

**CITY COUNCIL
PLANTATION, FLORIDA**

February 9, 2011

The meeting was called to order by Councilman Fadgen, President of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Diane Veltri Bendekovic Jerry Fadgen Robert A. Levy Peter S. Tingom Sharon Moody Uria
Mayor:	Rae Carole Armstrong
City Attorney:	Donald Lunny

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2. The invocation was offered by Councilwoman Bendekovic.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Armstrong read a Proclamation designating Saturday, February 26, 2011 as *Arbor Day* in the City of Plantation.

Diana Berchielli, Landscape Director, accepted the proclamation.

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Mayor Armstrong made the following announcements:

- Green Day will be held on Saturday, February 26, 2011 at Liberty Tree Park.
- The Plantation Woman's Club Antique Show will be held at Volunteer Park on Saturday and Sunday, February 19 and 20, 2011 between 9:00 a.m. and 5:00 p.m.
- Tinsel Town Auditions will be held at Volunteer Park on Wednesday, February 23, 2011 between 4:00 p.m. and 7:00 p.m. and Saturday, February 26, 2011 between 9:00 a.m. and 2:00 p.m.
- The Hazardous Waste Event will be on Sunday, February 13, 2011 at the Public Works Compound between 8:00 a.m. and 3:00 p.m.

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Mayor Armstrong presented a State of the City and wants everyone to recognize that this is a “we” message from her and the City Council. This is a time that the Federal, State and County governments are in a state of financial turmoil and because of that it is important for residents to know that in spite of going through the worst recession we have had in this country since the Great Depression that Plantation’s financial position is sound. That does not mean that things are not tight; however, because of good planning and steps that have been taken to contain costs and leverage grant monies spent wisely, Plantation’s position is very sustainable as we continue over the next few years towards recovery. She believes it is important that the residents have an understanding of some facts. Our millage rate in Plantation is 4.5142; it is at the very bottom of the line of all other municipalities in Broward County; it is less than it was in 2006; and has only increased less than one-half of one-tenth of a mill since 2003.

Please do not confuse Plantation’s taxes with County, School Board and other Districts on the tax bill. In spite of the decrease in property values, Plantation’s tax rates have been controlled and finances well managed by the agency that provides residents with the most direct public services.

- This Council has taken steps to control both medical and pension costs and will continue to work to further reduce those obligations. The City of Plantation staff actually started working on those issues long before the financial crisis and before crisis in these areas became public.
- Plantation’s General Fund Pension Plan is 80.1% funded unlike many others that have been reduced to 60% or less. There have been times when this pension plan was overfunded and we have a great expectation that we will get back to that point.
- Tier Two Plans have been put into place for both the General and Police to control costs for the future. It is important to note that our Plantation General and Police employees both make contributions to their contribution plans; the General employees 8.5% and the Police officers 9.5%.
- Medical costs are another area of concern because they escalate. Our medical costs have been contained at less than 3% while the national trend has continued to be 12% and 15%.
- We have eliminated 188 full time and part time positions since 2008 but at the same time no employees have been laid off because of the recession. We have cross trained and are doing more with less.
- There are sufficient General Reserve Funds, restricted and designated reserves, to cover needs in case of an emergency, which was planned, to maintain the City’s Triple A Bond rating. Money was put aside when things were good in order to be able to allow us the ability to see through times that are bad.
- Many hundreds of projects have been completed and significant investments have been made through the infrastructure over the past twelve years including roofs, generators to harden our system for storm protection, air conditioners, Information Technology applications in order to do business more efficiently, parks and buildings such as Police Station, Public Works garage, and the Historical Museum and Library expansions.
- Functional plans were put into place to steer our growth in our business districts, Gateway 7 and Midtown. Because of this body of work we have the ability to hold tight for the next two years, enjoy the work that has been done and to slowly move forward as the economy begins to get back on track, as all trends seem to indicate.
- Property values have decreased but nowhere as great as it has in other areas of Broward County. Because of neighborhood planning, Code Enforcement, building a commercial base for Plantation through investments in Gateway 7 and Midtown, and creating a sense of place through signature programs of street trees, brick entryways, City welcome signs and bus shelters, Plantation’s physical environment and the maintenance of that environment set the standard for all of our municipalities in Broward County.
- We have a plan in place and planning to address aging utilities and stormwater infrastructure and to meet regulatory requirements that are coming in the next few years.

- The Information Technology Department started 12 years ago and today we have a Police Records Management and Computerized Dispatch system that is the envy of all police agencies in Broward County and a GIS that is the backbone of our asset management for Planning, Utilities and Engineering. There are very specific plans as we continue caring and feeding the Information Technology's program and systems.
- Department Directors and the Legal Team have been empowered collectively, they are professional and have the professional skills and leadership quality for good and bad times.
- We have employees who are proud to work for this City. They are cross trained, willing to do more with less and their work ethic has created a culture that provides extraordinary customer service for residents and businesses.
- There are volunteers in this community who are committed to our City. The Fire Department numbers are greater than they have ever been in the past. In Civic Organizations to give donations of time and money, our volunteers are core to who we are and to where we are going to go in the future.
- We have elected officials, both past and present, and those currently running for office, who have dedicated or are willing to dedicate their time to this community.

It is important for the residents to know that the Council and employees have worked through an extremely difficult time in Plantation's history, that they know what has been done and what has been accomplished.

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Councilwoman Bendekovic recognized the Chamber of Commerce for the "Walk Through the Past".

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Item No.'s 21 and 25.

Mr. Lunny read the Consent Agenda by title.

