

**MEETING OF THE CITY COUNCIL
PLANTATION, FLORIDA**

May 11, 2011

The meeting was called to order by Councilwoman Uria, President of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Ron Jacobs Robert A. Levy Lynn Stoner Peter S. Tingom Sharon Moody Uria
Mayor:	Diane Veltri Bendekovic
City Attorney:	Donald Lunny, Jr.

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – January 26, 2011.

The minutes of the City Council meeting for January 26, 2011 were approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic advised that Granicus is working; webstreaming is up and running.

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Mayor Bendekovic introduced Representative Franklin Sands, who is present to provide post session legislative updates.

Mr. Sands provided the following updates:

- The session began with the possibility of getting \$2.4 billion for the State of Florida for the first leg of a high speed rail train that would ultimately cover the entire State of Florida with alternative transportation to our automobiles. Unfortunately that did not happen and those 24,000 jobs for Floridians would have come in very handy. The reasons for refusing the money lacked any veracity; we would not have been

responsible for any shortfalls in monies, it would not have cost the State any money and the money was not being returned to the United States Treasury. The money was going to other states and the State of Florida lost the opportunity to begin a high speed rail project.

- Merit pay for teachers was discussed and voted out. There was no merit or pay in the Bill. The Bill reads, "That if we have money we will give merit pay to those teachers that excel in the classroom" and the measurement is the fact that their students would do very well on the FCATS. Teachers are now assured of receiving no tenure in the State of Florida; they have a one-year contract, which at the end of that time they are actually terminated and a principal can fire any teacher, even a high performing teacher, without any cause or having to give that teacher any reason for his or her dismissal. Education funding in public schools was also reduced by \$542 per student, which equates to a drop of \$1.35 billion in education funding in the State of Florida.
- With regard to the pension reform a 3% tax was put on the salaries of teachers, firemen, policemen and public servants. Our school teachers and State employees will have 3% of their income deducted from their paychecks and they are told that it will go towards their pension; however, when the money is deducted from the paychecks it does not go into the pension fund it goes into General Revenue and by definition that is a selective tax.
- The voting reform is that we will now penalize and almost make it a criminal offense for people who collect signatures. The League of Women voters announced that because of this new law they will no longer be able to collect signatures and encourage people to vote in that way. The number of days for early voting was reduced and they no longer allow people to come to the voting center on the day of voting to advise that they have changed their address and vote. They will be able to vote by using a provisional ballot, which more often than not, is actually not counted in the election process.
- Growth Management will come back to the Cities and Counties. In Florida it was up to the developer to show and to prove that his/her project would not cause harm to the community, that it would be environmentally sound, that it would not have an impact on schools, roads or anything else and it will now be up to residents and the public to show the developer that his/her project will impact negatively on the community.
- Hospitals took a 12% cut in funding and as a result they will have to cut back on certain services. This also affects nursing homes and they will have to cut back on the hours of care that a caregiver gives to a patient.
- For the last four to five years in Broward County and four other Counties we had a Medicaid waiver, which was a pilot program, called 1115B, which put people into provider service networks or HMO's if they were on Medicaid. For five years they never were able to ask a question to determine whether or not the quality of service delivered was as good as or better than the service delivered under the fee for service model. There is absolutely no contact data as far as delivery of service and they cannot tell whether or not it was cost effective; however, many of the HMO's that were in the pilot program left because they could not make enough money. Instead of revisiting the program and revising it, they are now taking the program Statewide. There is very little oversight into this program. In Mr. Sands' opinion, this is not a good model and has not been well thought out. If the Federal Government does not go along with this model it is unknown what the State of Florida will do about Medicaid.
- With regard to unemployment compensation, we have unfortunately double digit unemployment in the State of Florida. In Broward County there is about 9% unemployment. The jobs that are coming out are lower paying jobs, usually in the service industry, and according to the new law passed shows the number of weeks a person can collect has been reduced and if a certain job comes up and you do not take it there is a good chance you will no longer receive additional unemployment funds.
- The Deregulation Bill did not pass because the President of the Senate and the Speaker of the House got into a tiff towards the end of the session and as a result certain Bills did not get passed.

- The Immigration Bill was another issue that did not pass.
- Another Bill to Pack the Courts did not pass. The Republicans are currently in control of the Florida House of Representatives, the Senate, and the Governor's mansion; the only thing they do not control is the Court system. The Speaker of the House came up with a plan that we give them control of the Court system. He wanted to split the Court in half; put all Democrats on one side to make decisions about criminal matters and put all Republicans on the other half who would rule over all civil matters. If this were to go forward one party would be in control of everything in the State of Florida. In a democracy there should always be checks and balances.

In response to Councilwoman Uria, Mr. Sands referenced the Homestead assessments, which are on the ballot. This caps the amount of money a local government is allowed to receive and spend. It is not a good model.

Councilman Levy stated that a Constitutional Amendment was passed a few years ago on fair districts and redistricting. He questioned what is happening with that since the Census was in 2010.

Mr. Sands advised that almost 63% of Florida's voters voted to do away with gerry-meandering. That means that politicians would no longer be able to draw districts that would favor themselves. The politicians have set aside \$30 million taxpayer dollars at a time of a deficit to be used to fight the taxpayers.

Mr. Sands indicated that a Town Hall Meeting will be held for Plantation and Sunrise at Plantation City Hall in the Council Chambers on May 24, 2011 at 6:30 p.m.

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Mayor Bendekovic introduced Pat Hind, President of the Plantation Woman's Club. Gloria Merritt, Vice President of the Plantation Woman's Club and Director of Community Improvement Projects, made the following presentations:

- \$2,000 for the Police Department bike project at Peters Elementary School.
- \$500 towards the Binky project, which provides comfort blankets for Police Officers to give to young children at times of need.
- \$4,450 to the Police Department for a thermal imaging unit, which is a camera that will allow the K-9 handlers to search for subjects at night.
- \$750 for the Plantation Police Explorers.
- \$500 to Jim Romano, Parks and Recreation Director, towards camp scholarships.

The Woman's Club thanked Councilwoman Uria for her generous donation.

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Resolution No. 11241

4. **RESOLUTION** of Appreciation to Ronald Irmen for 17 years of dedicated service to the City of Plantation.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Resolution No. 11241. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Tingom, Jacobs, Uria
Nays: None

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Resolution No. 11240

5. **RESOLUTION** of Appreciation to Paul A. Hudon for 16 years of dedicated service to the City of Plantation.

Motion by Councilman Levy, seconded by Councilman Tingom, to approve Resolution No. 11240. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Tingom, Jacobs, Uria
Nays: None

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Mr. Romano made the following announcements:

- The Arts of Plantation will be held between the Helen B. Hoffman Library and the Plantation Historical Museum on May 12, 2011 from 6:30 p.m. to 8:30 p.m.
- The IMX Challenge Swim Meet will be held from Friday, May 13, 2011 until Sunday, May 15, 2011 at the Plantation Central Park Aquatics Complex.

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Mayor Bendekovic made the following announcements:

- The Memorial Day celebration will be held at Veterans' Park on Monday, May 30, 2011 at 9:30 a.m.
- The Plantation Farmer's Market will have a Grand Reopening at Volunteer Park on Saturday, May 14, 2011 at 8:00 a.m.
- The Wine, Taste & Jazz will be held on Saturday, June 18, 2011. Contact the Plantation Chamber of Commerce for tickets.
- A Small Business Workshop will be held at the West Regional Library on Thursday, June 2, 2011 between 3:00 p.m. and 5:00 p.m.

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Councilman Tingom attended a ceremony for the partnerships and volunteer mentor awards at Parker Playhouse. South Plantation High School and the City of Plantation won the top award.

Diana Berchielli, Chief Landscape Plans Examiner, stated that the City of Plantation's Associate Landscape Architect, Patrice Sonneliter, has put many hours into the school in the past few years.

Mayor Bendekovic advised that this is County-wide competition; we have won it before on a middle school level with Seminole Middle School. That shows the partnerships we have and the value that we place with our education system in the City of Plantation.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 20.

