

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

August 10, 2011

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

1. Roll Call by City Clerk:

Councilmember: Ron Jacobs
Lynn Stoner
Peter S. Tingom
Sharon Moody Uria
Mayor: Diane Veltri Bendekovic
Asst. City Attorney: Quentin Morgan
Absent: Dr. Robert A. Levy

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic introduced Fire Chief Harris and Joel Gordon, Fire/Rescue Battalion Chief and Jessica with Westside Regional Hospital. Chief Harris recognized and presented plaques to Captain Ashley Dunham and her crew, and Lieutenant George Gonzalez on their superior service. Mike Kohler, along with his wife and son, were present and expressed their gratitude. Yvonne Smith, resident, was also present.

Chief Harris indicated that the new CPR was initiated in March 2011. There were 18 cardiac arrests between March 1, 2011 and June 30, 2011 and 72% of those individuals returned to spontaneous.

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Mayor Bendekovic recognized and presented plaques to former Advisory Board members.

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CONSENT AGENDA

Item No. 4 was removed and voted on separately.

As a Commissioner of the CRA, Mayor Bendekovic had a voting privilege on Item No. 11.

Mr. Morgan read the Consent Agenda by title.

Resolution No. 11314

5. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 210 NW 48 Avenue. (LL Capital LLC)

Resolution No. 11315

6. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 1080 East Country Club Circle. (Lara)

Resolution No. 11316

7. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 1064 NW 88 Avenue. (High)

Resolution No. 11317

8. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 21 – August 3, 2011 for the Plantation Gateway Development District.

Resolution No. 11318

9. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 21 – August 3, 2011 for the Plantation Midtown Development District.

Resolution No. 11319

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 21 – August 3, 2011.

Resolution No. 11320

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 21 – August 3, 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: Tingom, Jacobs, Stoner, Uria

Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 11.

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Mr. Morgan read Item No. 4.

4. Request for authorization to initiate contract with Bill2Pay for lockbox services for the processing and posting of utility payments, piggybacking the City of Ocala bid and for the processing of online utility bill credit card and e-check payments for a period of three years with three one-year elected extensions.

A memorandum dated August 5, 2011 to Mayor Bendekovic and the Members of City Council, from Hank Breitenkam, Director of Utilities, follows:

Since late 2006, the City has contracted the printing, mailing, remittance receipt and account posting of utility payments. The reason was the cost avoidance of purchasing new bill receipting equipment and the deletion of one and a quarter positions in the IT Department and the reallocation of duties for three clerks in the Finance Department. The printing and mailing of bills were contracted to Pinnacle Data Systems while the receipt and posting of remittances have been handled by the City's bank, Sun Trust Bank, at their lockbox facility in Baltimore, Maryland. The average monthly cost for this service is \$7,000.

As we (finally) move forward with the implementation of HANSEN, our new billing software, that will not only calculate and create a bill for a multitude of billing scenarios, will also provide a dynamic portal on the City's website for the viewing of utility accounts and for online credit card payments, a significant cost saving matter was brought to light while preparing interface reports for HANSEN from Sun Trust Bank's lockbox.

Substantial savings can be realized by changing our payment processing services provider from Sun Trust Bank to Bill2Pay, a contractor who specializes in remittance processing for over twenty-five government agencies in Florida. In addition, another benefit is that Bill2Pay's lockbox facility is located within the State in Clearwater, Florida, rather than Baltimore, Maryland, which should provide quicker turnaround in receiving payments via US Mail. I have checked references from several of Bill2Pay's current customers such as the City of West Palm Beach, the Village of Wellington, the City of Melbourne and the Jacksonville Utility Authority. All entities stated that Bill2Pay's service regarding remittance processing was excellent with very few errors and their customer service to address any issue was speedy and effective.