3. Permission for Rick Case Hyundai to have a promotional event from February 17 – February 21, 2011.
4. Request to purchase fifteen sets of firefighting gear from Bennett Fire Products in the amount of \$24,750. (Budgeted – Fire)
5. Request for authorization to purchase a Peerless pump for the Regional Wastewater Treatment Plant deep-well injection pump station from Tom Evans Environmental, Inc., authorized Peerless Pump representative, in the amount of \$56,752.77. (Budgeted – Utilities)
6. Request for approval to continue purchasing corrosion inhibitor CP-837 from Lazenby & Associates at the current price of \$0.579/lb. (Budgeted – Utilities)
7. Request for authorization to continue purchasing scale inhibitor PC 1850T from Nalco Company at a price of \$1.25/lb. F.O.B. for both water treatment plants through December 31, 2011. (Budgeted – Utilities)

8. Request for authorization to continue purchasing anhydrous ammonia from Air Gas Specialty Products, using the Southeast Florida Co-Operative bid# 2008-19 through January 31, 2012, at a cost of \$0.68/lb. (Budgeted – Utilities)

10. Award RFQ for 84th Avenue Transit Mobility and Greenway Improvements to C3TS in the amount of \$222,830.

Ordinance No. 2454

11. **ORDINANCE** Second and Final Public Hearing amending the City of Plantation Comprehensive Plan; revising the Future Land Use Element Policy 1.7.6 regarding Residential Densities in the Residential Land Use Category; providing a savings clause; and providing for an effective date therefore.

Resolution No. 11169

12. **RESOLUTION** for the appointment of an accountant for the City of Plantation's Financial Services Department fixing the annual compensation to be paid for said administrative position; and the appointment of an individual to said administrative position. (Weinstien)

Resolution No. 11170

13. **RESOLUTION** to accept funds from the Office of Domestic Preparedness, Department of Homeland Security, Competitive Grant.

Resolution No. 11171

14. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 982 NW 93 Avenue. (Cavallini)

Resolution No. 11172

15. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 9069 Vineyard Lake Drive. (Krakauer)

Resolution No. 11173

16. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 361 NW 49 Avenue. (Duval)

Resolution No. 11174

17. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 8851 NW 10 Place. (Kaufman)

Resolution No. 11175

18. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 1712 NW 91 Avenue. (Saskin)

Resolution No. 11176

19. **RESOLUTION** reflecting the City's commitment to design and construct the 84th Avenue Public Transit Mobility Project reflected in the Interlocal Agreement for the Redevelopment Capital Program between the City of Plantation and Broward County; providing an effective date therefore.

Resolution No. 11177

20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period January 20 – January 26, 2011.

Resolution No. 11178

21. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period January 20 – January 26, 2011 for the City of Plantation's Community Redevelopment Agency.

Resolution No. 11179

22. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period January 27 – February 2, 2011 for the Plantation Gateway Development District.

Resolution No. 11180

23. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period January 27 – February 2, 2011 for the Plantation Midtown Development District.

Resolution No. 11181

24. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period January 27 – February 2, 2011.

Resolution No. 11182

25. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period January 27 – February 2, 2011 for the City of Plantation's Community Redevelopment Agency.

Motion by Councilman Tingom, seconded by Councilwoman Bendekovic, to approve tonight's Consent Agenda. Motion carried on the following roll call vote:

Ayes: Tingom, Levy, Bendekovic, Uria, Fadgen

Nays: None

NOTE: Mayor Armstrong voted affirmatively on Item No.'s 21 and 25.

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Mr. Lunny read Item No. 9 by title.

9. Approve NSP Properties Buffer Wall Improvement design-build contract to Precast Wall Systems Inc. in the amount of \$45,128.80

An Interoffice Memorandum dated February 3, 2011 to Mayor and Members of City Council from Brett Butler, City Engineer follows:

The subject involves the design and construction of approximately 250 linear feet of 8 feet high decorative precast concrete wall system and associated landscape amenity to buffer two Neighborhood Stabilization Program (NSP) properties from Broward Boulevard. The two properties are located at 8 NW 42nd Terrace and 9

NW 42nd Terrace. The buffer wall improvement will secure the properties from Broward Boulevard and enhance their respective market values.

Section 2-226(f) of the City Code makes provisions for the City to consider circumstances that can arise when the City may determine that competitive procurement is impractical, or there is no need for the City to seek competitive procurement, or the City may determine that there is an overriding public interest to waive competitive procurement. Section 2-226(g) of the Code provides types of cases where formal or informal competitive procurement shall not be required by this Section of Code. It is staff's intention to waive competitive procurement for the subject project and to award a design-build contract to Precast Wall Systems, Inc. by way of "piggy-backing" off an existing City contract for Jacaranda Lakes Buffer Wall Improvements (contract no. 140-09).

Section 2-226(g)(14) makes provisions to consider such instances which may arise from time to time where the City finds there is an overriding public interest to waive bidding. Such is the case with the NSP properties. The properties are bordered to the south by Broward Boulevard, a very busy state thoroughfare. Currently these properties are exposed to the roadway making for unsafe conditions for the occupants of the homes, as well as motorist public due to the close proximity of the homes to the roadway. Staff believes it is in the public's interest to expedite buffering these properties from the roadway.

Section 2-226(g)(5) describes a case where competitive procurement is waived to make purchases based upon prices from contracts executed within the preceding eighteen (18) months of the contemplated purchase by government agencies, including the City. The existing contract for Jacaranda Lakes Buffer Wall Improvements complies with this case.

