

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

October 10, 2012

The meeting was called to order by Councilman Peter S. Tingom, President of the City Council.

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Councilman Tingom.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – May 9, 2012

4. Approval of Minutes of Meeting – June 14, 2012

5. Approval of Minutes of Meeting – June 27, 2012

6. Approval of Minutes of Meeting – July 10, 2012

The minutes of the City Council meetings of May 9, 2012, June 14, 2012, June 27, 2012 and July 10, 2012 were approved.

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ITEMS SUBMITTED BY THE MAYOR

7. Annual Presentation of Fire Prevention Awards

Fire Chief Joe Harris, Joel Gordon and Mayor Bendekovic presented awards to the winners of the Fire Prevention Poster and Essay Contest. Chief Harris thanked the Friends of the Helen B. Hoffman Library for grading the essays. He also thanked Julie Wallack, Gloria Scrogan (sic), and Ede Brown of the Plantation Art Guild for grading the posters.

Mr. Gordon announced the 1st place winners as follows:

The 1st place citywide poster contest winner was Nicholas Fernandez-Bagoon (sic), a third grader at American Heritage.

The 1st place citywide essay contest winner was Gavin Dilaurel (sic), a fourth grader at Tropical Elementary.

Chief Harris recognized *Plantation Fire Department's 2012 Business of the Year*, City of Plantation Parks and Recreation Department and Public Works Department for all they do behind the scenes.

The award was accepted by Frank DeCelles, Director of Public Works, and Jim Romano, Director of Parks and Recreation.

This year's *Plantation Fire Department Member of the Year Award* went to Lieutenant Alex Pudivan (sic) for his commitment and dedication to the Fire Department.

The award was accepted by Lieutenant Pudivan.

Congratulations were offered.

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Jim Romano, Parks and Recreation Director, made the following announcements:

- The Broward High School Championship Swim Meet will be held at the Aquatic Complex on Saturday, October 13, 2012.
- The High School District Championship Swim Meet will be held at the Aquatic Complex on Saturday, October 25, 2012.
- A Kids Day Off program will be held at Plantation Central Park on Friday, October 26, 2012.
- The Annual Family Halloween and Safety Festival will be at the Kennedy Community Center on Saturday, October 27, 2012 between 10:00 a.m. to 2:00 p.m.
- Winter class registration begins November 5, 2012 through November 21, 2012. Classes will begin on November 26, 2012.
- In August 2012 the "Men and Women of the Seventh Coast Guard Division" was filmed at the Aquatic Complex, which is a new segment of a new television show on the Weather Channel called "Coast Guard Florida". It will premiere tonight at 9:00 p.m. on the Weather Channel.

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Mayor Bendekovic read a Proclamation designating Saturday, November 3, 2012 as ***Making Democracy Run Day*** in the City of Plantation.

Christine Judakis (sic), with the Broward League of Women's Voters, accepted the proclamation. She announced that the 5k run and 1k walk is November 3, 2012, beginning at 7:30 a.m. at the Broward County Emergency Management Operation Center near the West Regional Library. Participation is \$25 for early registration and \$30 the day of the event.

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Mayor Bendkeovic made the following announcements:

- Plantation Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.
- The Annual Water System Chlorination Maintenance Program begins Monday, October 15, 2012 and will end Thursday, November 1, 2012.
- The Lauderdale West Health Expo will be held on Friday, October 19, 2012 between 10:00 a.m. and 3:00 p.m. at the Lauderdale West Clubhouse.
- The Broward County Property Appraiser's Community Outreach Event will be every Wednesday in October from 12:00 p.m. to 2:00 p.m. at the Outreach Center at the Broward County Government Center at the corner of University Drive and Broward Boulevard.
- Plantation Acres Women's Club Italian Night will be held at Volunteer Park on October 26, 2012 between 6:00 p.m. and 10:00 p.m.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 26.

Item No. 22 was pulled for discussion.

Mr. Lunny read the Consent Agenda by title.

8. Approve helicopter landing at Pine Island Park on November 4, 2012 as part of the Plantation Volunteer Fire Association's Annual Barbecue.
9. Big Bike Riders Association in conjunction with Hart-T-Farms is requesting approval to sell Christmas trees from a temporary facility located at the northeast corner of the Westfield Mall parking lot adjacent to the University Drive/Broward Boulevard intersection beginning November 21 through December 24, 2012.
10. South Plantation High School is requesting permission to have a Community Yard Sale located on their property (north parking lot of school) on Saturday, November 3, 2012 from 7:30 a.m. until noon.
11. St. Benedict's Episcopal Church is requesting permission to sell Christmas trees from November 30 through December 8, 2012.
12. St. Benedict's Episcopal Church is requesting permission to have a "Chili Cook Off" event on Saturday, December 8, 2012 from 9:00 a.m. until 6:00 p.m.
13. TD Bank, N.A. is requesting permission to have a Grand Opening and Promotional event on Saturday, October 13, 2012 from 10:00 a.m. until 2:00 p.m. in the parking lot of their new location at 1800 North Pine Island Road.
14. Approve Flood Insurance renewal for 2012-2013 in the amount of \$67,318.
15. Approve funds to purchase ongoing maintenance for our Intergraph (Public Safety CAD 911) software in the amount of \$113,925.72.

16. Request for authorization to approve a purchase order to Caribe Utilities of Florida, Inc. in the amount of \$106,286.74 for the replacement of 822' of asbestos-cement water main on Plantation Road between Camellia Court and Fig Tree Lane. (Budgeted – Utilities)

17. Request to waive competitive bidding and purchase a Toro Reelmaster 5510 from Hector Turf in the amount of \$45,484.33. (Budgeted – Golf maintenance)

Resolution No. 11570

18. **RESOLUTION** assessing a lien on 172 SW 62nd Terrace for the cost to the City of Plantation of its mowing and clearing.

Resolution No. 11571

19. **RESOLUTION** assessing a lien on 6531 NW 18th Court for the cost to the City of its mowing and clearing.

Resolution No. 11572

20. **RESOLUTION** recognizing Together We Serve Week, October 21 – 27, 2012 and encouraging all citizens to support and take part in increasing volunteer efforts within our community.

Resolution No. 11573

21. **RESOLUTION** to apply for a Florida Land Stewardship Program Grant more commonly known as Parks for People.

Resolution No. 11574

23. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 13 – October 3, 2012 for the Plantation Gateway Development District.

Resolution No. 11575

24. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 13 – October 3, 2012 for the Plantation Midtown Development District.

Resolution No. 11576

25. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 13 – October 3, 2012.

Resolution No. 11577

26. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 13 – October 3, 2012 for the City of Plantation's Community Redevelopment Agency.

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

Ayes: Jacobs, Levy, Moody, Stoner, Tingom

Nay: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 26.

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Mr. Lunny read Item No. 22.

Resolution No. 11578

22. **RESOLUTION** pertaining to the subject of the Group City Fire Rescue Coalition of Broward County, Florida, Inc. f/k/a The Group City Emergency Medical Service Coalition of Broward County, Florida, Inc., approving the Articles of Dissolution and Plan of Distribution of Assets; authorizing the President to execute The Articles of Dissolution and Plan of Distribution of Assets and authorizing such other actions as may be necessary or convenient to accomplish the dissolution of The Group City Fire Rescue Coalition of Broward County, Florida, Inc., providing for findings; and providing for an effective date therefor.

This item was pulled by Dennis Conklin, resident. This basically dismantles a part of the government that is no longer in need of its services. He commended Broward County and each of the cities that participated in this. He noted that when the City approved the CRA he felt that perhaps the Gateway should be dissolved, although they do have actual business members. At the time of the discussion and public hearings for the CRA he spoke very strongly about including business owners and stakeholders of the Gateway to be members of the CRA Board of Directors; however, the Council and the Mayor are directors of the CRA. He feels strongly that Plantation could return that extra millage back to the businesses on the State Road 7 corridor and perhaps dissolve that Board and put members of the business community on the City's CRA Board of Directors.