Mr. Lunny read the Consent Agenda by title.

6. Approve purchase of one Antel 800 MHz Omni Directional antenna from Motorola in the amount of \$19,348.18. (funded from Designated Capital)
7. Award contract for Energy Efficiency Team Building to MBR Construction in the amount of \$2,160,000.

Resolution No. 11242

8. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 4747 NW 4 Street. (Gantt)

Resolution No. 11243

9. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 8789 Cleary Boulevard. (Crankshaw)

Resolution No. 11244

10. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 4034 SW 4 Street. (Nessen)

Resolution No. 11245

11. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 340 NW 134 Way. (Schill)

Resolution No. 11246

12. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 8921 NW 13 Street. (Conrad)

Resolution No. 11247

14. **RESOLUTION** recommending and supporting the funding by the Broward County Board of County Commissioners for a buffer wall construction along the north side of West Sunrise Boulevard between Nob Hill Road and New Hiatus Road and the west side of Nob Hill Road between Sunrise Boulevard and the end of the Fox Run development adjacent to the Fox run residential neighborhood.

Resolution No. 11248

16. **RESOLUTION** of the City Council of the City of Plantation, Florida, to apply for a Broward County Redevelopment Capital Grant Applications based on way finding and monument signage, 84th Avenue survey, design, and construction improvements and the purchase of the Enclave Property.

Resolution No. 11249

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 21 – May 4, 2011 for the Plantation Gateway Development District.

Resolution No. 11250

18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 21 – May 4, 2011 for the Plantation Midtown Development District.

Resolution No. 11251

19. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 21 – May 4, 2011.

Resolution No. 11252

20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 21 – May 4, 2011 for the City of Plantation's Community Redevelopment Agency.

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

Ayes: Levy, Stoner, Tingom, Jacobs, Uria
Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 20.

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Mr. Lunny read the Resolution No. 11253.

Resolution No. 11253

13. **RESOLUTION** for the appointment of an Inspector I for the City of Plantation's Building Department fixing the initial annual compensation to be paid for said Administrative/Professional position; and the appointment of an individual to said Administrative/Professional position. (MacLain)

A memorandum dated May 11, 2011 to All Members of City Council from Margie Moale, Human Resources Director follows:

This is to advise you that the Building Department made a conditional job offer to promote Edward MacLain to the position of Inspector I (AN-3), last filled by Donald Homer who resigned.

Please note that the Inspectors' qualifications are more restrictive due to HVHZ (High Velocity Hurricane Zone), FBC 104 and 1612 positions in the State of Florida. Inspector I requires a state or master license and the Electrician I requires just a journeyman license.

If you have any questions regarding the above, please do not hesitate to contact me.

Councilwoman Stoner pulled this item. She distributed information to Council members and expressed concern with the process of promoting someone to a position she believes they are not yet qualified for. She has done some additional research and reviewed the Florida Statutes, the Florida Administrative Code, Broward County Rules of Appeals, and has spoken to Bill Donovan (sic) and Sherry Baker, both with the Broward County Board of Rules and Appeals. Council was previously advised that Mr. MacLain was going to meet with Ms. Baker so that the Board of Rules could conduct a courtesy review of his credentials and to date, that has not been done. There was discussion of a temporary license and then a provisional license and requirements for that. One of the documents provided is the credentials of Mr. Homer, who this gentleman would be replacing. Mr. Homer resigned last June and his credentials show that he is a Certified General Contractor and a Building Inspector. A comment was made about the cost of using an on-call inspector. Councilwoman Stoner obtained from Broward County the amount of on-call services that were provided for a period of October 2009 to date. Those services that were provided specifically for an Electrical Inspector were \$6,204. She was also advised that Broward County went from 90 to 64 inspectors and this was again confirmed by the Broward County Board of Rules and Appeals. Also attached was a copy of a recent job listing by the City of Deerfield Beach for someone in this position and their entry level salary starts at \$45,000 with a license. There were 12 applicants for this position.

Mr. Sabouri advised that this job was posted some time ago and there were six applicants. It is correct that there are a lot of inspectors looking for jobs. This is an entry level Inspection position and Broward County and Dade County requirements are different from the rest of the State. Broward and Dade Counties require a licensed Contractor in addition to what the rest of the State requires, which is licensed Inspector. In order to qualify for a licensed Inspector it is five years and for the County Masters it is seven years. This information is verifiable through W2 forms and 60% has to be in a supervisory position. The other question raised is that the City of Deerfield Beach is looking for Inspectors. We had two experienced Inspectors that were hired last year and both left for other cities. It is correct that we get some Inspectors who are licensed; however, they leave once they get a better offer someplace else. They can be started at a lower salary but the turnover will be high. In order to run an effective Building Department all of the Inspectors have to be trained with the same standards. When sending outside Inspectors there are twice as many complaints. Mr. MacLain will be trained for at least two weeks.

In response to Councilman Levy, Mr. Sabouri indicated that this is the same individual he was trying to employ about a month ago. Certification is two steps; one step is qualification. The qualification for the State for an inspector is less restrictive than it is for a contractor. The rest of the State does not require a contractor; however, Dade and Broward Counties do and that is why less people qualify to work down here than in the rest of the state. Because of the fact that these inspectors are certified job contractors, State certified and Local certified, and it is important to note that the State certification mirrors the County certification. Prior to 1995 anyone who was County certified was requested to get certification to present their contractor certification to get a State license. Now because of the fact the State is also proctoring the test as well as the County, there are two different test requirements and two different licenses. If someone has a State or County certification they are a licensed contractor and can actually do the work. The certified contractor is trained by the Code and that process takes over a year. The Chief Inspector's job is to verify the Inspectors' work.

Councilman Levy questioned whether Mr. Sabouri has a plan that will allow this person to grow, to learn and to become certified.

Mr. Sabouri advised that there are programs sponsored by the State and County. There are two Boards; Building Official Association of Florida and Building Official and Inspector Association of the County. There are courses and educational seminars that prep people for the tests; any inspectors have to go through that process. As of this time this individual has not done that. Mr. Sabouri is requesting that this person be paid the same as someone who is licensed. He reminded Council that he does not have the ability to lower the minimum pay.

Councilman Levy stated that Council suggested that Mr. Sabouri come up with a plan where this person can become qualified and give him an incentive to do so that would mean a boost in pay and whatever else is necessary. He questioned whether Mr. Sabouri would accept a motion if it were made to hire this person at a 10% reduction in salary and he has one year in which to achieve the certification necessary.

Mr. Sabouri commented if Council were to approve this person he believes a plan would be in place. The State gives a provisional license to do inspections for three years. Mr. Sabouri's requirement is one year only. Mr. Sabouri would not have any objection to hiring this individual at a 10% reduction in salary.

Councilman Tingom made an amendment to the motion that once he has proven that he has received the certification the 10% reduction will be removed and he will get the entry salary at that point.

Councilman Levy concurred.

Motion by Councilman Levy, seconded by Councilwoman Uria, to approve this individual with a 10% reduction of an entry level salary and within one year he is to get certification by the State. Once he has proven that he has received the certification the 10% reduction will be removed and he will get the entry level salary at that point.

Councilman Jacobs discussed the process. There are procedures for hiring people and there are pay scales and job descriptions that are established by the City Council.

In response to Councilman Jacobs, Mr. Sabouri stated that when this person was originally offered the job the offer was made following the rules that were established by the City Council. The offer was made this way because that was the only way he was legally allowed to do so.

Councilman Jacobs commented that we now have a contractual relationship with this man to be hired at a certain pay scale that was legitimate at the time the negotiations were done.

Councilman Levy and Councilwoman Stoner disagreed.

Councilman Levy disagreed because Council had already given direction. This person is not hired until approved. Mr. Sabouri made an offer that he does not accept, as the person is being offered the same pay as someone who is qualified. He does not believe that is a good policy.