The proposed buffer wall for the NSP properties will be the same provided through the Jacaranda Lakes Buffer Wall Improvements contract. The contractor's cost proposal follows existing pricing in the contract. Funding for the project is available through Designated Capital.

Therefore, based upon the foregoing information, staff requests the City Council's approval to waive competitive procurement and to award a design-build contract to Precast Wall Systems, Inc. in the amount of \$45,128.80 by way of "piggy-backing" off of the existing Jacaranda Lakes Buffer Wall Improvements Contract No. 140-49. Should you have any questions, please do not hesitate to contact me.

Dennis Conklin, resident, pulled this item because these are walls that are going up around homes in his neighborhood that are basically government owned as a result of the stimulus money. He urged Council not to approve this item, as it is more money for the taxpayers and he feels it is good money after bad. This is not the time for walls.

In response to Councilman Fadgen, Mr. Butler advised that Engineering has not been directly involved with the Administration of the NFP with regard to the two properties in question. Engineering's involvement is restricted to introducing and constructing the buffer wall improvement as an assistance to the properties as well as an assistance to the neighborhood. It should be understood that there has been discussion by the Council in the past regarding buffer walls throughout the City and at this location. The idea is that this is an opportunity to introduce the beginning of what could be an improvement that may extend to the west and improve the neighborhood in its totality in the future.

In response to Councilman Fadgen, Mr. Keefe indicated that these two homes are going to be part of the TARP funds received, which are not stimulus funds; they were from the Bush Administration and the NSP1. The requirement is that 25% be used for low income; therefore, these two homes will actually be owned by the Urban League and they will have the responsibility for 30 years to maintain those homes and also to provide the housing as rental homes for low income families. There will not be any reimbursement, as those homes are owned. There are 11 other homes that have been purchased and resold and as soon as that money comes back in it is reused to purchase additional properties and to put other families in those homes.

Mr. Conklin commented that the TARP funds from the Bush Administration are unconstitutional, as are the stimulus funds.

Mayor Armstrong disagreed with Mr. Conklin and noted that this program has been one of the most meaningful programs in terms of expenditures and has allowed us to do something that we would never have been able to do in the City of Plantation, which is to take derelict properties off of the tax rolls and reposition them in a way that they are not only generating more tax dollars, but at the same time, generating additional tax revenues in the neighborhoods. The properties are benefiting because of the fact they do not have derelict properties in the neighborhood. As far as this particular property and the recommendation to start a program, hopefully it will be funded through grants and other resources to continue in areas that are appropriate along Broward Boulevard. The benefit for the wall system is not just for the two properties in question, it is for all of the homes in the neighborhood and even those further away. She feels this is positive and in the direction to set a tone and create an understanding of what the City's commitment is to the neighborhood and what our future might look like as we continue to promote the projects. She encouraged Council to take this step at this time.

Councilman Fadgen concurred with Mayor Armstrong that the wall does enhance that portion of the neighborhood and he will support it.

Motion by Councilman Tingom, seconded by Councilman Fadgen, to approve Item No. 9. Motion carried on the following roll call vote:

Ayes: Tingom, Levy, Bendekovic, Uria, Fadgen

Nays: None

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ADMINISTRATIVE ITEMS

14. CANAL MAINTENANCE PLANTATION ISLES AND PLANTATION HARBOR UPDATE.

Mayor Armstrong provided a status report and stated that she and Mr. Keefe met with Ann and Larry Ebberts earlier this week and briefed them on the findings. She recognized that there is still an outstanding issue and they will continue to interface with the agencies involved with this process of water management and monitor inspections provided at I-595.

Mr. Keefe referenced a summary from Mr. Butler, Mr. DeCelles and himself. They have met with some vendors to discuss what might have caused the aquatic weeds and if there is any solution to eradicate, control or maintain the weeds going forward. They met with two vendors and one chemical company and also had discussions with several other agencies. The South Florida Water Management District and the Old Plantation Water Control

District believe the cause was climatic; we had a very cold winter that caused the plants to be dormant and a very wet/dry season with a warm/hot summer, which increased the temperatures in the canals as much as 2% and all of these things together caused the outbreak of the aquatic weeds. This was not isolated to Plantation, according to the sources we have talked to this condition was prevalent throughout South Florida, which leads us to believe that the I-595 construction had little, if any, impact of this condition. In speaking to one vendor, they were very insistent that spraying the weeds was a waste of money and would not have any affect because of the tidal influence. In talking to a second vendor, he had a different opinion and felt that there might be some chemicals that could be effective in controlling some of the aquatic weeds and that there is a type of chemical that is systemic and would attach to the aquatic weed plants and stunt their growth or kill them. Since meeting with that vendor, we were put in contact with a chemical company and there was conversation with a representative who we will meet with next week. They believe there might be a program or a type of chemical that might be effective in controlling and maintaining the weeds. After discussion we will need to determine the cost and who is going to pay for it.

Councilman Fadgen commented that the same thing will probably occur next year if the weather conditions are the same.

In response to Councilman Fadgen, Mr. Keefe was not aware whether the water released from the South Florida Water Management District had any impact. One of the vendors did testing, which was requested by the Ebberts, and very little salinity was in the water. He is meeting with a chemical company called SePro to see what type of program could be recommended.

Councilwoman Bendekovic stated that it is very difficult to find a solution without knowing the cause. One of the vendors did comment that some of the cause was I-595; however, his report says the I-595 project is not a contributing factor. She feels that to incur a cost on the homeowners would be up to them at this time. If we start spraying for every waterway the entire City will have to be done.