Mr. Lunny clarified that this is not a dissolution of any governmental apparatus or arm of government. Many cities had a desire to obtain advance life support, Plantation being one of them, and they formed a coalition that is in the form of a not for profit company for various reasons. The mission was accomplished with the permission of the County to have cities, such as Plantation, operate their emergency medical rescue; therefore, there is no further need to have the not for profit entity and the leadership of that entity, which happens to be elected officials of certain cities, have recommended its dissolution. He emphasized that this has nothing to do with the dissolution of a government and has nothing to do with Gateway 7 at all.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Resolution No. 11578. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 27.

27. **PUBLIC HEARING PERTAINING TO THE COMMUNITY BUS SERVICE KNOWN AS THE PLANTATION TRAM.**

Mayor Bendekovic indicated that there was a discussion regarding the tram on September 19, 2012 and there was a question as to continue the service. There is a mixed consensus with Council members; therefore, the first process is a public hearing, then we must follow the contract with Limousines of South Florida and with

Broward County for the Community Bus Service. Background was provided along with the ridership and routes. Ridership was requested since 2011 and that was also included along with the Interlocal Agreement with Broward County for the Community Bus Service. Since September 19, 2012, we have distributed over 800 notices throughout the City for this public hearing. Notices were posted at all of our facilities and we reached out to Jacaranda Square, Plantation Town Square and contacted Westfield Mall in order to get the word out about the hearing this evening. Mayor Bendekovic thanked Mr. Irv Minney who has been very helpful in developing and distributing the proper notices for the public hearing. She recognized and welcomed Commissioner Lois Wexler.

Mr. Lunny pointed out that Broward County also provided statistics concerning ridership and routes, which was included in the agenda material. That information was very helpful in providing the criteria in Page 2 and 3 of the memorandum that Council should consider when evaluating these statistics and deciding, after hearing from the public, what you might want to do concerning this service.

Commissioner Wexler commended County staff for an excellent job. She noted that the majority of the ridership and the majority of the geographic area that the A and B routes cover are not in her district. She pulled the ridership from 2010 through 2012 and stated that we have something to be very proud of as far as ridership. In 2010 there were 11.5 persons per passenger hour; in 2011 there were 13.9 persons per passenger hour and in 2012 there were 13 and almost 14 people riding the tram. Working with cities for the last eight years, transportation, hubs and getting people to stops on Broward County Transit lines are imperative. One discovery was that the people who ride the trams go to two places; to the west depot or to Lauderhill. During financial issues many cities have turned to Mr. Minney and he works very closely in helping to make bigger headways. There are a number of things that could be done as well as a small fee, which was suggested to some of the cities over the last number of years. A fee up to 85 cents could be initiated. She requested that Council keep this successful service for our citizens.

Heidi Jamison, resident, was present. She urged Council to retain the tram service for free. She believes there are other areas of the budget that could be cut to help pay for this. She has often recommended Plantation as a place to live for elderly friends and friends with disabilities specifically because of our free tram service. The tram also provides an option for people who need to go from their neighborhood to University Drive or one of the main bus lines to pick up a County bus. As a resident, it is a matter of pride. They feel safe in the tram and it is something they are proud to tell people about.

Marjorie Verney (sic), resident, was present. She thanked Council for allowing public input. She advised that the Plantation Tram has been her means of transportation since the inception of its service and she uses it four or five times a week. She mentioned the cleanliness of the vehicles and the helpful and courteous drivers. She urged Council to keep the tram.

Dee Fadora (sic) Jones, resident, was present. She uses the tram every day that she works and it always follows the schedule. She lost everything a few years ago and does not have a vehicle. The tram has been very helpful in helping her get on her feet again. If the tram is eliminated she will not be able to get to work. The tram is very important to her. She requested that Council keep the trams status quo.

Matthew Sutton, resident, was present. He is physically disabled, both in vision and in a few other ways, and has always had problems getting around. Riding the Broward Transit buses became difficult because he could not get around so when the Plantation Tram began it was an answer to prayer. He could go anywhere he needs to go and it was only two blocks away from his house. As earlier stated, the drivers are wonderful, courteous, and will

help you when you need it. It is a wonderful system. He would hate to lose or reduce the tram and with the way gas prices are going, he believes more and more people will be depending on it.

Kingsley Smith, resident, was present. He recently had an eye problem and could not drive; therefore, he had to use the tram. He mentioned that several people in his neighborhood use the tram. He urged Council to continue the tram.

Gayle Choit (sic), resident, was present. She was in favor of retaining the tram service. As several people have mentioned, there was a time when she had a medical condition and was unable to drive. She has four children and transportation was troubling; however, the tram allowed her to be independent. She and her children were able to safely ride the tram in order to accomplish what they needed to do. The tram provides temporary service for our citizens as well as on a longer term scale. Her children attend Plantation High School and many of the students rely on the tram to allow them the opportunity to participate in after school sports and other activities. Once school is dismissed they have no way home; there are no other buses that provide transportation except the tram. This is a very valuable service for our children because it provides safe transportation allowing them to become well rounded citizens by participating in a multitude of activities. She also noted that the elderly are able to take the tram and retain their independence. This service is something to be proud of and eliminating the tram would not be positive for our citizens.

Ruth Tagle (sic), was present. She has two children that attend Plantation High School and noted that they use the tram for afterschool activities such as sports and the marching band. It is very important to these children and she hopes that Council will consider keeping it.

Sharon Braun,(sic), was present. She reiterated what everyone else was saying. She has four children and they have all had to sell their cars because they cannot afford them. They are living at home and take the tram to work, to the doctor and to get to the County bus. It is too hard for the children trying to make it today to not have some type of transportation. She urged Council to keep the tram.

Adly (sic) Menace, resident, was present. He retired from Broward County Transit. He has two children at home and they cannot afford cars; they all ride the tram. Many people use the service and will miss it if it is taken away.

Ana Vargas, resident, was present. Her mother moved into the Omega condos because she is disabled and the tram goes right in front of her house. She stated that her children also depend on the tram for afterschool activities. Several people will be hurt if the tram is discontinued.

Irv Minney, Community Transit Officer with Broward County Transit, was present. He advised that his director, Tim Garding (sic), was also present. The residents have spoken as to the importance of the tram. He stated that the tram is one of the best systems in the County; there are 18 municipalities participating. The tram is doing about 176,000 trips with about 14 passengers per revenue hour, which is twice the minimum requirement necessary to operate the tram.

Councilman Tingom questioned whether since we have more ridership if the County will pay more.

Mr. Minney indicated that Broward County pays \$15 per hour and all of the cities are paid the same amount. He stated that four buses are leased to the City for \$10 per year each; those buses are worth \$70,000.

Councilman Jacobs complimented Mr. Minney and everyone involved in the community bus service. When Ms. Verney spoke of clean, cool and friendly drivers, he was very impressed that the service is something that is done in a quality way. When the discussion first came up about saving on the community bus service he was opposed to stopping the service but after hearing from residents, he is more than adamant that we must continue this service. We need to figure out how to keep the service and believes that it should not be changed in any way. We need to find the \$220,000 somewhere else.

Councilman Levy stated that he also voted for keeping this service during the other vote. Statistics cannot be used when dealing with human beings. Those in need of using this service should never be left out. He reiterated what Councilman Jacobs said and he continues his position as being one absolute for, no changes, and keep it as it is.

Councilperson Stoner questioned out of the 18 municipalities how many charge for the use of the tram.

Mr. Minney advised that four cities charge for the service. Tamarac, Coral Springs and Fort Lauderdale charge 50 cents and Margate charges 75 cents.