In response to Councilman Jacobs, Mr. Sabouri advised that the qualification is part of the job description. The job description says that you must be certified by Broward County and the State of Florida. He was offered the job because the State of Florida will issue a provisional license.

Councilman Jacobs' point was that all of these negotiations took place and after all of the arrangements were made with the person Council says they changed their mind and wants to pay 10% less. He believes this is totally improper; it is an ex post facto law, which is prohibited by the U.S. Constitution.

Councilman Levy stated that we have the right to deny this person being hired. He feels that Councilman Jacobs is out of order saying that Council is going against the Constitution. Our employee should not have offered the position until it was approved by Council based on the fact that he requesting someone who is not qualified to get that job.

In response to Councilman Jacobs, Councilman Levy advised that the difference between a City Manager and Council is that a City Manager makes recommendations to the Council and does day to day operations; the Council sets policy.

Councilman Jacobs concurred and stated that Councilman Levy is trying to do day to day operations and not set policy. City staff has offered the man a position and after the job was offered we are not going to change it and say that he will not get what he was offered; that is wrong.

Councilwoman Uria questioned how a job can be offered without Council approval. She believes both Councilmen have valid points.

Councilman Jacobs stated that the 10% suggestion is valid and he is not saying it is wrong; he is saying it is wrong in this context. If you want to do that kind of thing it should be done in the job descriptions when the policy is made; you do not do it ex post facto.

Councilwoman Uria agreed. She requested that Councilman Levy withdraw his motion and this gentleman will not get the promotion. This job description will be reviewed and add it into a job description that until a person is certified they do not get the full starting salary.

Councilman Levy believes in training and educating a person so they do have a career ladder and he believes this is unfair to Mr. MacLain because he has been promised.

Mr. Sabouri commented that the gentleman already has the job and if we do not have the right to approve it then why are we having this discussion?

Councilwoman Uria noted that Councilman Jacobs brought up a very good point. She suggested doing this the right way and review the job description.

Councilman Levy apologized to the job applicant and withdrew his motion.

Mayor Bendekovic advised that job descriptions are on the next Workshop agenda. She commented that the former inspector earned \$57,000 and it would be a savings to hire Mr. MacLain, as he would earn \$50,000; a savings of \$8,510. The job that Mr. MacLain is leaving would also have to be filled and that would be a savings of \$5,826.35; therefore, hiring this gentleman would be a total savings of \$14,337.20.

Councilwoman Stoner indicated that the County has not given out an electrical provisional electrical license in over five years. The gentleman who left was given a conditional job offer as is everybody else.

Mr. Lunny provided a short distinction of the Council's role in this matter. There is no ordinance or resolution that requires Council's approval prior to hiring regular employees. The City's practice is to have Council approval for exempt employees and for employees where other jurisdictions that help supervise require a statement from the governing body. In Mr. Sabouri's case, he is an officer of the City who is subject to the supervision of the Board of Rules and Appeals. When our Building Department is no longer adequate that entity can decertify us and we will not have a Building Department anymore.

Mr. Sabouri has a statement from the governing body of the City for employees that have Code based responsibilities. There are many employees within the City that get hired everyday pursuant to approved descriptions that do not have any Council input or supervision of. With regard to the concept of job descriptions, we used to have a Job Description Committee and now that is being done as proposed to be done annually by the Council; therefore, the Committee only met for one disciplinary matter. In Mr. Lunny's opinion, in this case, there is no need to approve a different job description for this individual; that description is set by the Florida Building Code; it is established by Mr. Sabouri; it is reflected in the Human Resources policies; therefore, there is no need to say that we will change the description. If the Council is satisfied with the idea that you want to propose 10% less during this provisional period, which Mr. Sabouri does not have the authority to do, then you can approve it tonight subject to that issue and he can present it to the individual tomorrow. He does not think there is a violation here and he does not believe that this item needs to be delayed. The issue can be disposed if Council has a compensation issue; however, the person running the department has the legal responsibility for the department and says he meets the requirements of this position, he is working under my license and he needs him.

In response to Councilman Tingom, Mr. Sabouri advised there were six applicants and four of them were interviewed. This job was advertised in both newspapers and on a professional website. The group of people who apply for these jobs are very limited. This individual was the second choice; however, the first choice, who was certified by the State and County, wanted too much money. The person selected can be trained and will not have any "bad habits". In order to get a Masters License there are certain steps that must be taken as an electrician. First, you have to get a Journeyman License and you have to have a minimum of four years experience verifiable by a W2 form. Three years after that you have to take and pass a second test. In order to be a Master Electrician, Plumber, or Mechanical Contractor, you have to have a minimum of seven years of verifiable experience by a W2 form and affidavit, with 60% in a supervisory position. There are two categories based on a provisional license; the entry position of Inspector I and/or every time the person is promoted. This individual was given a conditional job offer; if he is not employed someone else has to be hired. As far as liability, Mr. Sabouri does not know what liability the City would have if the selected person were not hired.

Mr. Lunny commented there would not be any liability on the part of the City.

Councilwoman Stoner was curious why this position was not posted on the City website. She questioned how many City employees applied for the job.

Mr. Sabouri advised that this individual was the only City employee who applied for the position. This would be the second City employee he has hired; he has been very happy with the first one, who is now the Chief Electrical Inspector.

Councilman Levy emphasized that he agrees with Mr. Sabouri; we need to be responsible for the taxpayers' money. He does not feel that the individual should be paid the salary if he is not certified. He would like to hire this person and pay him less giving him an incentive to get the certification. He suggested approving with 10% less pay until the person receives certification, which should be within one year.

Mr. Lunny indicated that a motion can be made to retain the individual at 10% under the minimum level until such time as they are no longer provisionally licensed.

Motion by Councilman Levy, seconded by Councilman Tingom, to approve with 10% less pay until receiving certification, which should be within one year. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Tingom, Uria

Nays: Jacobs

Councilman Jacobs does not like the timing and he believes it is wrong to do this to someone who has already gone through this process, therefore, he will vote no.

Councilwoman Stoner questioned whether Councilman Levy would consider amending the motion to state no take home vehicles.

Mr. Sabouri stated that inspectors do not take vehicles home; only the inspector that is on call for the Fire Department.

Councilwoman Uria questioned the thought process of this gentleman since the offer was made. She would prefer to wait until the job descriptions are reviewed but believes this is a fair motion.

Mr. Sabouri advised that the individual was very disappointed; however, if this motion were to be passed he is sure he would be elated.

Jerry Fadgen, resident, commented that the discussion was very interesting. If the situation was different and the economy was very strong the range for inspectors would probably be revised to allow us to hire someone; however, the economy is bad and we have to adjust. He believed that the motion was made was excellent and noted that the Council should look at this from a business standpoint.

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Mr. Lunny read Item #15.

15. Resolution pertaining to the subject of Human Resources; approving the form of Public Employment Contracts with the City Senior Tennis Pro; authorizing the Administration to make minor changes to the documents hereby approved as may be seemed necessary prior to signing same; providing findings; providing a savings clause; and providing an effective date therefor.

In a memorandum dated May 4, 2011 to Mayor Bendekovic and Members of the City Council from Donald J. Lunny, Jr., City Attorney follows:

A. Introduction

This item is sponsored by the Administration and by the Parks and Recreation Department.

The sponsoring Departments asked that this Memorandum note that the Plantation Tennis Program's excellent reputation is in no small measure due to the efforts of the City and its Tennis Staff to promote this unique aspect

of Plantation's community identity. Indeed, the long-term strength of the Veltri Tennis Center and Plantation Pro Shop will continue to be its programs, members, and Staff values. For thirty years, the goal of the Tennis Staff has been to provide excellent service at reasonable rates. All city fees and Pro Shop fees for camps, clinics, lessons and stringing are kept in the bottom one-third of similar facilities in the tri-county areal. All requests for refunds are honored promptly and the emphasis by the Staff is always on serving the customer's needs. Every effort is made to encourage play at the tennis facility and promote the city. The strong partnership between the city and the Tennis Staff has been tangibly recognized by the recent expansion of Plantation's Tennis Program to include not only the Saviano High Performance Tennis Academy, but also the Orange Bowl Junior Classic.