In response to Councilwoman Bendekovic, Mr. Keefe indicated that based on the information provided, climate was the main cause. The approach is to see if testing can be done to see if it is effective, how often the chemical has to be applied and what the costs are. With regard to spraying, we might want to look at some type of program and that would be a part of stormwater utility.

Councilwoman Uria suggested checking with Owen Duke at the Cornerstone properties, as they are currently spraying their waterways because this is the first year they have had growth. When spraying the fountains have to be turned off for several hours so the water will not move. She believes since they are paying for it that might be something we could watch to see if it works.

Mr. Keefe reminded everyone that that is a different environment; not a tidal waterway.

Mr. Ebberts explained that around July 20, 2010 the canals were infiltrated with vegetation, algae and slime. After a heavy rain the City looked at the canals and reported that they were clear and the problem was gone. In speaking with various agencies everyone said it was not their problem. The Lake Doctor provided a quote to spray the surface algae of six dead-end canals at about \$1,200; however, spraying without determining the cause is not a good idea. Several photographs were taken of the canals and provided during a City Council meeting on August 25, 2010. At that time a meeting was suggested with various agencies as well as a field trip. The City Council was informed that a meeting was scheduled with an I-595 Public Information Officer and an Environmentalist on September 5, 2010. Several people showed up and I-595 reported that the canals had Hydrilla and Hydropila plants growing but they were not the cause; they are fresh water plants. On September

21, 2010 the Ebberts sent an email to Mayor Armstrong advising that they would be out of town between October 14 and 22, 2010 and requested that the meeting not be scheduled during that time. Two days later, September 23, 2010, an email was received from Mr. Keefe stating that a meeting was scheduled for October 18, 2010. Mr. Ebberts was out of town for a family funeral; however, Ms. Ebberts and Hunter Thomas attended the meeting. At the meeting actions items were assigned to be reported on by November 1, 2010. After a few requests for an action item report, he brought it up at the December 8, 2010 City Council meeting. An email was received from Mr. Keefe on December 9, 2010. Allstate Management Resources gave a presentation at their Homeowner's Association meeting at which time he stated that I-595 construction was a probable cause of the problem. Three Council members were in attendance at that meeting. At the next City Council meeting Council members requested that Administration have another meeting with various agencies. In response to photographs of a dead fish, Jose Lopez with the South Florida Water Management District sent an email stating that it was probably a fresh water fish that died in salty water. South Florida Management District is in a drought condition status and was holding back water in the western canals. In January 2011 Robert Mulvaney visited their home and advised that he found jelly fish, a salt water fish in the canal and the weeds were gone. They were contacted by Administration for a meeting with Mayor Armstrong and Mr. Keefe on February 8, 2011. At that meeting they received a memo from staff to the Mayor and City Council saying that the City has no responsibility for tidal water management; that the weeds were the result of natural weather conditions; contractors did not believe that the I-595 project had any relationship to the problem, etc. They stated that the Lake Doctor was researching a chemical that would work; however, boats would have to be removed during the application. The Lake Doctor was going to meet with staff for discussion. The Ebberts requested if they could attend the meeting and were told no; staff only. At the meeting a map was presented illustrating the ownership of the tidal canals. The map was very well done but somewhat different from research on the Broward County Property Appraisers site. He encouraged residents to review their deeds to compare and sent the map and memo to Association members. In using a rake, Mr. Ebberts scraped the bottom of the canal off of their dock and all he got was sludge. He did this in several canals to see if there were any weeds and there were none. He then proceeded to Holloway Canal and the water was clear and the weeds were prevalent. After that he went to the west I-595 construction site, the area between University Drive and Pine Island Road. The dredger was working again and photographs were obtained. There were weeds in the canal so he picked some. For the time being they have their brackish water back; however, the turbidity is bad and you cannot see deep into the water, which was caused, in his opinion, by dredging currently being done east of the damn. The State Road 84 canal is also fresh water and has weeds and is dirty due to dredging. Those canals experienced the very same climate conditions as their canals.

Ms. Ebberts commented that there are no longer any weeds in the canals; however, the water is higher and in raking they do not see the weeds or algae, the only thing they have is brown water. She has attended three Candidate Forums in the past week and the quality of life has come up at every one of them. At this time the main problem is the turbidity issue.

Mr. Butler stated that he will follow up with FDOT on their dredging operation and see if there is a level of accountability that might be found in their direction to deal with the turbidity. Staff's interest is whether there will be a prevalency of this to the point where it might be an adverse impact on our waterways in terms of getting more sediments into our canals. He noted that we are in a fact finding mode at this time and the focus has been on the weeds and they are now focusing on the core issue. Staff has been persuaded to believe that this is a climatic issue.

Councilman Fadgen suggested moving forward with the planned meeting with SePro because the conditions could return next summer and that information might be valuable.

Mr. Butler indicated they have already committed to having a field trip with SePro and learn more about the chemical they provide.

Connie Freund, resident, has been working with the Ebberts. In the process she has contacted Robert Hobbert with South Florida Water Management and was able to obtain a copy of the permit, as they are the permitting agency. The terms of the permit require contractors to measure and record the turbidity daily. She discussed both issues; the turbidity and the weeds, with Mr. Hobbert after reading the permit. The monitoring agency is the contractor and their records are available for anyone to review. There are several regulations regarding the turbidity barriers because they are aware that turbidity is a large part of doing any kind of dredging. Obviously they are measuring the turbidity somewhere along the New River Canal but it needs to also be measured in the impact areas.