Councilperson Stoner commented that based on the 163 ridership number, 50 cents would be about \$82,000 and 75 cents would be about \$123,000. She questioned whether she read the information provided correctly as to redoing the route and seeing where the most need is. One thing she suggested over the last year is that we somehow extend the route into the Fountains and Midtown, which seems like a natural extension to her. She believes that some of the concern is that the tram will not leave everyone on time as to the existing route.

Mr. Minney indicated that they can accommodate changes to the route. He stated that at one time we had a service called The Midtown Trolley. During discussion with the Economic Development staff, Ms. Goode indicated that she did want to make those changes but that she would wait for some different activity to occur in that area. Upon receipt of a letter they can accommodate those wishes.

In response to Councilperson Stoner, Mr. Minney noted that about five of the 18 cities still have Saturday service. He commented that a few operate on Sundays. It is not a major issue to retrofit the buses if we want to start charging. Staff has inquired about fare boxes and they have been given the cost of installation of a fare box. He guessed that administrative costs would be included.

In response to Councilwoman Moody, Mayor Bendekovic indicated that we have a budget stabilization and that is where we would have to go for the \$220,000 if we were to keep the service and not charge.

Mr. Minney commented that we have the ability to provide advertisement on the bus and make money from the advertisement.

In response to Mayor Bendekovic, Ms. Caravella stated that the cost for a new fare box would be \$825 each; one would have to be installed in each of the buses. In speaking with Mr. Levitt, there are some used fare boxes that would be \$600 a piece. Basically the fare box is a double vault system so the money is secure when it is collected. We would have to make arrangements to meet with the buses, probably about three times a week, to remove the fare box and replace it with an empty one.

In response to Councilwoman Moody, Mayor Bendekovic indicated that there are currently four trams and two routes.

Mr. Minney advised that the headway is 45 minutes.

Mayor Bendekovic commented that the headway can be increased with two buses but it would make the wait longer. Perhaps the Saturday bus could be eliminated or a fare could be added; it is up to Council.

Mr. Minney stated that weekends are a little different, as there are only two buses running.

Councilwoman Moody questioned why Plantation has more ridership than other cities.

Mr. Minney indicated that the desire of the route is excellent. He believes the reason the tram is so successful is because of the testimony of the people who spoke today. He is sure there are many more people in favor of the tram who could not attend this meeting.

Mayor Bendekovic commented that we have invested in our bus stops. We have tried to accommodate our ridership with brick bus stops as well as other types of bus stops.

Councilperson Stoner did not see that advertising could be on the bus anywhere in the contract. She questioned whether the revenue is shared with the County and if any of the other cities advertise on their buses.

Mr. Minney did not have the specific numbers but stated that advertising is in the contract. The agreement is that the revenue will be shared with the County. Margate advertises on their buses; however, they got their own vendor and share nothing with the County.

Mr. Lunny cautioned Council because once advertising is allowed you will have a hard time saying no to certain advertisers.

Councilperson Stoner mentioned that if we do charge a fare or anything an addendum needs to be done to the contract.

Mr. Minney advised that this is a public hearing and it should be discussed here. Staff would have to do a Title Sticks Fair Equity Analysis. He stated that a letter should be sent to Mr. Garling (sic), the Contract Administrator.

Councilperson Stoner stated that basically the agreement stands as is; change in route or extension of route or fares, etc. is a separate process that does not affect the contract.

Mr. Minney indicated that it affects the contract. If you are going to delete service or amend service an amendment has to be sent to the Board of Broward County Commissioners.

Mr. Lunny advised that we do not need to do an amendment to the contract.

In response to Councilman Levy, Mr. Minney stated that a fare would not be shared with the County.

Motion by Councilman Levy, seconded by Councilman Jacobs, for the Plantation Tram to remain as is.

In response to Councilman Jacobs, Mr. Minney indicated that the fare boxes are exact change; no change is given. With regard to advertising, the buses are not equipped to have advertising on the inside. They would look at that as consideration. It is preferred that advertising is on the outside.

In response to Councilman Jacobs, Mayor Bendekovic stated that if Council does not do anything tonight the bus service will continue. If you want it status quo, it stays status quo and will be left that way.

Councilman Jacobs withdrew his second and Councilman Levy withdrew the motion.

Councilperson Stoner questioned whether a public hearing is required if we start charging a fare. This was a public hearing as to whether or not to keep the service; not a public hearing to talk about fares.

Mr. Lunny clarified that this is the public hearing to discuss fares; the advertising specifically said fares.

Mr. Minney believes because Notice was very general if you were going to specifically name the fare he would think that a public hearing Notice would be needed.

Councilman Tingom understood that if no action was taken tonight the tram service will continue its present form but we have the right to charge fares if we set a date with a public hearing and a specific fare.

Mr. Lunny explained that we have advertised in the newspaper a Notice of Public Hearing where part of the ad said that the Council was going to consider a fare. The posted Notices also said that. Advertising in newspapers is expensive and in his considered view, the advertising is legally sufficient for Council to discuss fares. The cap we have is limited by our agreement with Broward County; it cannot go higher than one half of their fare, which is 85 cents. If you do not want to initiate a fare now you do not have to but it has been advertised.

Mr. Minney disagreed and noted that he would have to speak to their attorney.

Mr. Garling, Director of Broward County Transit, indicated that usually the requirement for public hearings is to set up a meaningful discussion. He agreed with Mr. Minney; typically when a fare issue is being discussed the amount of fare is usually made public as well as the specific service cuts.

Mr. Lunny stated that the Notice says, "Provided the applicable fare shall not exceed one half of the fixed route full adult County fare". He reiterated that in his considered view, it is before Council tonight to discuss.

Councilperson Stoner commented that it may have been done in proper process and procedure but by extension to the community she thinks we have a responsibility to give them specific notice that we are going to contemplate. No one was disputing the fact that proper procedure was not followed. She believes that we need to be specific when we put it out to the community for their input to have further discussion.

Mr. Lunny stated that Council can go beyond that if they wish.

Mayor Bendekovic indicated if you want specific give us an amount and it will be advertised and brought back.

Councilperson Stoner advised that the consensus to the Council would be whether or not we want to find \$220,000 somewhere or talk about participation. If a fare were charged between 50 and 75 cents, something between \$80,000 and \$100,000 would have to be adjusted in the budget.

Mayor Bendekovic commented that if a fare is being considered she would prefer to do it so we know what we have to find.

Councilman Jacobs suggested that Council either give a consensus or have a motion and a vote as to whether to proceed at another time with charging a fare. He stated that he is opposed to charging a fare; therefore, he would vote no.

Councilman Tingom stated that we also had a commuter fee presented, which would pay for this particular item depending on what the charge would be and not change the structure of the budget.

Mayor Bendekovic advised that the commuter fee would have to be discussed at the time of Collective Bargaining. It would solve this issue depending upon what the amount would be. Three options were given; the first was \$88,000. They reached out to the FOP but they felt that they wanted to do that at Collective Bargaining.

Jerry Fadgen, resident, was present. He commented that from hearing the public there is an important need that this tram system satisfies. It is a valuable service and in his opinion, a reasonable fee makes sense. He was a little surprised about cash boxes. The transit systems in other cities have a magnetic ticket and it would seem that a pass or ticket could be purchased through the City or through the mail would be better. It might also solve the recordkeeping. A card swiping system would provide a verifiable count as to when people enter the tram. He urged Council to consider a reasonable fee. Mr. Fadgen commended Councilman Tingom on his observation based on the utilization in Plantation; that the County should make that distinction. Higher ridership should be rewarded. That might also help solve some that problem.

George Harrell, resident, was present. He stated that people riding the bus are financially handicapped and if a fee is initiated some of the ridership might be lost.

Councilperson Stoner questioned whether ridership declined throughout the other cities once they started to charge.