With the advent of the HANSEN billing software, the methods of payment by our customers are expected to change significantly from mailed paper checks or automatic funds transfer (AFT) to 3rd party (elective) electronic payment, e-checks and credit card payments. Some considerations for changing lockbox providers at this time are: 1. We have received numerous calls from our customers voicing dissatisfaction with the Baltimore lockbox; 2. Uncertainty regarding our customers' preferred future payment type; 3. The need to interface with our lockbox provider for the imminent HANSEN software implementation; and 4. The expected realization of significant savings over our current lockbox provider. Therefore, the IT, Finance and Utilities Departments recommend that we piggyback the existing contract Bill2Pay has with the City of Ocala for lockbox services. Bill2Pay advises that while it is difficult to compare "apples with apples" because of varying volumes and customer payment preferences, Bill2Pay's pricing, based on their projected margins (as a percentage), is consistent with their most favorable utility agreements.

I have attached the following information for your review:

1. Plantation Utilities customer base and payment distribution;

2. Proposed Bill2Pay contract with Plantation, based on the City of Ocala piggyback and including price schedule;
3. Bill2Pay client reference list;
4. Original City of Ocala RFP.

Utility providers are permitted by law to pass on “convenience fees” to customers for online payment by e-check (as opposed to 3rd party electronic payment) and credit cards. The proposed convenience fee is \$2.50 per \$100 for credit card payments and \$2.50 for e-checks (regardless of amount).

This information is provided for your review and approval to contract lockbox services and online e-check and credit card payments to Bill2Pay, piggybacking on the City of Ocala bid and with appropriate review changes to the contract by Administration and the City Attorney prior to execution.

Councilperson Stoner pulled this item due to the fact that there will be some edits to the contract. She commented that this will basically pay for itself.

Hank Breitenkam, Utilities Director, advised that the lockbox is in Tampa; however, residents will be able to pay online. The customer will not know they are redirected to another site.

Councilperson Stoner mentioned the \$2.50 convenience fee and questioned whether there is a service charge when using the website.

Motion by Councilman Tingom, seconded by Councilperson Stoner, to approve Item No. 4. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS - None.

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LEGISLATIVE ITEMS - None

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Mr. Morgan read Item No. 12 with the waiver requests.

12. REQUEST FOR SIGN SPECIAL EXCEPTION FOR CHASE BANK AT PLANTATION PROMENADE LOCATED AT 1195 CLEARY BOULEVARD.

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): Allows two (2) wall signs, one on the front of the building (Cleary Boulevard and a second sign on one side of the building;
To: Allow three (3) wall signs, one on Cleary Boulevard, a second on Nob Hill Road and a third sign facing east.
2. **From:** Section 22-35(g) limits the size of the wall signs on the Nob Hill Road to 30 square feet;
To: Increase the Nob Hill Road sign from 30 square feet in area to 57.6 square feet in area.
3. **From:** Section 22-35(g) prohibits a sign on a third side of the building, in this case the east elevation.
To: Allow a 57.6-square-foot sign where none is permitted.
4. **From:** Section 22-20(g) limits the logo size to 10% of the allowable wall sign area.
To:
 - a. Facing Cleary Boulevard: Increase logo size from 10% to 18.5% (for the permitted 57.6-square-foot sign);
 - b. Facing Nob Hill Road: Increase logo size from 10% to 36.7% for the proposed oversized sign; and
 - c. Facing East: Increase logo size from 10% to 36.7% for the proposed prohibited sign.
5. **From:** Section 2-20(b) which limits the number of colors for shopping centers with more than 20 occupant spaces to four (4) colors for wall signage. Plantation Promenade has elected four colors: red, arroyo red (burgundy), Publix green, or black.
To: Allow a fifth color, white, for the Chase Channel letter signs.

EXECUTIVE SUMMARY

The subject property is zoned B-2P and located at the northeast corner of Nob Hill Road and Cleary Boulevard within the Plantation Promenade Shopping Center. City Council approved demolition of 8,256 square feet (previously Original Old Fashioned Steak House) of an existing +/- 14,520-square-foot restaurant/retail building and the construction of a 4,391-square-foot freestanding bank (Chase) with drive-thru facilities on December 8, 2010.