In response to Councilwoman Uria, Mr. Butler advised that there is a unique arrangement between FDOT and their concessionaire and that is the term they refer to as opposed to contractor. He cannot speak with any certainty that there is a "surety" of any sort. The concessionaire actually has an ownership interest for a long term. Not only are they constructing this project, they are going to manage the roadway system for a period of time. He would like to think that the State would wisely negotiate a contract that would provide security for the underlying ownership of their land and resources. He would think there is some security in place but he does not know the mechanisms.

Councilwoman Uria commented that there has to be an impact statement. She believes that every meeting should be documented so that if there is anything that can be correlated at the end will not go away.

Mr. Butler indicated that the impact statement is readily available on their website. This project went through an extensive environmental analysis during design and permitting and that information is available to the public.

Ms. Freund stated that when she spoke to the South Florida Water Management Director he said he was not aware of any chemicals that could be safely put into these waters because these canals are tidal waters and end up in the ocean. As far as he knew there was nothing that could be done regarding overgrowth of non native or non welcome plants except to do like South Florida Water Management normally does, which is to send a gatherer through, put the leaves on the side banks to dry and pick them up later. That is an issue because you are dealing with boats and a very narrow area. In addition, these waterways have manatee and they are protected, which is another stipulation in the permit; that the contractor is to have a manatee watcher everyday, noting the locations of the manatee. There are regulations of the manatee being caught in the turbidity nets. Prior to using any chemicals recommended, she suggested that Council check with South Florida Water Management and Fishing Game.

Mr. Keefe stated that the City is aware that permitting is required.

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LEGISLATIVE ITEMS - None.

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QUASI-JUDICIAL CONSENT AGENDA

Mr. Lunny read the Resolution by title.

Resolution No. 11183

27. **RESOLUTION** approving Declaration of Parking Allocation Agreement for Central Park Place; providing findings; providing a savings clause; and providing an effective date therefore.

A memorandum dated January 27, 2011 to Mayor and Members of City Council from Laurence Leeds, Director of Planning, Zoning and Economic Development follows:

Originally, Central Park Place was conceived and developed as a single unit of development under common ownership. The plat for the property is a perimeter or boundary plat which does not reflect individual platted subparcels. Over the years, the development's ownership has become fragmented. While the Property does enjoy a cross-parking easement arrangement, there is no existing allocation of parking for the various subparcels. Thus, without a parking allocation among the properties, it is conceivable that a single building would be able to obtain use approval for a parking consumptive use, and by doing so, deprive other buildings and other owners within the Property of uses within their parcels because there would be no available parking to satisfy the City's off-street parking requirement.

This issue is occurring within Plantation on an increasingly frequent basis. In the recent past, Staff has required all property owners within these types of properties to consent to applications for use approvals so that they would all be aware that if one owner obtained a parking consumptive use, this could affect the utilization of other owner's subparcels. Alternatively, the City has permitted property owners to enter into a Parking Allocation Agreement so the certain subparcels within a property would be allocated a certain number of parking spaces for zoning purposes, notwithstanding the fact that easements gave the subparcel owners a right to park anywhere within a property. Originally, this occurred for the Mercedes Shopping Center, and the same concept has been applied to fractionalized ownership with the industrial park.

With respect to Central Park Place, one owner owns a significant portion of the shopping center, and has requested that the Walgreens parcel be devoted to medical use, which is parking consumptive in nature. The City requested that all property owners consent to this application and they refused to do so. Therefore, the applicant has unilaterally offered a declaration for parking allocation purposes which is acceptable to Staff and which contains a reservation of 13 spaces within the applicant's property for other properties within the shopping center for parking which is necessary because those other properties have been developed with parking consumptive uses. When those other properties develop, it is hoped by Staff that the entire development be submitted to some sort of parking allocation for zoning purposes.

A parking allocation arrangement can be a part of a site plan approval, and does not need to be separately approved by Council. In the instant case, there are no physical material changes to the shopping center which are proposed, and consequently, Staff has processed the parking allocation agreement as a minor change to unified control.

Staff recommends approval of the Declaration of Parking Allocation Agreement in substantial form attached hereto as a quasi-judicial consent agenda item on tonight's agenda.

This item is now ready for consideration.

Councilwoman Uria questioned whether there is any information from the Condo representatives stating that there is no issue regarding the allocation of parking.

Mr. Lunny explained that some of the properties within the City get fractionalized in ownership and when parts of the shopping centers are sold the City is not aware. When applications for parking consumptive uses are made on behalf of a portion of the center there are cross parking easements over the entire property and when a parking consumptive use is approved for one building and they are utilizing parking in other areas of the center not owned by the applicant the balance of the property owner's ability to utilize their parking is affected. In this particular application, the medical condominium owners did not wish to consent to the application that Mr. Allsworth's client was trying to advance because they wanted to go medical on the Walgreens portion of the shopping center; therefore, the calculations done by staff and by Mr. Allsworth's client resulted in the reservation of 13 spaces within Mr. Allsworth's client's property and that, according to our parking count, would no longer adversely affect the parking that was otherwise allocated to the medical condominium. There was no need to go back and request for consent because they were not adversely affected; this person decided to take care of their parking on his property because of the past history.