Mr. Minney replied in the affirmative. They expect that a 25 cents fee would decrease ridership by a third and 50 cents would be half.

O'Neil Chin, resident, was present. He believed that serious thought needed to be put into this decision.

In response to Councilman Levy, Mr. Minney advised that the County leases the trams to the City for \$10 per year. If the trams were discontinued they would be sent elsewhere. There are cities that have contractors who provide the services.

Councilman Levy questioned whether we have a contract that would create a problem legally if we were to discontinue the service.

Mr. Lunny indicated that we have an Interlocal Agreement with Broward County and there is a Vendor Agreement with Limousines of South Florida. The affects of these agreements depend on what action Council decides to take. A reasonable fare can be imposed subject to certain guidelines and subject to a review by the County as to impact. If the question is, "Can I completely terminate the service", we will likely have a legal and spirited argument with the County.

In response to Councilman Levy, Mr. Lunny advised that there is an implementation provision.

Councilman Levy believes in continuing the service for no charge to the residents.

No motion was made; therefore, service remains as is and there is no fare.

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Mr. Lunny read Item No. 28.

Resolution No. 11579

28. **RESOLUTION RELATING TO ENVIRONMENTAL CONTROL; APPROVING AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY AND OTHER CONTRACT COMMUNITIES FOR RECYCLABLE MATERIALS RECOVERY; AUTHORIZING THE MAYOR OR CHIEF ADMINISTRATIVE OFFICER TO FINALIZE THE INTERLOCAL AGREEMENT AND EXECUTE SAME; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A memorandum dated October 2, 2012, to Mayor and Members of the City Council, from Gary Shimun, Chief Administrative Officers and Donald J. Lunny, Jr., City Attorney, follows:

I. History

As the elected official may be aware, Broward County has for many years taken a lead role in facilitating the integrated waste management system that handles both solid waste disposal (landfill, waste to energy (incinerator) facility, and recyclable materials recovery facility). Plantation has been a part of the Interlocal Agreement that created the "Resource Recovery Board" and the unified solid waste disposal and recycling system implemented thereby. (1) All member governments joined to realize economies of scale, operation, management, and administration. This Interlocal Agreement will soon come to an end in 2013.

II. Question Presented

Since the Resource Recovery Board and existing integrated system is coming to an end, Broward County conducted a competitive procurement and entered into a contract with RE Community Holdings II, Inc. for a Recycling Materials Recovery Facility ("The "MRF Contract"). This facility will accept recyclables from Contract Communities and process them. The Contractor has agreed to purchase the recyclables at certain identified rates and charges. The FRF Contract covers recyclables generated from public buildings and from residential areas. Cities are invited by the County to join a coalition (i.e. become a "Contract Community" of an Interlocal Agreement) if they wish to take advantage of the MRF Contract. At the October 10, 2012, City Council Meeting, Interlocal Agreement for Recyclable Materials Recovery.

III. Considerations

The following are some relevant considerations that impact this decision.

1. Fla. Stat. 403.702(2)(a)(2012) states "Each County shall implement a recyclable materials recycling program that shall have a goal of recycling recyclable solid waste by 40 percent by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020. Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs."

1. The Administration was not involved in the formation of the County Agreement with RE Community Holdings II, Inc. Further, the City has been advised by the County Attorney's office that there is little

likelihood that the MRF Contract can be changed, if changes are desired. (2) Therefore, the City needs to decide whether it wishes to join the coalition “as is”. Mr. Elliott Auerhahn, the Broward County Director of Solid Waste and Recycling Services has been invited by the Administration to address the benefits of the MRF Agreement at the October 10, 2012 City Council Meeting when the City Council will consider this item. In summary, Mr. Auerhahn believes that if Plantation’s proceeded recycling tonnage stayed constant at its FY 2011 level and composition, the MRF Contract would yield the City \$233,000 annually (after the estimated County’s retainage as discussed in paragraph 4 below). He further estimates that the only other proposal received by the County would have yielded an estimated annual \$109,000 to Plantation using the same assumption. (3) Finally, he estimates that the rates provided by the Miami-Dade County provider would be even lower as applied against the same assumption, and would yield an estimated \$47,000 in annual revenue to the City.

2. The MRF Contract contains a “Most Favored Nations” clause in Paragraph 4.5. Basically, this clause prevents the Contractor from entering into a contract with a City that is not an initial “Contract Community” at a value within ninety percent (90%) of the County Contract Value, unless it extends the same terms to the County – plus ten percent (10%). **This clause will effectively prevent Plantation from getting the value of the MRF Contract if it chooses not to be an initial Contract Community.**
3. It is important to understand that RE Community Holdings II., Inc., has the ability to back out of the MRF Contract if the County and the number of cities representing at least fifty-one percent (51%) of the County’s population do not “opt in” by October 15, 2014. (4) If a sufficient number of cities “opt in”, it will take time to size and build the facility and the facility will be sized with the Contract Communities’ anticipated volumes in mind. The Administration believes that because of this, and in recognition of the fact that only Broward County and RE Community Holdings II, Inc. are parties to the MRF Contract, the City does not have the right to terminate the Interlocal Agreement for convenience. Therefore, the decision to join is to join for the duration of the MRF Contract’s ten (10) year term.

(2) Upon review the RE Community Holdings II., Inc. contract desired changed might be to allow the Contractor’s indemnity in Article 6 to flow to Contract Communities, to restructure the termination for convenience for in Paragraph 1.34 so that it is not payable in the same manner throughout the term or so that it is calculated differently, to increase the payment performance bon in Paragraph 4.6 to make it more consistent with the value of the contract, to recognize that Contract Communities are third party beneficiaries in Paragraph 10.5, or to determine whether some form of modified business interruption insurance benefiting the Contract Communities could have been obtained if the facility suffers a calamity and the Contract Communities need to temporarily take recyclables elsewhere. However, without knowing anything about the negotiations between the County and RE Community Holdings II., Inc. for the pricing that was obtained, one cannot reasonably know or evaluate whether or not any of these points would have been worthwhile to pursue, or where considered, or where traded off for other commitment that had more practical value.

(3) This proposal was from the current provider. Under the current system (which is expiring), the City would receive approximately \$239,000.

(4) Mr. Auerhahn has advised that as of September 27, 2012, Coconut Creek, Coral Springs, Deerfield Beach, Hollywood, Lauderdale By-The-Sea, Lauderdale Lakes, Margate, North Lauderdale, sunrise, Tamarac, West Park, Wilton Manors had approved the Interlocal Agreement, which together with the County’s unincorporated area represents approximately 40.61% of the County’s population. He further advised that on October 3, 2012, Davie, Miramar, and Oakland Park will consider this item, and if all approve, this will bring the cumulative total to 55.22% of the County’s total population.

4. The Interlocal Agreement requires the County to conduct certain administrative and oversight functions related to the Program (5), and in return, Paragraph 5.1 authorizes the County to retain ten percent (10%) of the Program’s net revenues, not to exceed \$150,000 quarterly, in the aggregate, for all participating municipalities.

5. If the City does join the Coalition, it will need to instruct its Franchisee for collecting and hauling these kinds of recyclable materials, Waste Management, to deliver the City's Recyclables to the facility.

Mr. Lunny explained that our current Interlocal Agreement with the County is coming to an end and they have done an RFP for a Materials Recovery Facility.

IV. Options

The options to Plantation seem to be:

- A. Continue as it has in the past to be part of a coalition of governments with respect to recycling so as to obtain the benefits of economies of scale, management, and operation, approve the Interlocal Agreement, and sign it by October 15, 2012 so that it can become a Contract Community;
- B. Begin in earnest to evaluate other potential options for a different coalition for a Materials Recovery Facility, potentially with other cities who may not become Contract Communities so as to obtain some advantages of economies of scale;
- C. Conduct a stand-alone program for recycling; or
- D. Explore some other option.