Chase Bank is allowed two signs, one on the front (60 square feet) and a second on the side OR rear elevation (30 square feet) of the building. The applicant, based on the Plantation Promenade sign color criteria, is allowed a choice of four channel letter colors: red, arroyo red (burgundy), public green, or black.

Contrary to the sign code, the applicant has requested three signs on Cleary Boulevard, Nob Hill Road, and facing east. The applicant has requested that all three signs be 58 square feet in area, and the color of the channel letters be white. Proposed white channel letters are not consistent with the Promenade Center color menu. White letters are also not consistent with the Chase Bank website, as well as existing banks in Coconut Creek and Plantation.

With the exception of item 5(a) above, there is no basis to grant the requested special exceptions. The site fronts Nob Hill Road and Cleary Boulevard with no obstructions. The site plan allows direct access (without driving through the shopping center parking lot) from eastbound and westbound Cleary Boulevard and northbound Nob Hill Road. Southbound Nob Hill Road access requires a short trip via the shopping center entrance. The bank is a freestanding building, separate and distinguishable from the adjacent retail center.

Existing Tropical Financial Credit Union (fronting Nob Hill Road) and Optimum Bank (fronting Cleary Boulevard) both have less visibility than the Chase Bank. Wells Fargo (located in the middle of the shopping center) has no direct visibility to a public road. All three have complied with the City's sign code with regard to the number of signs, size of signs, and Promenade wall sign colors.

The applicant states "*Chase uses uniform signs, in terms of size, area, height, font types, and sign materials on a vast majority of their bank branches*". Chase has provided no evidence to suggest this is correct, especially since sign codes vary considerably across the nation. Regardless, granting a special exception based on Chase's "uniformity" argument is inconsistent with the concept of maintaining community character that is unique to Plantation and promotes quality, economic development. The granting of this special exception may encourage corner redevelopment projects (some of which may be less desirable by the Council) to submit similar special exception requests.

EXHIBIT "A"

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;

Applicant's Response:

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 and 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 practices increased 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 identification signs that Chase is requesting for this Plantation location. The requested signage allows

customers and passing motorists to quickly and efficiently identify the Chase 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. The site is among the most visible in the City as it fronts Nob Hill Road and Cleary Boulevard with no obstructions. In addition, direct access is provided to the bank (without the need to drive through the shopping center) from east and westbound Cleary Boulevard as well as northbound Nob Hill Road. Southbound Nob Hill Road access is provided via a short trip from the shopping center entrance.

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 (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.

Applicant's Response:

Visibility along this corridor is vital to the success of the Bank. 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 the Bank 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 property given the location, size, and character of same. 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 on ignorance of the provisions of the zoning ordinances of the City.

Staff's Response: The applicant has not demonstrated that a literal interpretation of the code would deprive the applicant of any rights "commonly enjoyed by other properties of similar character". To the contrary, the applicant has requested preferential treatment not afforded other bank outparcels within the center that have less visibility and have complied with code.

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

Applicant's Response:

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 Bank. As a result, it is necessary for the applicant to request these special exceptions which will permit the safest and most effective signage for the Chase outparcel building. The Bank's unique location with visibility from Nob Hill Road, Cleary Boulevard, interior drive aisles and parking areas within Plantation Promenade, warrant special signage considerations for the applicant.

Staff's Response: Because there are no special circumstances or conditions justifying granting the special exception for this site, this criteria does not apply.

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,

Applicant's Response:

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 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 building. 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 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 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: Applicant has not identified any special conditions or circumstances distinguishing this site from other unobstructed corner sites in the City or other outparcels within the same center. To the contrary, the applicant has requested preferential treatment over bank sites not afforded the unobstructed, intersection location of Chase Bank.

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.