B. Background

As the Council may know, the City's public employment contract with Mr. Cooper was signed in May of 1981, and has not been formally reviewed or amended since that date. Because of the former Agreement's age, the Legal Department requested that Mr. Cooper obtain an ethic commission Opinion confirming that the essential and continuing terms of the agreement remain consistent with the State's ethics laws, and an Opinion to this effect has been received. Given our review of the Opinion, the Legal Department is recommending that the City enter into a Public Employment contract with the acting assistant tennis pro, Mr. Coffman, as Mr. Coffman's tennis related functions are similar to Mr. Cooper's functions. Therefore, Mr. Cooper is proposed to be called the "Senior Tennis Pro", and Mr. Coffman is to be called the "Tennis Pro."

C. Senior Tennis Pro Agreement

The Senior Tennis Pro's Agreement has been revised to reflect the current relationship of the parties. To that end, the "high points" of the revised agreement are:

1. It reflects the fact that the facilities supervised by the Senior Tennis Pro have substantially expanded from their original description in 1981;
2. It is better organized to set forth the basic duties and responsibilities for which Mr. Cooper is paid a salary, and the additional duties and responsibilities for which he is able to keep other earned revenues,
3. It more clearly states that only Mr. Cooper's salary for basic services is pensionable (the 1981 agreement recognized this status as a full time employee for pension benefits);
4. It contains certain updated provisions which more clearly reflect Mr. Cooper's status as an exempt employee for purposes of not being subject to overtime compensation;
5. It expressly authorizes Mr. Cooper to form a corporate entity for the provision of the services called for in the agreement as allowed by the Opinion;
6. The Agreement retains the Council's right (enjoyed since 1981) to impose a franchise fee (however, provisions have been added to explain that in view of the fact any franchise fee would need to be passed along to participants, the fact that participants already pay user fees to the city, and the fact the City and Senior Tennis Pro are still attempting to keep participant costs as low as possible, neither party has determined to request a franchise fee);
7. The Senior Tennis Pro's duties and responsibilities have changed over the course of the prior Agreement's performance, and so it is proposed that the Senior Tennis Pro's additional compensation also change.
 - a. In 2002, the Senior Tennis Pro and Administration decided to further promote Plantation's tennis culture by creating the Plantation Tennis Tournament Corporation, a Florida Not for Profit Corporation which has been recognized by the Internal Revenue Service as a 501(c)(3) tax exempt organization¹. While Mr. Cooper's contract would have allowed him to keep net revenues from three (3) sanctioned Tennis Tournaments per year, he and the Administration

informally agreed that the Corporation would secure and operate up to three sanctioned tournaments; consequently, the Administration is advised that Mr. Cooper does not receive any direct or indirect compensation from the Corporation for any of his time or efforts in connection with the Corporation's Tournaments. The Senior Tennis Pro will ensure that the City receives a copy of the Corporation's financial statement and tax return, annually.

- b. In 2010, Mr. Cooper was instrumental in attracting to Plantation the Saviano High Performance Tennis Academy ("SHPT"). The SHPT agreement has affected the Senior Tennis Pro by both increasing his supervisory responsibilities and decreasing his revenues as a result of SHPT's court utilization (and the consequent decrease in court utilization for lesson and clinic revenues for the Senior Tennis Pro).

The Administration and the Senior Tennis Pro evaluated these changes last year and informally determined that the Senior Tennis Pro's compensation would be changed by the City agreeing to assign to Mr. Cooper 50% of the franchise fee revenue the City would have otherwise received from SHPT Non-exclusive Facilities Agreement, but only if, as, and when same is due payable after the revised Senior Tennis Pro Agreement is approved.²

D. Tennis Pro Agreement

Mr. Coffman's public employment agreement is similar, but simpler than Mr. Cooper's. The primary differences are:

1. Mr. Cooper will continue to be responsible for the Pro Shop under the Senior Tennis Pro Agreement;
2. The Tennis Pro will be a secondary point person employee for the Corporation with respect to its Tournaments (unlike Mr. Cooper's contract, however, Mr. Coffman does receive compensation from the Corporation for acting as a Tournament Director);
3. The Tennis Pro's supervisory and management functions will be consistent with the Senior Tennis Pro's overall program of activity

E. Conclusion

If any of you have any questions or comments about the business aspects of this matter, please feel free to call Mr. Romano or Mr. Cooper. If any of you have any questions or comments concerning the legal aspects of this matter, please call me. The Resolution and proposed form of Agreements are now ready for consideration as Consent Agenda Items.

¹ The Corporation's purpose is to promote, foster, and support the sport of tennis through sponsoring Tournaments and amateur competition among residents of the City of Plantation, and others. The Corporation has funded improvements to the city's Tennis Facilities, and has been beneficial in attracting quality tournaments.

² The City currently obtains \$60,000 from SHBT per fiscal year.

Mr. Lunny explained that this item is a carryover from the last Administration. The tennis pros functions and duties with Plantation were proposed to the change under the prior Mayor in two significant respects: one is that he was requested to form a tax exempt foundation for the Plantation Tennis Corporation and to obtain the tax exempt certificate, which the firm did back in 2002.

Councilwoman Uria stopped Mr. Lunny. She stated that her backup material had backup B and exhibit A was emailed yesterday and she did not pick it up until the date of this meeting. She personally has not read exhibit A and was not prepared to discuss this item. She requested that this item be deferred to a future Council meeting.

Councilwoman Stoner indicated that this is an important arrangement and suggested that there be some discussion.

Mayor Bendekovic commented that a discussion can be held at a Council meeting it does not have to be a Workshop. She noted that the May 25th agenda is heavy.

In response to Councilman Levy, Mr. Lunny advised that it was not necessary that this discussion be held during this meeting.

Councilwoman Uria requested that Councilwoman Stoner share whatever information she has at that time.

In response to Mr. Lunny, Mayor Bendekovic believed it should be an Administrative item.

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ADMINISTRATION – None.

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LEGISLATIVE – None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 21.

21. REQUEST FOR SIGN SPECIAL EXCEPTION FOR HH GREGG LOCATED AT 12300 WEST SUNRISE BOULEVARD.

Staff comments are as follows:

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; aerials; Sign Special Exception application; and sign details.

REQUESTS:

- 1) From: Section 22-35(g), which allows one (1) wall sign on the front of the building limited to 60 square feet in area;
To: Increase the size of the front wall sign from 60 square feet to 176 square feet.

Wall signs are permitted based on one-square-foot of wall sign for each lineal foot of store frontage, subject to a maximum of 60 square feet. If the request is approved, there would be an area increase of approximately 115.97 square feet.

- 2) From: Section 22-35(g), which allows one (1) wall sign on the side OR rear of the building limited to 30 square feet in area (1/2 the allowable size of the front sign);

Side or rear signs are permitted but may not exceed fifty (50) percent of the allowable front wall sign area. If the request is approved, there would be an area increase of approximately 41.35 square feet.

- 3) From: Section 22-20(g), which limits the size of the subordinate message to 15% of the allowable wall sign area;
To: Increase the size of the subordinate message from 15% (9 square feet) to 95% (57.41 square feet) of the allowable wall sign area.

A subordinate message identifies a product or service offered and may not exceed fifteen (15) percent of the allowable sign area. If the request is approved, there would be an area increase of approximately 48.41 square feet.

ANALYSIS:

The subject site contains 6.80 acres and is part of the 8.68-acre master plan known as The Shoppes of Plantation Acres. The site is bound by Sunrise Boulevard to the north, church and school use to the south, commercial use to the east and Flamingo Road to the west.

The applicant received Plan Adjustment Committee approval on January 6, 2011 to subdivide the existing 44,400-square-foot store previously occupied by Circuit City into two retail spaces. HHGregg will occupy approximately 32,800 square feet and the remaining 11,600 square feet will be utilized as future tenant space.