If the City wishes to join the Coalition, attached is a Resolution approving the Interlocal Agreement. Also attached for consideration in evaluating the above options is the MRF Contract.

This item is now ready to be considered as an Administrative item.

Mr. Lunny advised that our current Interlocal Agreement with the County is coming to an end and they have done an RFP for a Materials Recovery Facility. If we want to stay in a coalition of governments to realize some economies of scale, operation and efficiency, the Administration thinks that Council should make this decision to go forward at this time because the contractor required, in its contract with the County and the County required of the contractor, that if we do not agree and sign up by October 15, 2012 we cannot get the terms that are on the table now. Currently we are in an agreement where materials recovery is handled through the County and we do not really have the administrative resources to go it alone or evaluate this on our own. It is recommended that the City continue in the coalition as the most feasible alternative at this time. There are other options if the Council does not want to do that, which is set forth in Part 4 of the collective memo.

Elliot Auerhahn, Broward County Director of Waste and Recycling Services, was present.

Councilman Levy commented that other cities have gone through this process and they have chosen to go with other companies rather than go back to the coalition. He questioned why.

Mr. Auerhahn advised that he was not aware of any city that has chosen another company at this point with regard to the recycling contract. There are many companies that will pick up the recycling; we are talking about where they take it. For the past ten years it has been a Waste Management Facility in western Pembroke Pines that everyone has been using. They went out for solicitation competitive and that existing facility and this new

company were the two bidders. RE Community's bid was twice as good as Waste Management and that is why they are urging cities to go along with that due to financial situations.

Councilman Levy questioned whether the Mayor has had any discussion with Waste Management about this contract and recycling.

Mr. Lunny has not had any discussion with Waste Management. They collect and haul our things and all we have to do is tell them to take it to RE Communities and it does not affect our franchise at all.

Councilman Jacobs commented that he made an inquiry and Mr. Lunny's information is correct.

In response to Councilman Levy, Mr. Lunny indicated that our franchise with Waste Management is to pick up the recyclables and deliver them to a facility that we designate and currently it is the facility in the existing Resource Recovery Board Interlocal Agreement, which happens to be theirs. When they were given an opportunity to bid on this they were not the successful bidder and it will not affect their position with the City by telling them to take this to the RE Facility.

Mr. Auerhahn stated that they are finalizing a location; there will be a manned facility someplace in the area of Dania Beach and two transfer facilities; one in the southwest part of the County and one in the north part of the County. For our purposes, the central facility would be the one we would use because it is closer.

In response to Councilman Levy, Mr. Auerhahn explained that this is a company that sells recyclables to vendors all of the country and they give a portion of the revenue back, which is double what Waste Management offered.

Mr. Lunny advised that right now on the board we have Materials Recovery, which we are doing tonight, Solid Waste Disposal and there are two providers that have been approved by Broward County. Other cities can join in and there are some permitting requirements for one of them; Sun Bergeron, and that is another separate discussion. There is a third discussion, which is bulk trash and Hazardous Waste, which has to be done by the end of this year.

In response to Mr. Lunny, Mr. Auerhahn stated that they will be renewing the contract for Hazardous Waste sometime soon but they have the fees to the cities set in the Interlocal Agreement; that is independent.

Mr. Lunny commented that all of these things have to be done by next year.

Councilman Levy questioned whether there are guarantees set regarding payment back to the City so that it does not change; so this is an incentive for us to join.

Mr. Auerhahn indicated that there are two types of figures in the contract; one is approximately 48% of their revenue comes back to all of the cities; the other is a minimum of \$25 per ton so if the recycling market starts going down and they are losing money they have to pay \$25.

In response to Councilman Levy, Mayor Bendekovic clarified that 55% of the cities are necessary in order to make this effective.

Mr. Auerhahn stated that as of this morning we were at 49.9%; Plantation would put them over the top.

In response to Mayor Bendekovic, Mr. Auerhahn advised that Davie approved the Agreement and Miramar approved a different version, which has not been approved by the County Commission. He is fairly certain that Miramar will work something out with the County and their 7% will also be added.

Mr. Lunny noted that some cities have requested an adjustment and it was on the County Commission agenda today and was pulled off. If the Commission approves an alternate language, it is his understanding that that will be offered to everyone. He believes that Mr. Auerhahn needs us to sign the current base form that we are considering to get to him by the 15th in order to be considered a contract community and get the pricing that is in this deal.

In response to Councilperson Stoner, Mr. Auerhahn indicated that the item was pulled off of the County Commission agenda; there is no actual statement that it will be back on. City of Fort Lauderdale staff wanted both, a guaranteed cap on the maximum they would pay each year and they want the County to make up the difference if prices go lower. The County cannot handle both; they were willing to guarantee a cap but at the end they said if the market goes down they do not want to pay the cap they want to pay less than the cap. Our agreement says the County gets 10% of the revenue.

Councilman Levy commented that if all this breaks we will be offered the same as the agreement with Fort Lauderdale and Miramar.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Resolution No. 11579. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Moody, Stoner, Tingom
Nays: 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. Lunny read Item No. 29.

29. APPROVE REQUEST FOR SIGN SPECIAL EXCEPTION FOR PUBLIX #645 LOCATED AT 8101 WEST SUNRISE BOULEVARD AND ZONED B-2P.

A memorandum dated October 10, 2012, to Mayor Diane Veltri Bendekovic and City Council Members, from Gayle Easterling, AICO, Senior Planner, Zoning Department, follows:

Staff is requesting withdrawal of the above referenced item from the October 10, 2012 City Council meeting agenda.

After further review of the application, the Director was able to administratively approve the requested special exception (to allow one additional color to be the shopping center's uniform sign agreement) pursuant to Section 27-53(b)(6)(F).

This item was withdrawn.

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Mr. Lunny read Item No. 30.

30. APPROVE DELEGATION REQUEST FOR ONE PLANTATION PLACE, PROPERTY LOCATED AT 1600 SW 78TH AVENUE AND ZONED SPI-3.

A staff report dated October 10, 2012, to the City Council from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Consideration of a delegation request.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report, subject site map, delegation request application and Review Committee minutes of July 24, 2012.

REVIEW COMMITTEE RECOMMENDATION: No objection to the project moving forward (July 24, 2012).

ANALYSIS:

The Stiles Plantation plat was approved by City Council on January 11, 2006. The current plat note reads:

This plat is restricted to 89,198 square feet of commercial use, 38,600 square feet of office use, and 534 high-rise units.

The applicant requests approval of a delegation request to revise the plat note to read:

This plat is restricted to 108,000 square feet of commercial use, 38,600 square feet of office use, and 321 high-rise units.

This plat note is consistent with approved residential use currently under construction on the south one-half of the site and allows for some flexibility in commercial uses which will be under construction soon on the north one-half of the site.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. The proposed delegation request is consistent with the "Commercial" future land use designation on the adopted Future Land Use Map.

Zoning: No objection.

TRAFFIC CONSULTANT: See Engineering.

ENGINEERING DEPARTMENT:

The applicant is working with Broward County and the Engineering Department to resolve any outstanding issues. The application may proceed to City Council.

DESIGN, LANDSCAPE AND CONSTRUCTION MANAGEMENT: No objection to the delegation request.

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT: No objection.

POLICE DEPARTMENT: No objection.

UTILITIES:

No objection as long as total net flow of water and sewer does not increase and note that additional capacity charges may apply.

O.P.W.C.D.: No comment.

Jody Siegel, with Doumar, Allsworth, Laystrom, et al., was present.

Ms. Siegel indicated that they agree with the staff report.

Motion by Councilman Jacobs, seconded by Councilwoman Moody, to approve Item #30. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Moody, Stoner, Tingom

Nays: None

* * * * *

Mr. Lunny read Item No. 31.