Applicant's Response:

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.

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.

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 request is not in harmony with the general purpose and intent of this Chapter. The sign code already provides corner lots with greater sign exposure than sites which front only one street. Granting this special exception, where none is required, will encourage additional applications, potentially for uses not desired by the Council.

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

Applicant's Response:

All other signage on the Chase Bank property including, but not limited to, directional and regulatory signage is in substantial compliance with the Code. The City's Code does not have regulations that allow for the safe and necessary signage for the proposed Bank. As a result, it is necessary for the applicant to request these special exceptions which will permit the safest and most effective signage for the Chase outparcel building. The interior drive aisles and parking areas within Plantation Promenade warrant special signage considerations for the applicant.

Staff's Response: The applicant has submitted documentation confirming this is the case. Staff disagrees with the applicant's statement that "the City's Code does not have regulations that allow for the safe and necessary signage for the proposed Bank."

Councilman Tingom and Councilman Jacobs made Jennings Disclosures.

Mr. Leeds explained the process and stated that staff could not find a basis to support any of the special exceptions. The applicant was advised of the sign code prior to construction; therefore, he cannot support the special exception.

Councilperson Stoner questioned the sign sizes at other existing bank facilities.

Mayor Bendekovic stated that things are slower during the school season and that is the perfect time to build. She encouraged Council to review the size and amount of signage.

Hope Calhoun, attorney, was present on behalf of the applicant. She spoke about the color, size and location of the signs. She feels the color is compatible with the surrounding buildings and explained why the applicant is requesting the signs. She noted that it is convenient when other banks use colors that are already used in the shopping center; however, this is an outparcel and it is extremely important that it stands apart from the shopping center.

In response to Councilperson Stoner, Ms. Calhoun explained why black was used instead of white.

Motion by Councilperson Stoner to approve waivers #1 and #5 only; the three wall signs and the color, not the size. There was no second to the motion.

Councilman Tingom believed that three large signs are too much; he would be willing to go with three signs if they were smaller.

Councilwoman Uria referenced Comment 4A, sign #1, and noted that she did not have a problem with the logo being larger. She stated that sign #1 would be larger than sign #2. She did not have an issue with the color.

Mayor Bendekovic mentioned PNC Bank and cautioned that there may be a lot of signs at that intersection.

Councilman Tingom requested that the motion be withdrawn and asked that it be restated with two signs.

Ms. Calhoun advised that the unique circumstance is the location. Because they are on a corner they need the signage. The speed limit can vary and the objective is to stop people before they get to the bank.

Councilperson Stoner commented that the applicant has not proven their unique circumstance. She withdrew the motion.

Motion by Councilperson Stoner, seconded by Councilman Tingom, to approve waiver #5 only. It was noted that the sizes are standard, Nob Hill Road 27 and Cleary Boulevard 58.

Councilwoman Uria stated that Mr. Leeds commented that he would not disagree with Item #4.

Motion by Councilperson Stoner, seconded by Councilman Tingom, to approve waivers #4 and #5 with two wall signs, one on Cleary Boulevard and one on Nob Hill Road. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic advised that everyone has received the budget. Directors are available to answer any questions.

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Mayor Bendekovic announced a Budget Workshop on August 25, 2011 at 6:30 p.m.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

In response to Bob Knox, resident, Mayor Bendekovic indicated that she has not yet looked into the land behind Volunteer Park being used for planting.

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Mr. Knox questioned whether the City was aware that FP&L was installing smart meters on houses. He feels it is a surveillance device and did not give any implied consent.

Mayor Bendekovic suggested that Mr. Knox get in touch with Lynn Shatas at FP&L.

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Mr. Knox mentioned artwork that was approved by the Broward County Commission for \$600,000.

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Dennis Conklin, resident, distributed copies of lyrics of the Navy hymn in honor of the fallen heroes.

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WORKSHOPS - None

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Meeting adjourned at 9:00 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