIM CITY MANAGER MAY explained that for the existing Parks and Recreation fee, they will get the Underground Placement Utilities Ordinance in place together with the other ones which they have in place.

COMMISSIONER SIMONE asked if the property was in the Transit-Oriented Corridor

(TOC) and if so, it would be a 16 month process.

INTERIM CITY MANAGER MAY said he believed that there are existing units so they would not need to go through that process.

DEES DIRECTOR CHITEPU confirmed that they were getting back some flex units from Celebration Pointe Phase 2 and they are scheduling a meeting with a Planning Council to figure how to distribute it and they will then be able to confirm.

COMMISSIONER SIMONE said that they did not pass the TOC land use amendment but any development that wanted to come into the TOC would be a 16 month process.

DEES DIRECTOR CHITEPU advised that would only apply if they would need to increase number of units and allot it to them. He said that if they are within the already improved units, they do not need to use the land use amendment. He said that he thinks it was in the ETOC Regulations.

VICE MAYOR SCHWARTZ asked if they can apply some of fees regardless of what they call them.

DEES DIRECTOR CHITEPU said that he believed that Phase 1 was submitted to the Development Review Committee (DRC) who requested them to apply for a plat and once received, they can identify the Impact Fees.

INTERIM CITY MANAGER MAY said that they have the Parks and Recreation, Police and Fire and Water/Sewer fees and they can do the Underground Placement Utilities. He also advised that they cannot do a dollar amount per square without having something to expend it on and they previously discussed using this for the Public School fee.

MAYOR RUZZANO said that they discussed this several months ago and that they left it up for the City to advise them where the money could be spent.

INTERIM CITY MANAGER MAY said they are currently looking at other ideas which includes looking at other cities expenditures.

MAYOR RUZZANO said that he understands the situation but asked how Coconut Creek came up with their analysis.

INTERIM CITY MANAGER MAY explained that he is unsure how they came up with the Underground Placement Utility fee but they could do Public Art,. He said the monies are not used, they can give the money back. He said that they could also look at the Public School fee and possibly Affordable Housing and is awaiting direction from the Commission.

MAYOR RUZZANO reiterated that they gave the City direction that they could impose a fee and could not understand why they are seeking further guidance. He advised that if the City came up with a policy, they can vote on it. He said that the City can find other ways to spend the money or come up with the fee.

INTERIM CITY MANAGER MAY said that they are trying to be creative but he does not know of any other avenues.

MAYOR RUZZANO asked if they implemented a \$1 per square foot policy for any development coming into the City and they can come up with how to spend it.

CITY ATTORNEY GONZALES stated that would be an improper fee as it would be similar to tax and the Court would strike that down.

INTERIM CITY MANAGER MAY explained that they could do that initiative and it could go to Parks and Recreation and they could charge for road and infrastructure. He said that they can bring back an Ordinance for First Reading.

VICE MAYOR SCHWARTZ asked if she gave an idea for a dedicated source for Public Schools to fund, would they consider it a proper Impact Fee.

CITY ATTORNEY GONZALES explained that if a study came back and deemed it was appropriate, then yes.

MAYOR RUZZANO asked if the same would apply for a donation of \$1 per square foot for Public Art.

CITY ATTORNEY GONZALES indicated that it would be a problem if it was an Impact Fee but it could be done as a Development Fee and see where it goes.

VICE MAYOR SCHWARTZ said that as no one is building anything, they cannot call it an Impact Fee but it could certainly be called a Development Fee and she also made reference to Cumberland Farms discussion on Public Arts on whether it was implemented.

INTERIM CITY MANAGER MAY said that when they come back, they will change the terminology of Impact Fees to Development Fees for Public Art, Road Infrastructure, Underground Placement and Public Schools.

MAYOR RUZZANO asked if Margate had Easement properties that run through the east side of 441.

DEES DIRECTOR CHITEPU said that there is a drainage Easement by the shopping centers and State Road 7 (SR 7) that drain back into the lake. He also said that there is potentially a drainage Easement in the back where the trees have been cut down and there are other utility Easements along SR 7 along the parcel by where the water and sewer running.

MAYOR RUZZANO asked if a building was going to be constructed whether this would have to go through the City in the first instance on the East side property.

DEES DIRECTOR CHITEPU advised that if roads are dedicated for public use, then it has to go through the platting process but new Easements would need to go back to the City for approval before anything can be built.

VICE MAYOR SCHWARTZ asked if title issues or concerns were due to the Easements from buildings and units.

DEES DIRECTOR CHITEPU said that he was referring to new Easements and dedications such as Celebration Pointe which will need to be platted to the City. He explained that if it was an existing Easement, the developer cannot build on that Easement.

VICE MAYOR SCHWARTZ asked for a definition and asked whether it would be a deal

breaker if the City chose to deny an application.

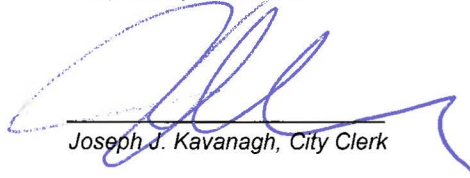
CITY ATTORNEY GONZALES stated it included anything where residents have the ability to go, such as common areas. He explained that under the contract, the City has a good a faith requirement in dealing with them but it did not apply to the current issue. He said that the previous issue to additional units that were being sought at the time. He said that would be a title exception that would have to be resolved.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:11 PM.

Respectfully submitted,

Transcribed by Salene E Edwards


Joseph J. Kavanagh, City Clerk

Date: 11/28/17