31. APPROVE SITE PLAN MODIFICATION WITH WAIVERS FOR WESTGATE LOCATED AT 15 NORTH STATE ROAD 7 AND ZONED SPI-2.

A staff report dated October 10, 2012, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Consideration of a request for a site plan modification.

WAIVER REQUESTS:

1. From Section 13-40(a)(b)(c)(3). Interior landscaping for parking areas:
 - a. Islands shall be provided to separate parking bays from major internal access drives and shall have a minimum width of 10', not including curbing.
 - b. 10' required in the terminal island – 8' provided.

2. From Section 27-742 – To reduce the amount of required parking from 405 to 376.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report, subject site map and site plan application.

ANALYSIS:

The subject property is zoned SPI-2 (Four Corners Commercial), consists of approximately 9.4 acres and is developed with a retail shopping center encompassing approximately 102,972 square feet. The site is bound by office use to the north, Broward Boulevard to the south, State Road 7 to the east, and single family residential use to the west.

History:

Over the years, parking for the center has been reduced by various approvals including:

1. Approval of a site plan for redevelopment of the site on February 19, 2003, which included a 57 parking space waiver – 44 parking spaces lost due to right-of-way taking and 13 parking spaces were paid for into the CRA parking fund (\$19,500).
2. Approval to modify the site plan in accordance with required changes to the plat on April 12, 2007, which increased the parking waiver by three parking spaces and required payment into the CRA parking fund (\$4,500). Payment has not been made as of this date.
3. Approval to utilize the Planned Shopping Center parking criteria of Section 27-743(36) of the City Code by the City Council on June 10, 2010.

The most recent approval of August 24, 2011, modified the site plan to include outparcels for a 2,997-square-foot bank with a drive-thru at the southeast corner of the site and a 6,861-square-foot multi-tenant building centrally located fronting Broward Boulevard. Site work is currently underway and the building permits for both outparcels are in review.

SITE PLAN REQUEST AND WAIVERS:

Medical office is a permitted use in the SPI-2 (FCC) zoning district subject to adequate parking. The applicant is proposing an 11,916-square-foot medical office in the northwest corner of the existing center plus a landscape and parking waiver.

The 11,916-square-foot medical office is split (approximately 50/50 based on the “medical office” floor plan), between Medicaid and Medicare tenants. The Medicare tenant will be utilizing two shuttles to transport patients with appointments to and from the Medicare component, once an hour or more. The applicant has indicated that 70% or of the Medicare patients will arrive by way of the shuttle service. The Medicaid tenant is not served by the shuttle so parking demand for Medicaid offices will remain at 100%.

Based on the existing conditions at the center, which include a 13,615-square-foot grocery store, the applicant requires a 29-space parking waiver. The site plan and parking calculations submitted by the applicant indicate the grocery store will be reduced from 13,615 square feet to 7,500 square feet in area thereby reducing the required parking waiver to 16 spaces. Since the grocery store reduction has not yet occurred and to avoid a potential delay in issuing permits for the new medical office, the staff report is based on existing shopping center conditions that require the 29-space waiver.

PARKING ANALYSIS:

Staff recommends the City Council consider the following when evaluating the parking waiver:

1. The City Council can require continuous and consistent Medicare shuttle service as a condition of the parking waiver and site plan approval. If the shuttle service operates less frequently or discontinued, the City may bring a Code Enforcement action against the shopping center owner. Code Enforcement of a Post-Certificate of Occupancy “operational condition” is challenging but doable.
2. Much of the shopping center is vacant and the Broward Boulevard parking field is under construction to accommodate a new freestanding retail building. While approval of the medical office waiver (with the shuttle condition) should not result in a parking deficiency today, this may not be the case once the shopping center (including new construction) approaches 95% occupancy.
3. As redeveloping shopping centers approach full occupancy, the closest and most desirable spaces (in front of the stores) are occupied first. The more remote parking spaces (in this case, the rear-yard parking field) are occupied last. Greater use of the remote parking field will increase as the shopping center occupancy increases.
4. In some cases, parking waivers have been granted to attract tenants (or to attract certain kinds of tenants) to underutilized or redeveloping shopping centers. However, an unintended result of an “economic development motivated” parking waiver is less convenient parking or insufficient parking as the shopping center approaches full occupancy. Based on recent comments from some Council members regarding shopping center parking, PZED staff recommends the Council balance economic development/redevelopment policy with the possible loss of convenient or needed parking in the future.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning: No comments.

Zoning:

1. The applicant shall pay \$4,500 into the CRA parking fund (owed from the April 17, 2007 approval).
2. Section 27-613A(a)(2)(i) requires \$4,500 to be paid into the CRA parking fund for this request (29 spaces x \$1,500 per space).
3. The shopping center owner and Simply Health both acknowledge and agree:
 - a. An ongoing and continuous condition of the parking waiver is that the provision of the shuttle bus service according to the terms outlined in an attachment to the application.
 - b. The shuttle bus condition shall apply to any medical office occupying the Medicare space unless subsequently waived by the City Council.

TRAFFIC CONSULTANT: See Engineering Department comments.

ENGINEERING COMMENTS:

1. Please revise crosswalk markings to be consistent with other crosswalks in the plaza.
2. Please show crosswalk as being a minimum of four feet from the stop bar.
3. Please provide the Type "D" curb detail.
4. Please provide signage/markings to distinguish "Shuttle Parking Only".
5. Traffic Study Comments:
 - a. Page 1. The trip generation for the plaza is Shopping Center (Institute of Transportation Engineers (ITE) Land Use Code (LUC) 820 and Medical Office (ITE LUC 720). Medical Office, per ITE, has never been a part of the Shopping Center Land Use Code description. Separating the two is not something requested by Engineering, it is standard industry practice. Please remove statement saying otherwise.
 - b. Page 1. Please refer to Land Use Code 820 as Shopping Center and not general commercial.
 - c. Page 2. Internal Capture, as previously requested, is to be omitted.
 - d. Page 3. Please provide the back up material from the ITE Trip Generation Handbook for the Pass-By Capture.
 - e. Page 3. Please provide the back up material for the FDOT Generalized Service Volumes analysis.
 - f. Exhibit 1. Please provide the back up material for the trip generation Land Use Codes.

Permit Comments:

1. An Engineering permit will be required for the site work.

Note: A detailed review of the civil drawings has not been performed at this time. If the site plan application is approved by City Council, a thorough engineering review will be performed at the time of application for construction permits. Surface water management permit(s) through the Environmental Protection Department (EPD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

DESIGN, LANDSCAPE AND CONSTRUCTION MANAGEMENT:

No objections to the request for a site plan modification.

At the time of permitting please address the following items with regard to the proposed landscape modifications:

1. Tree relocation permits must be obtained directly through the Department of Design, Landscape and Construction management. Please contact Diana Berchielli at 954-797-2248 to obtain permits.
2. Please show the Gumbo limbo tree in the center of the island on the planting plan in lieu of the trip of the island.
3. Please include details for tree relocations as well as a watering schedule.
4. Please include Tree Protection details as per codes. 2" x 4" post, 48" in height, with three 2" x 4" rails spaced equally.
5. Please note on plans that any plant material damaged or removed during construction will be replaced.

BUILDING DEPARTMENT: No objections.

FIRE DEPARTMENT: No objections as to only the request for the site plan modification.

1. The applicant is aware that conditions may arise upon review of the required permitting signed/sealed plans.

POLICE DEPARTMENT: No objection.

1. This project will have a little or no impact on Police services.

UTILITIES: No objection but additional capacity charges must be paid.