In response to Councilwoman Bendekovic, Mr. Lunny advised that the condo owners were requested to consent to the application at the time of the initial proposal and there was not the same reservation of 13 spaces within the applicant's property to take care of those people. Mr. Allsworth was proposing that the waiver be spread over the entire center, which would have affected them, and staff said if that is what is being proposed all owners within the center have to consent. If someone only owns a piece of the center they have to determine how to accommodate all of the past uses where it was not appreciated that not all of the ownership was represented. Walgreens is a lower parking count than medical and that is why they did not have a problem. Because of the way the formula works, the Walgreens use did not significantly impact the parking throughout the center, as would this conversion. When a land use attorney looks at a piece of property like this, might be interested to determine how many physical spaces are within the land being purchased and if there is cross parking, what uses are entitled to use that parking in terms of how that affects the future land use potential of the property. If the purpose of this building changes, the agreement can be amended.

Mr. Allsworth indicated that the former Walgreens did not have a drive thru; therefore, from a retail standpoint, it had a bigger impact than a typical Walgreens with a drive-thru because you had to park and walk in. Studies indicate that the medical use probably will not involve as much parking impact as Walgreens did.

Mr. Leeds clarified that if at sometime in the future the use is changed and would require more parking than medical office, this agreement would be void and the applicant would have to start from scratch. This allows medical office but will not allow a use that generates or requires more parking under the Code.

Motion by Councilman Tingom, seconded by Councilman Fadgen, to approve Resolution No. 11183. Motion carried on the following roll call vote:

Ayes: Tingom, Levy, Bendekovic, Uria, Fadgen
Nays: None

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QUASI-JUDICIAL ITEMS – None.

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COUNCILMEMBERS' COMMENTS

Councilman Levy mentioned studies a few months ago that showed that there was mold in the building.

Mr. Keefe responded that a test was done in July 2010 and three different types of mold were found; those that are prevalent in woody and dead plants and live materials. Since then Public Works reviewed everything in the building. All of the air ducts and carpets were cleaned as well as checking the walls and humidity. There is certification from the air duct cleaning company stating that the air quality is fine. In speaking with the lab on the date of this meeting, it was determined that the mold found is a typical type of environment that might be found in office areas.

In response to Councilman Levy, Mr. Keefe is convinced that there is no health hazard.

In response to Councilman Fadgen, Councilman Levy advised that to the best of his knowledge, City Hall was the only building tested.

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Councilman Tingom referenced a comment stating that enrollment in PAL was down. He explained that PAL is an independent organization run by volunteers. Data was produced by the PAL Board in 2009 at which time there were 3,828 participants; last year data was collected by Rec Trac and there were 4,080 participants; and half way through this year there are 2,766 participants. The comment made was incorrect and the participation is at least equal if not above in most levels. One notable exception is the hockey program, as that has declined.

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Councilman Tingom announced that he recently completed his third class and is now a Certified Pension Trustee.

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Councilman Tingom wished everyone a Happy Valentine's Day.

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Councilwoman Bendekovic commented that the Candidate Forums have been well received. She announced the upcoming forums as follows:

- Park East and Country Club Estates are holding a joint forum at Jim Ward Community Center on February 15, 2011 at 7:00 p.m.
- Lauderdale West will have a forum on February 21, 2011 at 7:00 p.m.

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Councilman Fadgen mentioned the revision of an ordinance giving a preference to local businesses that wanted to bid on products with the City. That ordinance excluded professional services. He has a copy of a Marathon, Florida ordinance that gave a preference to architects, surveyors, engineers, attorneys, certified public accountants, financial personnel, systems, planning and management consultants. Under the circumstances, he

suggested that Council review the ordinance and give a local preference to those professionals that would otherwise just be ranked and getting no preference. This issue was brought to his attention by Chris Zimmerman, a local architect.

Chris Zimmerman, architect, referenced a Utilities project and stated that his practice has specialized in governmental architecture for 20 years and their experience level fit the bill. In reviewing the proposals he found that the City is short listing firms out of West Palm Beach, Coral Gables and firms with past litigation history. His firm does not have any litigation history and they have worked for several local Broward County municipalities. After questioning the process he understood there is a local preference ordinance. He brought that to the City's attention and was told that it did not apply to professional services. He would like to promote the use of local businesses. He believes the intent of the ordinance is to present a local preference to all businesses.

In response to Councilwoman Uria, Councilman Fadgen advised that the State Statute usually requires ranking other qualifications not giving a preference on whatever point system there might be.

Mr. Keefe feels that the difficulty in purchasing commodities is a price point and if they come within 5% we match it but he questioned how that is done with qualifications.

Mr. Lunny indicated that he will review this.

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Councilman Fadgen indicated that the Port Authority of New York finally sent an agreement and if we agree to the terms they will provide artifacts from the World Trade Center.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Jim Pinkston, resident, indicated that there is a lack of lighting on the wheelchair ramp at City Hall.

Mayor Armstrong advised that Mr. DeCelles made a notation and will take care of it.

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Dennis Conklin, resident, made the following comments:

- As a result of the tragic loss of life and the leakage of oil from the offshore drilling the Federal Government placed a ban on offshore drilling. A Federal Judge ruled that should not stand. Since that time, this Administration has continued that ban on America's petroleum production. It has discouraged the oil industry all across America whether it is on dry land or in water. Because of this contempt for the ruling of a Federal Judge, the Administration has been in contempt of a Declaratory Judgment that Obama Care is unconstitutional and should come to full stop. A copy of a coversheet of the finding of that Judge and a copy of page 75 explaining the seriousness of the Judge's declaratory finding were distributed.