The applicant also received administrative approval on February 17, 2011, to allow the sign font colors for HHGregg and the future tenant to consist of red letters and the sign font colors of the existing Quarterdeck sign to remain green letters.

Please note:

- Some signs in the area were constructed prior to 2005 and are legally non-conforming as to size. The code in effect prior to 2005 allowed stores having greater than 60 linear feet of building frontage to increase the allowable sign area based on the square footage of the store. Prior to 2005, HHGregg would have been allowed one wall sign on the front up to 185 square feet in area and one wall sign on the side up to 78.7 square feet in area based on a floor area of 32,800 square feet.
- The applicant has not mentioned that the City Council approved a sign special exception to allow two ground signs in 1997. One sign being 10' in height and 32 square feet in area fronts Sunrise Boulevard and a second sign shared with Broward Christian School being 10' in height and 36 square feet in area fronts Flamingo Road. These signs are still available for use by HHGregg.

EXECUTIVE SUMMARY

Staff disagrees with much of the applicant's justification and recommends it not be used by Council to justify the granting of the special exception. However, staff generally concurs that the HHGregg building location and size, the location adjacent SunTrust and Jared Jewelers, the height of the Jared Jewelers building, and a variety of special circumstances relating to site location, access, and characteristics of the adjoining road system justify the granting of the sign special exceptions subject to the following conditions:

Staff recommends limiting the primary sign to 150 square feet consistent with existing non-conforming signs in the area. Staff is willing to allow the requested 176 square feet sign providing the applicant and the landlord both agree in writing that no further sign special exceptions will be submitted for this shopping center. This means no applications can be submitted for any sign SE, including but not limited to wall, monument, pylon, awning, and directory signs for any current or future tenants in the shopping center.

SPECIAL EXCEPTION

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code. The applicant is required to identify the following:

- 1) That special conditions and circumstances exist such as, but not limited to, building orientation, vehicular circulation or vision obstructions (not to include landscaping) that are peculiar to the land, structure, or building that create a site specific justification for the exception:

Special conditions and circumstances exist that are peculiar to the land, structure, or building that creates a site specific justification for the HHGregg sign special exception. The Shopping Center was originally developed in the late 1990's and was designed with the anchor tenant building setback from the roadway (Sunrise Boulevard) allowing for development of smaller freestanding retail buildings nearer to Sunrise Boulevard. Typical shopping centers are designed to highlight the anchor tenant building/space, generally by providing a larger storefront and incorporating one or more of the following design techniques for the anchor tenant: prominent/embellished architectural elements, height increases (i.e. building, parapet wall, etc.), paint colors, larger signage, etc. In addition, shopping centers with freestanding buildings in the foreground to ensure the prominence of the anchor store and its visibility.

As mentioned above, the HHGregg retail store is approved to occupy the existing anchor tenant building space, which was previously occupied by the now out of business Circuit City. The proposed primary wall signage is 175.97 total square feet with a maximum overall height of 9'9" inclusive of the blank space between the two lines of sign text and a maximum letter height of 5'3-1/8" which is to be located on the parapet, all of which is comparable to that approved for Circuit City. The building height of the existing HHGregg building is comparable to the height of the freestanding buildings, with the only difference being the proposed parapet to identify its recessed location, again, which was also approved for the previous Circuit City. As the anchor tenant, secondary wall signage is needed to ensure visibility and the prominence within the Shopping Center. The proposed secondary wall signage is proportionately smaller in size than the proposed primary wall signage, as it is proposed to be 100 square feet with a maximum overall height of 5' and a maximum letter height of 4'5/8". As proposed, it is also compatible as secondary signage with the adjacent shopping center, meaning that it is appropriately subordinate to the primary signage of the adjoining shopping center. It is also important to note that both of the proposed wall signs are the federally registered HHGregg logo.

Unfortunately, the design of the center and specifically the location of the HHGregg space is somewhat visually obstructed from the major intersection and thoroughfares which it abuts, Flamingo Road and Sunrise Boulevard, the latter of which the Shopping Center fronts. The visual obstruction is as a result of the existing building's excessive setback from Sunrise Boulevard and the two freestanding buildings in the forefront of the Shopping Center. The HHGregg store is setback approximately 315 feet from Sunrise Boulevard, which has 9 travel lanes and a right-of-way ("ROW") width of +/- 140 feet with 9 travel lanes. The vehicular traffic traveling on these major roadways and passing through this major intersection is generally moving at a high rate of speed and has limited opportunity to identify businesses, especially those setback from the roadway/intersection. The Code doesn't recognize or give any latitude to buildings that are significantly set back from the right-of-way. Further, the Code also gives little credit or latitude to the center's anchor by allowing some additional square footage.

Staff's Response: The HHGregg parcel contains a combination of unique site-specific conditions.

- ***HHGregg is located in between and to the rear of "Jared Jewelry" and "Sun Trust Bank".***
 - ***While Jared is a single story building, the height approaches that of a mid-size box store and obscures a portion of the HHGregg building.***
 - ***No traffic signal is provided at the entrance to the shopping center.***
 - ***U-turn lanes along eastbound and westbound Sunrise Boulevard are limited.***
 - ***Turning movements are challenging based on the very high traffic volumes in this commercial corridor.***
 - ***The HHGregg building store is visible from a very narrow view corridor (the main entrance driveway to the store).***
 - ***The location of the HHGregg building relative to buildings in the adjacent shopping center to the east.***
- 2) That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other property of lands, structures or buildings of similar character with identical special circumstances (non-conforming signs shall not be grounds for issuing sign special exceptions), or alternatively, that a special exception from the provisions of this Chapter is warranted and justified to protect, preserve, or enhance the City's tax base or to prevent or eradicate conditions of economic blight;

Granting the requested HHGregg sign special exception is warranted and justified to protect, preserve, and enhance the City's tax base and to prevent or eradicate conditions of economic blight. As mentioned above, the HHGregg retailer is poised to occupy otherwise vacant retail space within a smaller shopping center that is in proximity to the Sawgrass Mills Mall. This occupancy is a result of the current economic struggles facing many large and small retailers – failing business. The previous occupant was Circuit City, which was forced to close its doors in 2009. Since that time the tenant space has remained vacant. The closure of this anchor has had a trickledown effect on the smaller tenants. Given that several large national retailers, including those that typically anchor shopping centers, such as Borders Blockbuster, Loehmann's, Barnes & Noble and Toys R Us, are all struggling, vacancies along this retail corridor could easily become an epidemic, impacting future economic development and the tax base well into the future. As such, supporting new retail business and providing adequate identification and visibility is of the utmost importance to promote the economic viability of the business as well as the overall marketplace.

In addition, the increased wall signage is needed to fairly compete with its nearby competitors, as the name "HHGregg" alone does not indicate the wares being sold by the retailer which requires the additional line of sign text "appliances & electronics" to inform customers. The larger retailers are typically the only stores within the center that advertise in the local circular, TV and radio. They pay more to be in the space through advertising and rent and their presence in the Shopping Center is needed to draw in customers who also buy from the

neighboring smaller tenants. The smaller tenants in the Shopping Center expect for the mid box and larger stores to get significantly more signage. HHGregg means nothing to the Florida retail market. In fact over the years (particularly as they were expanding) the company felt the need to add the words “appliance and electronics” to its name. They eventually changed their registered trademark to include the additional detail. Unlike Sports Authority, Dick’s Sporting Goods, Circuit City and others similarly situated whose names sufficiently put people on notice of what they sell; HHGregg had to add a description to its name to put the consumer on notice. The Plantation sign Code works against retailers with longer names.

Staff’s Response: *The applicant states that the economic blight along this corridor should be the basis to grant a special exception. Staff disagrees with this statement. Vacancy rates along this corridor are due to a combination of global and national recessionary pressures affecting different businesses in different ways. The surrounding neighborhood is not blighted, and in fact possesses a very healthy economic demographic. In some cases, businesses are struggling due to changes in technology. The sale of hardcopy books at brand name bookstores now faces competition from electronic devices such as Nook and Kindle. If the City Council chooses to grant this special exception, it should not be based on finding that sign compliance along this portion of Sunrise Boulevard causes blight.*

3) That the special conditions and circumstances do not result from the action of the applicant.