Mr. Leeds explained that the applicant is converting approximately 12,000 square feet from retail to medical office. Because medical office requires more parking than retail the parking waiver required is 29 spaces. The applicant intends, in the future, to reduce the size of the supermarket and when that happens a lesser waiver will be required. That has not yet occurred, and based on existing conditions, a 29-space waiver is required. There is a fee for State Road 7 whenever there is a parking waiver of \$1,500 per space contribution to the Gateway Fund. There is also a pre-existing \$4,500 fee that Mr. Lunny mentioned. The applicant has indicated that he is going to utilize a shuttle to service this area. According to the floor plan, half of the plan is going to be used by Medicare and half will be used by Medicaid patients; however, the applicant indicates that is not the mix. When evaluating projects we look at the plans; we cannot regulate who takes the shuttle and who does not. Assuming the shuttle works, there should be enough parking to accommodate the use.

In response to Councilman Tingom, Mr. Leeds did not have independent verification as to whether this company has done this type of thing in other areas. He is taking the applicant at his word. He has stated that it is the nature of the business because Medicare patients frequently need transportation to get to medical services. There is some discussion as to what happens in the future. There are a lot of vacancies in the shopping center and that is not a good thing but we are running into a situation in this center that we have in other locations in the City. When granting this parking waiver the Council needs to balance the economic desirability of building up a shopping center versus always having enough parking for everyone all the time. He does not think there will be a problem if the shuttle service is maintained. If the shopping center becomes 90% to 95% occupied there may be a parking problem. There may be a parking shortage and people might have to park in back in a remote parking area. The parking lot has lighting and meets the code. He requested Council to consider this keeping in mind what is more important and noted that he is less concerned about the parking issue in the future.

Councilperson Stoner questioned why the applicant has not paid the \$4,500 in five years.

Doug Muman (sic), owner's representative, was present. He recently joined the team and no one that he is working with at ownership level knew that this was an outstanding amount. They have gone through several site permits and the out parcel building permit where any fees are paid off. This is the first they have heard of this.

Councilperson Stoner questioned Mr. Leeds about the Notice process.

Mr. Leeds advised that the applicant may not know about it but he said it was in the staff report going back a long way. It was a condition of the staff report and they were required to pay. The City may not have been as diligent as they should have been.

In response to Councilperson Stoner, Mr. Leeds indicated that it was his department's responsibility to follow up for the payment. The point is that the requirement does not go away because the City does not collect it.

Councilperson Stoner suggested that if approved, the total of \$48,000 has to be paid within ten days or else the waiver is not provided.

Mr. Muman is part of a new development team that has been brought in to resolve and finish the Westgate Plaza Redevelopment initiative. He made the following presentation:

- This project began when Investments Limited took over the property in the mid 90's.
- The Center was built in 1942 and is a 40-year-old structure.
- In planning protocols this is a conventional 60's and 70's prototype retail center. There are large parking fields in the front, hundreds of feet of setback and very poor visibility along the facades.
- There is also meandering geometry that creates inside corner spaces that blocks spaces from actual public rights-of-way.
- In late 1990's early 2001, architect, Rich Berrie, and developed a master redevelopment plan that would modernize the entire Center. He has expressed as much of the architectural form as possible trying to give all of the storefronts individual tenancy and unique individual branding.
- The Center was also modernized with two out parcel structures; a financial institution and a small 6,000-square-foot out parcel retail building.
- The TD Bank project is in for permit and will be constructed shortly.
- Today there is a fully renovated façade, beautiful towers, Gumbo Limbo trees, and a considerable amount of financial investment by the owner. They are starting to see an upward trend in tenancy, all resulting from a significant capital investment.
- The front southern half of the Center is completely under construction. This area has been renovated and the paving has been completed.
- The pad for TD Bank is complete and the pad for the out parcel building is almost complete. They expect to have that building permit within the next seven days. Both projects are expected to be complete by the Spring of 2013.
- The request tonight is to fill the last remaining 12,000 square feet in the Center. This area is in its current raw condition as the original shell condition when it was built. This is a problem part of the site; it has never been able to be rented, as it is basically out of view.
- A site plan modification has found a perfect complimentary use in that this medical use has a unique co-habitable factor to this Center.
- Two waivers are being requested.

- The first waiver is for a small area of the parking field in the back that is being modified. There is a ten-foot requirement for a landscape island and without losing any additional parking spaces, Mr. Berrie has created an eight-foot island and a slot for the trolley to park. Patients who are brought to the Center by trolley will have an immediate path and accessible route directly to the front door.
- The second waiver is for a technical reduction in parking. This medical use is a unique and probably a growing trend. These are not clinics; they are medical facilities that are being developed in accordance with the National Health Care Reform. They have a business model that says that 30% of their patients will actually drive to the facility; mostly families and young children. The majority; 70% of the facility, will be Medicare patients. These facilities are going into demographic populations that have this need and then they go out to the communities, pick up the patients and bring them to the facility. The result is a very large medical facility with a very low traffic and parking demand. If 30% of the patients drive eight parking spaces are needed; the balance will be shuttled in 17 increments per shuttle. There is 20 full time medical staff. According to the numbers, this is an excellent co-habitable use and they need about 29 parking spaces. With the parking waiver, they are providing 55 spaces, which is adequate parking. This facility is a Monday through Friday, 7:00 a.m. to 5:00 p.m. use.

In summary, there has been 16 years of redevelopment and upwards of \$10 million in capital investment. They have worked collaboratively with staff both on the color schemes and on the architectural styles. The last original unimproved bay is going to be realized with a complimentary use. They have a signed lease that shows that the grocery store will be reduced in half; it is being leased to a grocery store chain coming to the United States from Europe. Half of the store will provide hands on customer type shopping and the other half will be converted to retail. They are not opposed to the waiver but would like some consideration. If the parking fees could be waived that would be great; if not, they are willing to accept it. He believes this Center will become very successful.

In response to Councilwoman Moody, Mr. Muman stated that with approval of the medical use they will be at about 80% to 85% occupancy.

Councilwoman Moody questioned whether anyone has been made to pay the parking fund in the CRA.

Mr. Lunny advised that this one has to pay; they have put in improvements for parking. The other one for Midtown was previously repealed.

Mr. Leeds commented that there have not been that many waivers. There have been a lot more parking waivers in Midtown. There have not been many here because there is already an automatic 15% reduction just for being in Gateway.

In response to Councilwoman Moody, Mr. Muman indicated that the new model for the health care facility is a trend. Research has been done and it was determined that these types of Centers are being built; they are currently in Miami and are coming north. It appears to be a successful business model. They look at age, social economics and places that have large congregate amounts of people. The shuttle has a radius of five miles.

Mr. Leeds stated that there will not be a parking issue at this time. There is a permit for TD Bank waiting to be picked up. In the middle of the biggest parking field on Broward Boulevard there is going to be a small strip center with Dunkin' Donuts and five or six stores. That is going to take up parking and will generate a need for more parking in that parking field.

In response to Councilwoman Moody, Mr. Muman noted that the 85% occupancy level will be with the Dunkin' Donuts and the five or six stores even they do not currently exist.

Mr. Leeds advised that Fast Train is no longer in the Center; the replacement tenant is a company called Allied Health. His understanding is that this is for people who are of modest means and the government provides them some money and the Federal Government provides the school some money. This school will be different because in addition to in-house teaching, it will have a call center with about 40 employees. Currently, the medical office, the school, and the new building in front with the five or six tenants are not there. The 85% occupancy also does not include the medical tenant, which is pending approval, and the school. Both of those spaces are unoccupied.

Mayor Bendekovic stated that this is long overdue and it certainly will make a statement as you come into the City. She appreciates the investment but noted that the back parking area must have lighting. She questioned how the medical facility impacts the hospitals.

Mr. Muman understood that these are four to six hour visits so when the patient is brought they get all of their medical treatments in one visit. It is an efficient way in getting them all of the care they need in one central facility.