- Over the years he has mentioned the issue of CAIR; a founding terrorist organization. During the last two weeks the Administration in America has been meeting with the Egyptian Administration and elements of the Muslim Brotherhood. Our Administration has encouraged involvement with this organization and he feels that we have been struggling with this for a number of years, particularly in Broward. There is an Islamic Center nearing completion in a sister City, Pompano Beach, because they were unaware of what they were approving at the time. He mentioned documents submitted and referenced page 21, Understanding the Role of Muslim Brotherhood in North America, and Page 2, Us, The Non-Believers of Islam.

The regular meeting adjourned at 9:30 p.m.

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WORKSHOP

28. CONTINUED DISCUSSION CONCERNING PROPOSED GROWTH MANAGEMENT ORDINANCE.

Mr. Leeds referenced a memo from Mr. Lunny dated January 20, 2011 and the Minor Development, the Growth Management Ordinance. He reviewed previous discussion along with changes that were made. The bulk of this ordinance is 95% designed to accommodate small scale development and under the current code would require a four-month review process. The development perimeters in the Economic Development Resolution on Page 3 have been expanded so that the small scale projects may be improved in an Administrative fashion with staff or with the Plan Adjustment Committee. By increasing the threshold of the size of the addition or the interior renovation the review of these projects will drop down to one month and anything that is contemplated by the matrix will require notice to the elected officials and if there is an objection, they can do so within a certain amount of time. The second part on Page 10 refers to Administrative adjustments, which is already in the code; however, it has been clarified and made a little more specific and allows the Director of Planning and Zoning to grant Administrative waivers. As in the current code, these waivers can be granted without notice and any call up procedures by the Council. The point is that the Director of Planning and Zoning has the discretion in telling someone that an item should not be granted Administratively, that it is an issue that should go before Council. This allows up to a 10% parking reduction, up to a 10% change to fence height, up to a 15% reduction in setbacks, etc.

In response to Councilwoman Bendekovic's issues with the Central Park Place, Mr. Leeds explained if the 10% reduction were granted for a shopping center of industrial building that is fragmented in ownership, would require the consent of each of the property owners.

Mr. Leeds indicated that changes to the Administrative adjustment to the sign code have not changed that much; they are substantially the same as what exists today in the Economic Development Resolution. There are a couple of changes on Page 11. Under Section 2, Item B1, Accessory buildings and single family district; the code has been modified so that no accessory building shall be permitted between any street and any portion of a principal building. A revision was made because there are lots that front streets on three sides so that a shed can be relocated in the rear yard as long as the setback is met. Mr. Leeds has suggested deleting Section #3, which would prohibit in all residential zoning districts, except the Acreage or Historic Plantation, the accumulative floor area of carports, garages, guests and serving quarters from exceeding 25% of the gross floor area of the

home. It is not believed this is necessary because there is already a maximum lot coverage in most of the residential districts of 35%.

In response to Councilman Fadgen, Mr. Lunny stated that Section #2 was added for the garage, shed and gazebo issues we have had over the years. In retrospect, he and Mr. Leeds felt that Section #3 was not needed in view of lot coverage and are proposing that that be deleted.

Mr. Leeds advised that Item #4, which applies in all single family districts, is a requirement that the sheds cannot exceed 5% of the gross square feet of the home or 120 square feet, whichever is greater. He expressed concern about the 120 square feet because that is a 10 x 12 shed. There are homes within the City that are less than 2,000 square feet and if comfortable with limiting the size of the sheds in the smaller homes to 10 x 12 this would be left alone. In order to create more room, it would be increased to 150 square feet, which would be a 10 x 15 shed. If the home is 5,000 square feet or larger the 5% is not an issue but when getting less than 2,000 square feet these people would be limited to 120-square-foot 10 x 12 shed. He suggested a little room because there was a lot of discussion from the community regarding a shed that was in front of someone's house. The sheds will not be in front, they will be in the rear; therefore, he is comfortable going to 150 square feet.

In response to Councilman Fadgen, Mr. Leeds indicated that the shed cannot be any taller than the principal building on the lot.

Mr. Lunny stated that sheds are supposed to be accessory and you want to be careful that they do not become storage or warehousing or storage for inventory. To some of us, a 10 x 15 is a good size for a den or bedroom.

Councilman Levy referenced an issue in Country Club Estates that involved a two-story brick home. A company purchased the home and immediately platformed over the pool and installed a shed larger than the pool over the pool, over one story high. This was a nightmare to the neighborhood. A fence was placed in front of the shed and then the City allowed them to brick the garage and turn the garage into another room and use the shed as their garage, where they parked trucks. Once that was allowed the home was kept in pristine order; however, it is still an eyesore. They are selling the property and the shed is a permanent fixture in the back. He requested that someone look into this and he would like to know under this proposed ordinance if something like this would have been allowed.

Mr. Leeds advised that in terms of height, there is a requirement in paragraph 5; that gazebos and utility sheds have sloped, hip or gable roofs that need not match the principal structures' roof design, coverings or color. The larger issue is the next paragraph on the next page; if there is a two-story house a two-story shed is allowed. This has not been discussed with Mr. Lunny; however, some Cities put a height limit on sheds separate from garages that may or may not be attached to the house. If Council is interested, he would like to pursue that discussion with Mr. Lunny.

Mr. Lunny suggested going with nine feet.

Councilwoman Bendekovic commented that a shed is a shed; it should not be a garage or a carport.

Councilman Tingom concurred with Mr. Lunny that nine feet is sufficient. He believes there should be something regarding height. He questioned whether this would give our City more force in trying to make sure that these are accessory buildings and not principal means of storage for large items.