The special conditions and circumstance are not a result of the petitioner’s actions. The HHGregg retailer proposes to occupy an existing building within an existing Shopping Center for which the site design and layout was previously determined. As such, petitioner is simply requesting adequate signage to mitigate the existing visual obstacles in identifying the presence of the HHGregg retailer as well as to fairly compete with nearby competitors. The market conditions are well beyond the control of this retailer. All of the retailers have modified their business plans due to the economy. More signage mitigates the lesser demand.

Staff’s Response: *The applicant assumes that more signage somehow mitigates the lesser demand for a product. No analysis for this explanation is provided. This rationale does not explain why businesses with oversized signage fail and businesses with little signage thrive.*

4) That the sign special exception to be granted is the minimum measure needed to address the special conditions and circumstances that justify the special exception; and,

The requested sign special exception is the minimum wall signage needed to address the special conditions and circumstances. Considering the visual obstructions to the retailer, surrounding development and location adjacent to major roadways, the proposed wall signage is the minimum signage to ensure economic viability for the retailer, especially given the state of the economy. Although the proposed wall signage exceeds that allowed by Code, it is consistent with the wall signage of surrounding shopping centers. In addition, the proposed wall signage will provide adequate signage to indicate its presence in the market, fairly compete with competitors and adequate reaction and maneuver times for drivers along the two major roadways. The tenants in this center are competing with the Sawgrass Mills Mall tenants for business. They are at a significant competitive disadvantage with all the advertising and choices that the consumer has at the Sawgrass Mills Mall.

Staff’s Response: *Staff does not concur with the applicant’s justification that the requested sign size is needed to compete in the market place. The applicant’s long-term success in the market place is based on repeat customers who make their decisions based on product price and availability, and in some cases customer service. Electronics stores cannot survive without repeat customers, who on their second visit know*

the location of the store and plan accordingly. In addition, many first time customers will search for a store location on the internet and are aware of its location before they leave home.

- 5) That the sign special exception will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood, or surrounding property, and will not otherwise be detrimental to safe and convenient use of nearby rights-of-way;

The HHGregg sign special exception will be in harmony with the general purpose and intent of Chapter 22 and will not be injurious to the neighborhood, or surrounding property, and will not otherwise be detrimental to safe and convenient use of nearby rights-of-way. As has long been an established fact in the shopping center business, smaller businesses look to locate in centers that have larger anchors to draw in the greater shopping public. Centers with such large users as Home Depot, Target, Walmart, Publix and other similar big box stores have typically been a great draw for the smaller retailers. One tier beneath the larger boxes are those stores in excess of 16,000 square feet up to and inclusive of the 50,000-square-foot range. Those retailers include, Sport's Authority, Dick's, the Fresh Market, Bed Bath and Beyond, Crate and Barrel, Walgreens, CVS and others in that category. These mid size retailers are also good draws for the smaller retailers and serve to bring in the shopping public to smaller shopping centers. The Shopping Center is located across the street from the Sawgrass Mills Mall and was intended to draw retailers that typically prefer and do best outside a mall environment with easier parking and access. Not unlike the mall venue, this shopping center also needs certain anchors (mid or larger) to survive and was designed to accommodate multiple smaller freestanding buildings along the Sunrise Boulevard frontage with a big mid box retail tenant centrally located and setback from the roadway to anchor the overall center and draw in customers.

Unfortunately, the economy has had a significant impact on the health of the center with the mid box retailer (Circuit City) going out of business. The closure of this anchor has had a trickledown effect on the smaller tenants. Considering the number of big box retailers that continue to suffer in this economy the impacts could be widespread, particularly in proximity to the Sawgrass Mills Mall. Retailers looking to occupy vacancies in this strained marketplace need clear visibility to identify their presence to customers. That being said, HHGregg is an established appliance and electronics business that is new to the South Florida marketplace. Both of the proposed wall signs are the federally registered logo of tenant's primary wall signage within the Shopping Center and adjacent development, particularly considering the distance that HHGregg is setback from Sunrise Boulevard (+/- 315 feet) compared to the freestanding buildings fronting the roadway (Jared's is about 95 feet and Suntrust is about 75 feet).

The proposed secondary wall signage is in character with the signage of the Shopping center and signage of adjacent commercial development. Considering the expansive ROW width along Sunrise Boulevard, the secondary wall signage provides an opportunity for customers to identify the retailer from a distance to safely maneuver through traffic, thereby decreasing potential negative traffic impacts to this major thoroughfare.

Staff's Response: *Staff has reviewed the existing wall sign areas for Michael's and Comp USA, together with the previous wall sign installation for Circuit City. The sign areas were 138 square feet, 137 square feet, and 154 square feet in area, respectively. Based on existing non-conforming signage in the area and the site-specific conditions stated above, staff cannot support a Sunrise Boulevard sign larger than 150 square feet unless certain commitments are made by the landlord and the applicant.*

- 6) That all other signage on the property is in substantial compliance with this Chapter, as applied.

The other Shopping Center signage is in substantial compliance with Chapter 22, as applied. Especially considering that the signage is provided in accordance with previously issued City approvals, which are generally limited to wall signage for various tenants of the Shopping Center.

City Council approved a sign special exception to allow two ground signs in 1997. One sign being a 10' in height and 32 square feet in area fronts Sunrise Boulevard and a second sign shared with Broward Christian School being 10' in height and 36 square feet in area fronts Flamingo Road.

Mr. Lunny summarized the waiver requests.

Councilman Jacobs disclosed an Exparte Communication between himself and Ms. Miskel regarding the site plan, signs and staff report; however, this will not influence his decision which will be based upon evidence presented tonight.

Councilman Tingom disclosed an Exparte Communication between himself and Ms. Miskel and noted that it will not influence his vote.

Attorney Bonnie Miskel provided a brief presentation of the application. She advised that this is a family owned company. One of the locations they are interested and have entered into a lease for is the subject property which is generally the southeast corner of Flamingo Road and Sunrise Boulevard in what was formerly the Circuit City building. When venturing out of the Midwest where their reputation was not familiar to anyone else they modified their trademark to add the language "Appliances and Electronics". They have a lot of letters in their name and that is one reason for this meeting. Their location is behind two outparcels, one of which has a great deal of elevation. It also happens to be an area where the vegetation is extremely lush and is growing very well; therefore, there is a very narrow window of visibility for signage. They are hopeful that by expanding the signage it will be somewhat visible to those who might not know it is there. The sign is three-pronged, the last prong being the Appliance and Electronics portion, which also requires a waiver. Ms. Miskel appreciates Mr. Leeds' recommendation and their willingness to recommend in favor of the 176 feet; however, she does not represent the landlord and she cannot make any overtures or representations on their part. She cannot conceive that they will not ask for anything else as they do have other tenants that they are negotiating with and they cannot commit long term because these tenants may go away and someone else may come in. Anyone who wants to submit a signage that varies from something that she has on the agenda will have to make an application and demonstrate that they meet the criteria just as they have. She apologized and stated that the owner did not authorize her to make any representations on their behalf at this meeting.

In response to Councilwoman Uria, Ms. Miskel clarified that they do not want a sign on the rear, just on the side.

Mr. Leeds supported the sign special exception.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Item #21. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Tingom, Jacob, Uria

Nays: None

* * * * *

Mr. Lunny read Item #22.

22. REQUEST FOR SIGN SPECIAL EXCEPTION FOR CHASE BANK LOCATED AT 8285 WEST SUNRISE BOULEVARD.

REQUESTS:

1. From: Section 22-35(g), which allows one (1) wall sign on the front of the building plus one (1) wall sign on the side or the rear of the building. (Two walls signs allowed by code);
To: Allow two (2) additional wall signs on the north and west side of the building (for a total of 4).