Mr. Leeds stated that under Zoning in Progress, the same similar roof profile is required as seen with the house. He showed a photograph of an aluminum garage taller than the house. The garage has a very large door and it is unknown what is stored inside. This would not be allowed under Zoning in Progress.

Mr. Lunny advised that this addressed in Section 5; all carports, garages, serving quarters, pool houses and guesthouses shall have roofs that match the geometric design, coverings and color of the principal building roof.

Councilwoman Uria stated that this is for accessory uses and structures; it says, "For accessory buildings located within a single family residential zoning district". There is a person in Plantation Acres and the accessory buildings on the property are taller, larger and more numerous than the home.

In response to Councilwoman Uria, Mr. Lunny indicated that if a person already has accessory buildings on the property that are taller, larger and more numerous than the home, they would be grandfathered. Section 3 was deleted that says, "For all single family except 1-EP, the Acres and Old Historical, accumulative floor area will not exceed 25%." Anyone that currently exists will continue to be lawful and in the future the Board of Adjustment would have to grant a variance if it did not comply. This is principally about sheds, carports, garages, pool houses and guesthouses.

In response to Councilwoman Bendekovic, Mr. Lunny advised that barns are not this kind of accessory and would continue to be allowed. They can clarify that those are not the types of buildings they are trying to address.

In response to Councilwoman Uria, Mr. Lunny stated that anyone who is currently lawful is grandfathered.

Councilman Levy requested that barns are clarified.

Mr. Lunny advised that staff is looking at a traditional single family lot and there are different rules in the Acres. He believes it could say that if there is a utility shed, garage or carport they can comply with this rule. If doing something permanent and large we could write in that those are not subject to these rules. If aesthetics is an issue something can be written.

In response to Mr. Leeds, Mr. Lunny indicated that #3 was deleted.

Mr. Leeds suggested deferring #4 to the Council as to whether they prefer a 10 x 12 shed.

Councilman Tingom stated that he was comfortable with 120 square feet or 5% of the total with a height limitation.

In response to Councilman Tingom, Mr. Leeds indicated that the homeowners may not like the rules; however, this would allow the process to go quicker.

Mr. Lunny noted that Item D is clear.

In response to Councilwoman, Mr. Lunny advised that the relevant department heads for the Advisory Boards, which would be Mr. Leeds for Planning and Zoning and Ms. Berchielli for Landscape, will get together and if they decide the waivers are minor it can be taken to Council. There is no need to burden staff with the time and expense of three customary waivers that are seen all the time.

Mr. Leeds referenced the Review Committee and stated that the way they currently meet is that a 5 to a 30 page report is produced and the department heads or representatives ask the applicants if they agree to the conditions. What happens is that the applicant leaves the meeting and then meets separate with each department and that is when things start to fall apart, as direction from one department may impact another. If conflicts are reviewed at Review Committee there is a second opportunity for all of the department heads to meet with the applicant and come to an agreement. Like most Cities, we should have a Review Committee meeting by moving into the first floor Building Department conference room and stay as long as needed to review all of the comments. A dry run was done and every comment was discussed. Even though the process took longer, the Board members were happy. The Review Committee would be reduced from ten to seven departments, which would make it more manageable. He noted that the current language will be changed to state, "If a super majority, which would be five out of seven members of the Review Committee, determines that the plans are complete, the applicant moves forward". This is based on the premise that if there are two departments with issues with completeness then the plan should be deferred to another meeting can be held. Moving forward requires the super majority.

Mr. Lunny indicated that they are attempting to change the emphasis and allow a qualitative disagreement. We do not want to make it a regular majority because we are trying to change the culture of the committee and not let them think they are voting to approve as opposed to voting on plan completeness.

Councilman Levy questioned whether a document can be prepared that can be given to a developer that definitively states everything that needs to be done and once that is done they can move forward or gain the approval that is needed.

Mr. Leeds advised that a list can be put together but it will be a long list because the problems are due to a very large extent, poor auto cad work. Levels, layers and information are missing. The auto cad operator needs to put together a plan that tells what they want to do; they are requesting a 90% completed site plan. One thing on the list will be that portions of the plan will not be missing.

Councilman Fadgen felt this was a step in the right direction.

Councilman Fadgen referenced the Plan Adjustment Committee and expressed concern with rotation. If someone cannot attend the meeting, rather than having the Mayor appoint someone, it should go to the next seat. If no one is available then perhaps the Mayor could Chair the meeting.

Mr. Lunny stated that the rotation language is there. Staff does go through the rotation; however, sometimes no one can cover the meeting and the meeting has to be cancelled. During discussion with the Mayor, she said if no one can cover the meeting instead of cancelling the meeting the Mayor will attend. The rotation concept is there but there are circumstances when no one is available.

Councilman Levy commented that if someone works full time they may not have the freedom to come at 3:00 p.m. for a meeting that takes five minutes. This allows flexibility regarding someone else to cover the meeting.

Mayor Armstrong indicated that the Mayor is generally at City Hall and is more accessible; therefore, could cover the meeting with short notice rather than cancelling the meeting. The objective is not for the Mayor to cover the meeting 50% of the time.

Mr. Lunny would like to continue applying the Zoning In Progress doctrine so that the relief and tightness would be available on the accessory uses and structures.

Council gave authority to move ahead with the changes to Planning and Zoning and Review Committee..

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Meeting adjourned at 10:18 p.m.

Jerry Fadgen, President
City Council

ATTEST:

Susan Slattery
City Clerk

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Minutes was received by the Office of the City Clerk and entered into the Public Record this _____ day of _____, 2011.

Susan Slattery, City Clerk