Currently signs exist on the south and east elevation of the building. Approval of this request would allow signs on all four sides of the building.

2. From: Section 22-35(g), which limits the size of wall signs on the side or rear of the building to 30 square feet in area (1/2 the allowable size of the front sign);
To: Increase the size of each wall sign on the side and rear of the building from 30 square feet to 57.6 square feet (Nearly twice the size permitted by code).

If the signs requested on the north, east, and west sides are approved in request #1, approval of this request will allow an increase in the size of those signs from 30 square feet to 57.6 square feet in area.

3. From: Section 22-20(g), which limits the size of the logo to 10% of the allowable wall sign area;
To: Increase the size of the logo from 10% to 18.4% for the 57.6-square-foot sign and from 10% to 15.7% for the 30-square-foot sign, if approved.

Approval of this request will allow the logo to be slightly larger than the code allowance for both sign sizes.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report and attachments; location map, aerials, Sign Special Exception application, and sign details.

ANALYSIS:

The subject property is .72 acres in area, currently zoned B-2P, and a portion of the 16.1-acre Jacaranda Plaza master plan which consists of (4) buildings containing a grocery store, retail shops, professional offices and restaurants. The property is bound on the north by single family residential use in the City of Sunrise, commercial uses on the south and east, and office use on the west.

City Council approved the demolition of an existing restaurant building (previously Gold Coast Seafood) and the construction of a 4,214-square-foot bank (Chase) with drive-thru facilities on June 9, 2010. The building received a Certificate of Occupancy on April 21, 2011. The building currently has one wall sign on the front (south) side of the building and one wall sign on the east side of the building which meet the code requirements.

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code that is Exhibit "A".

EXECUTIVE SUMMARY:

Portions of Chase Bank’s jurisdiction are based on incorrect information and undocumented statements. To the best of staff’s knowledge, the request for four full-size signs on a building fronting a major arterial with direct access to a signalized driveway is without precedent. There is nothing unique about this building, the shopping center, or the shopping center parking lot to justify any additional signs. There are multiple entries into shopping center, including a second signalized driveway.

However, staff has concerns about the large number of vacancies in the shopping center. Staff believes the vacancy rate is due to recessionary impacts, a possible decrease in disposable income in the immediate area and changes in customer base associated with particular businesses. Staff will know more when 2011 Census economic data is released.

In order to bring more potential customers to the shopping center, staff is willing to support a 30-square-foot sign on the west face of the Bank. Staff has no objection to the logo special exception if it can be accommodated within the 30-square-foot size limitation.

STAFF COMMENTS:

PLANNING AND ZONING:

- 1. Four additional bank sites are either in review or have been recently approved by City Council and include the following:

- Chase Bank Northwest corner of Nob Hill Road and Cleary Boulevard.
- PNC Bank Northeast corner of Nob Hill Road and Cleary Boulevard.
- TD Bank Northeast corner of Sunrise Boulevard and Pine Island Road.
- TD Bank Northwest corner of Broward Boulevard and State Road 7.

- 1. That special conditions and circumstances exist such as, but not limited to, building orientation, vehicular circulation or vision obstructions (not to include landscaping) that are peculiar to the land, structure, or building that create a site specific jurisdiction for the exception.

There are special circumstances and conditions applying to Property and outparcel which make the requested special exceptions necessary to effectively and safely accommodate the proposed Chase Bank signage. It is impossible for Chase to maximize sign visibility, legibility, compatibility and effectiveness while complying with every provision of the Code. Chase has created a successful model within their company and throughout the country with regard to signage. Chase uses uniform signs, in terms of size, area, height, font types, and sign materials on a vast majority of their bank branches. This Chase practice increases sign recognition and brand recognition for Chase Bank branches throughout the country. Sign recognition is extremely important for enhanced motorist safety due to increased visibility and legibility. Chase customers across the country have become accustomed to the identifying signs that Chase is requesting for this Plantation location. The requested signage allows customers and passing motorists to quickly and efficiently identify the Chase Bank while causing the least amount of distraction. Quick and efficient Chase recognition substantially enhances motorist safety and greatly improves traffic circulation on the surrounding thoroughfares and within the shopping centers’ parking areas.

Staff's Response: There are no special conditions or circumstances that create a site specific justification for this request. Chase Bank is located in the middle of shopping center's parking lot and fronts Sunrise Boulevard with no adjacent building obstructions. Chase Bank also has direct access to Sunrise Boulevard via a signalized driveway.

2. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other property or lands, structures or buildings of similar character with identical special circumstances (nonconforming signs shall not be grounds for issuing sign special exceptions), or alternatively, that a special exception from the provisions of this chapter is warranted and justified to protect, preserve, or enhance the City's tax base or to prevent or eradicate conditions of economic blight.

Tenants have very strict requirements with respect to signage. Visibility along Sunrise Boulevard is vital to the success of Chase Bank and Jacaranda Plaza. In order to attract tenants, these requested special exceptions are absolutely necessary. As a result, the strict application of the Code would result in an unnecessary hardship and deprive Chase Bank and Jacaranda of the reasonable use of the land. The special exceptions requested are the minimum special exceptions that will make possible the reasonable use of the outparcel property given the location, size, and character of said property. Any alleged hardship has not been self-created by any person having an interest in the Property nor is it the result of a mere disregard for or an ignorance of the provisions of the zoning ordinances of the City.

Chase has requested the minimum sign exceptions necessary to effectively and safely direct motorists to the outparcel building. Additionally, the requested special exceptions allow motorists to safely and effectively navigate the parking area. Chase and Jacaranda are proposing a quality development that will increase the tax base of the City and provide a new bank which will offer convenient services to the residents in the City. Further, the Code encourages new development and new businesses which will provide greatly needed services to the citizens of the City, which in turn benefits the City.

Staff's Response: The applicant has not demonstrated that a literal interpretation of the Code would deprive the applicant of rights "commonly enjoyed by other properties of similar character". Other outparcels with similar characteristics are subject to the same code requirements. No other parcel in the general area, located this close to Sunrise Boulevard on a non-corner lot has four signs. Because the Chase Bank is an outparcel, there are no buildings blocking or obstructing views of the bank.

3. That the special conditions and circumstances do not result from the action of the applicant.

Any alleged hardship has not been self-created by any person having an interest in the property nor is it the result of a mere disregard for or an ignorance of the provisions of the zoning ordinances of the City. The City's Code does not have regulations that allow for the safe and necessary signage for the proposed Chase Bank. Therefore, it is necessary for the application to request these special exceptions which will permit the safest and most effective signage for the Chase outparcel building.

Staff's Response:

- Chase Bank has not provided any documentation that the additional signs or the size thereof is justified for safety reasons.
- The hardship is self-created by the applicant because Chase Bank was advised of the City's sign regulations in the fall of 2009 and preceded with acquisition and construction of the bank.

4. That the sign special exception to be granted is the minimum measure needed to address the special conditions and circumstances that justify the special exception.

In order to create wall signage that is easily visible from the adjacent right-of-way and proportionate to the building, it is necessary to make the signage on the building larger than what code permits. Chase is requesting that the minimum special exceptions from the wall signage, square footage and number requirements to maximize the visibility of the "CHASE" sign and supporting logo which is the principal sign on the primary and secondary facades of the outparcel building (Please see sign graphics). The visibility and proportionality of this sign and logo is critical to the functionality of the entire building given the fact that this sign is Chase's nationally registered and trademarked signage and logo.

It is imperative, from a safety standpoint, to create wall signage that is easily visible from the adjacent right-of-way. The main function of shopping center wall signage is to allow for passing motorists to easily view the signs while causing the least amount of distraction. The best way to achieve this goal is to factor in the size of the building and distance from the adjacent right-of-way and then design signage that is large enough to accomplish that goal. Chase has hired an outside sign consultant to take all of the necessary factors into consideration while designing the proposed signage for the outparcel building. Chase's sign consultant has designed the proposed signs in such a way that they can be seen by passing motorists and will not cause the hazardous conditions which will result if signs are too small to be easily read from the adjacent right-of-way. Furthermore, the size of the letters on the building are directly proportional to the size of the building and are compatible with the rest of the shopping center and neighboring community.

Staff's Response:

- Chase states that the "main function of shopping center wall signage is to allow for passing motorists to easily view the signs while causing the least amount of distraction." This is not correct. Section 22-1 of the City Code indicates the background and development history of the current sign code.
- Chase Bank's assumptions regarding safety and distraction issues are not justified. The additional signage requested on the north side of the building is not visible from the adjacent rights-of-way and shall be deleted from the request.
- The bank is located closer to Sunrise Boulevard than most of the tenants in the shopping center. The much larger SteinMart Department Store, which does not front Sunrise Boulevard and is setback much further from Sunrise Boulevard, is allowed only one wall sign.

5. That the sign special exception will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood, or surrounding property, and will not otherwise be detrimental to safe and convenient use of nearby rights-of-way.

The requested special exceptions would be in harmony with the general purposes of the Code and would not be contrary to the public interest, health, or welfare, taking into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in the buildings, and traffic conditions in the vicinity. The requested special exceptions for the proposed Chase Bank are compatible with the surrounding buildings, zoning districts and uses. Additionally, the Chase Bank is virtually surrounded by other compatible commercial uses.

With respect to traffic, the requested special exceptions will not negatively affect public safety or be contrary to the public interest, health or welfare of the Plantation community. The property owner worked very closely with Broward County's Transportation Planning Division to mitigate possible anticipated traffic impacts associated with the Jacaranda Plaza project. University Drive and Sunrise Boulevard provide primary access to the property, both of which have sufficient capacity to handle the traffic anticipated by Chase Bank.

Additionally, the requested sign special exceptions will greatly enhance motorist safety due to increased visibility, legibility, and compatibility with one another.

Staff's Response: The sign special exception is not in harmony with the signage provided in the existing shopping center. The proposed number of signs (four) and total square footage of sign area (230.45 square feet) are inconsistent with existing signage on other similarly situated out parcels in the area.

6. That all other signage on the property is in substantial compliance with the Code, as applied.

All other signage on the Chase Bank property including, but not limited to, directional and regulatory signage is in substantial compliance with the Code.

Staff's Response: Staff concurs.

Councilman Tingom declared an ex parte communication. He met with Mr. Dickerson and his discussion will not have any influence on his vote.

Councilman Jacobs declared an ex parte communication. He met with Mr. Dickerson and his decision will be based upon evidence presented at this meeting; his vote will not be influenced by their discussion.

Attorney Dwayne Dickerson was present.

Councilwoman Uria referenced request #1 and questioned why a sign is needed on the north side of the building, as it backs up to the shopping center.

Mr. Dickerson advised that the north side building is internal to the shopping center. The shopping center is very unique and it is important to have that sign even once you are in the center, as there are about 120 to 130 feet between that building and the next set of buildings to the north of the site. It is believed that the sign is helpful, even internally, to circulate people within the shopping center.

In Councilwoman Uria's opinion, someone can tell it is a Chase Bank from the back.

Mayor Bendekovic concurred; everyone can tell this is a Chase Bank when entering and exiting the shopping center.

Councilman Tingom agreed that the one sign on the south side is all right and the applicant should choose either the east or west. He would be all right with the increase in size but only two signs.

Mr. Dickerson indicated that this location already has two existing signs; a sign on the main facade, which is the southern facade, at 57.61 square feet; and then a sign on the east facade at approximately 25.61 square feet. The request is for the west side, which is a sign that staff has recommended they would support as long as a maximum of 30 square feet is maintained. It is believed a sign on the west is important in addition to the east because if you are heading eastbound on Sunrise Boulevard the main access point to the shopping plaza has that light.

Councilwoman Uria did not have a problem with the east or west sign; just a problem with the signage on the north.

Councilman Jacobs, seconded by Councilwoman Stoner, to approve the two signs and not the signage on the north.

Mr. Leeds stated that there is nothing that unique about the location of this building. He was willing to support a 30-square-foot sign on the west side.

In response to Councilwoman Uria, Mr. Leeds commented that there is a 57-square-foot sign on the east side and he is limiting the sign on the west side to 30 square feet. They would not necessarily want the signs to be symmetrical because it would set a bad precedent; every out parcel in the City would want the same type of arrangement. If Council is concerned about the symmetry it is acceptable to vote for each sign to be the same size; he cannot support it because he has to deal with precedent.

Ms. Dickerson clarified the size of the existing signage on the east is 25.61 square feet. They are requesting a 57.61-square-foot sign on each side. They did not want to open without signage; therefore, they had to install signage that met Code. The existing sign on the east facade is 25.61 square feet and they are requesting the symmetry of all three signs to be 57.61 square feet.

Councilman Jacobs commented that directional signs are required for this site because of the way the access in and out of the drive-thru.

Councilman Jacobs amended the motion, seconded by Councilwoman Stoner, to approve the existing sign on the east, a second 25.61 square-foot sign on the west side, and no sign on the north side; the other signs are within Code and logo.

Ayes: Levy, Stoner, Tingom, Jacobs, Uria
Nays: None

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COUNCILMEMBERS' COMMENTS

Councilwoman Stoner referenced previous discussions by Dennis Conklin regarding the World Trade Center piece and requested a status.

Mayor Bendekovic advised that she has never seen the application.

Mr. Keefe commented that he believed something was in the works. The last he recalled was that they were trying to get some idea of the size and the cost of shipping. He noted that he would follow up on this.

Mayor Bendekovic stated that Mr. Conklin advised that he was going to put a certain amount of money towards the shipping when this was first mentioned.

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Councilman Tingom stated that the Teacher of the Year Breakfast, sponsored by Motorola, was held this morning and was a very nice event.

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Councilman Levy provided an update on the runway expansion. During a phone call he was advised that the north/south runways are still closed and that we will have to put up with this until early July 2011. For those that are annoyed, there is not anything that can be done; this is for future safety.

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Mayor Bendekovic advised that it is an honor to sit as Mayor. She stated that the Department Heads have been very patient with all of her questions.

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Councilwoman Uria commented that the Broward League of Cities sent a rough draft on the new Code of Ethics.

Mayor Bendekovic attended the meeting and it will be brought to Council on May 18, 2011 because it has to be back to them by June 2, 2011. We are going to attach Mr. Lunny's suggestions to some of their issues that we feel need to be placed into the ordinance. This needs to be brought to a Workshop because every City has to vote on it.

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Councilwoman Uria referenced the Country Club Estate Homeowners' meeting last night. During a phone call she received it was noted that there were about 30 people in attendance and most of them do not want the MURT trail.

Mr. Butler advised that he provided each Council member with a letter and design plans.

In response to Mr. Butler, Councilwoman Uria indicated that about 30 people attended the meeting and about 28 voted against the trail and two were undecided. They are supposed to form a little Committee and then meet with Mr. Butler and Mayor Bendekovic.

Councilman Levy commented that they need to meet with staff and Mayor Bendekovic in order to understand what it can be. Currently it looks like trash and is dark. He does not understand the objection that if this is done it will somehow encourage people to walk behind their houses instead of how much value and beauty it will bring to their homes.

Councilwoman Uria stated that they do not have the knowledge and feel that the grant money should be given back and then plant some things and keep it maintained. They do not understand that doing that takes money

and we do not have the money. We understand there are security issues; we do not want people back there with ATV's, etc.

In response to Mayor Bendekovic, Councilwoman Uria indicated that Jaime Strauss is the President of the Country Club Homeowner's Association.

Councilman Levy requested an update from Mr. Strauss yesterday but has not yet received a response.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS - None.

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WORKSHOPS – None.

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Meeting adjourned at 9:42 p.m.

Sharon Uria, 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 _____, 2012.

Susan Slattery, City Clerk