In response to Mr. Lunny, Mr. Muman indicated that it is not a walk in clinic; it is not an emergency care clinic.

In response to Mayor Bendekovic, Mr. Muman advised that the patients are part of a network. If they have a doctor in their healthcare network, this particular provider will be one of their choices and this particular provider will provide transportation to and from the facility. With regard to the Dunkin' Donut, it is going in on the western cap with a drive thru.

Richard Berrie, architect, was present. He knows that there has been an issue with parking. This shopping center used to be 12,000 square feet of structure and what happened was all of the trucks would come in the back at night and dump the trash, fill up their water and it was a constant blight and the neighbors were very upset. They demolished the 12,000 square feet and brought it to the front. The back parking area is about 121 parking spaces. He believes that the vocational school is about 48 parking spaces and the medical facility is about 38 parking spaces. That back parking area was designed, lit and designed to accommodate those two primary uses. He would almost think that this is no longer a shopping center but more of a community facility because the primary uses are more community functions than going in and purchasing retail. There have been discussions about making the space a day care. Dunkin' Donuts has a drive thru and TD Bank is a freestanding building. The reason the island is eight feet wide is because the shuttles are about seven feet wide. An entire row of parking was added near the TD Bank. There is a lot of parking feeding different areas. This Center is unique. The rear parking lot will probably be used more for the vocational school and the medical use, which seems to be a good utilization of this property.

Councilperson Stoner questioned the direction of the drive thru queues for the Dunkin' Donuts and the TD Bank. She mentioned lighting in the rear parking lot and noted that some parking lots are extremely dark.

Mr. Berrie explained the direction of the queues, which was already designed and approved. They are separate. With regard to lighting, that was an ongoing discussion as far as the height and type of poles. The fact that there are 40-foot poles around and 25 feet poles in the field; they are very decorative. The same lighting is in the back parking lot and it exceeds lighting standards.

In response to Councilperson Stoner, Mr. Leeds indicated that there is enough lighting in the rear. It is hard to predict that everyone who goes to this school will park in back or that everyone who works at this facility will park in the back. People who work at the facility will probably work in the rear if they are there during the daytime.

Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Item #31, subject to staff comments and the payment of both parking fees within ten business days. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Tingom

Nays: Moody

Councilman Levy questioned what is being done as far as extra security, especially in the evening and at night.

Mr. Muman stated that there is not currently a security protocol that he is aware of. This area, when it was previously developed, was tucked in the back and was under lit. Now it is illuminated parking lot. Since redevelopment has started and since the tenancy has changed over there has been a large decrease in any security incidents. They will manage the parking fields and the businesses will manage their employees. The way this Center is designed there are multiple options for convenience. He noted that they have already paid \$20,000 for the first set of waivers. There is a sufficient amount of parking. They need to get the buildings built and the Center will thrive.

Councilwoman Moody advised that she would prefer to see a different occupant than this. The plan states that there will be an activity center in the medical office. She would have rather seen a different mix coming in. As far as the parking fund, her concern is not enough parking. Whether this applicant pays into a parking fund or not, it is not going to build more parking spaces on that location. She is concerned about the parking once the TD Bank and other five businesses are open for business. She requested that the motion maker reconsider.

Mr. Muman indicated that essentially it is an oversized waiting area. He stated that it is a common dilemma when dealing with each City's zoning code and the parking ratios that are set forth. He urged Council to understand that parking is all about compatible uses, peak demands and the overlaps of those. When Dunkin' Donuts comes in their peak demand ends at 10:30 a.m. For the rest of the day all of their parking spaces are still calculated even though there are only one or two customers per hour. The same thing applies to banks. A grocery store peaks on a Saturday at 1:00 p.m. or 2:00 p.m. During the week and business hours, those parking spaces that are allocated are 100% empty. They are very confident that there is sufficient parking. This medical use is a very unique and highly compatible use. It has a unique function; it will bring patients there and can be mandated by their site plan. They feel that 25 or 35 spaces in the rear will not put any additional pressure but it is a significant improvement to the well being of the Center. This space has never been developed or leased and there is a reason for that.

Councilwoman Moody noted that her concern is that when the Center is completely developed that there would be some parking issues.

Councilman Levy questioned how people picked up for the medical center are controlled. He is concerned about Medicare fraud and questioned whether there have been discussions with the tenant. Statistics wise, this could be a real rip off.

Mr. Muman advised that everything they have researched and what they understand about the operation is that this is like an HMO; it is a membership. This provider has resources. This is a very strategic business model that deals with the highest level of care in a concentrated effort.

Councilman Tingom requested that the palm trees and vegetation on the northwest corner of Broward Boulevard and State Road 7 are well kept.

Councilperson Stoner mentioned that Gumbo Limbos are now getting their own version of White Fly. Perhaps that should be reconsidered.

Mr. Muman indicated that they have relocated 55 of the Gumbo Limbos and have been working closely with staff. They are aware that if they die they have to be replaced.

Councilperson Stoner noted that the problem is not if they die; the residue they leave is nasty.

Mr. Muman advised that they have an executed lease for Okey Dokey and they have a requirement to divide the grocery store and deliver the space by February 28, 2013. He requested that something be added to the staff report or conditions that reduce the waiver from 29 down to 13.

Councilperson Stoner replied no.

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic made the following announcements:

- The Executive Session is tomorrow at 6:30 p.m.
- The Mayor's Council is on October 17, 2013. Everyone is invited to attend.
- The next Council meeting will be on October 24, 2013.

* * * * *

Councilman Levy mentioned that he attended a meeting with the Democratic Club of Plantation. Some of the speakers brought up the fact that they are still trying to get the Veterans' Center on Commercial Boulevard named after Bill Kling. He questioned whether we have done anything as a Council.

Mayor Bendekovic advised that we have not done anything as a Council to support that but we have been discussing what we are going to do about Veterans' Day. A Proclamation will be done on that day in honor of Bill Kling.

In response to Mayor Bendekovic, Mr. Romano indicated that Bill Kling's son, Steven, contacted the City but has not contacted Parks and Recreation; therefore, he did not have any wording as far as the plaque is concerned. There was discussion that the family did want to have a plaque placed at Veterans' Park in honor of Mr. Kling.

Mayor Bendekovic stated that a letter has not been sent in support of the plaque.

In response to Councilman Levy, there was a consensus to send a letter of support to our Congressional Delegation that is trying so hard to get the Veterans' Center named after Mr. Kling.

Mayor Bendekovic advised that she would send the letter of support to Debbie Wasserman Schultz.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

George Lord, resident, was present. He has heard suggestions over the years about changing the election from March to November. In speaking with someone at the Supervisor of Elections he was advised that Plantation was compared with 42 precincts against Sunrise with 41 precincts. She said that the November election would cost \$25,000 against \$100,000 in March when you have your own. She also said that it would take about 24 months to do a change; therefore, three Council members would not be affected this time and the other three Council members elected in March would be affected in four years. If this would have been done a few years ago there would have been an extra \$75,000. He would like to see a referendum put on the ballot in March requesting the citizens if they would like to change from March to November.

Mayor Bendekovic advised that this was brought before the Council in April or May and there was not a consensus to go through with the request. She noted that it does not require a referendum to do so. This has been discussed on at least three occasions since 2001.

Mr. Lord commented that he has always heard that the reason Council did not want to change the dates was because the incumbents lost the ability to get re-elected.

Councilman Levy stated that ballots are nine to ten pages; we would be the last item. He questioned how many people would have paid attention to our election when they have the President, Senators, Congress and other things happening at the same time. We would be the lowest priority and that would then provide a huge advantage to the incumbents. It has to do with fairness of the people running. Statistics will show that a November election favors the incumbents; it does not favor any person trying to unseat the incumbents. This March gives us the entire scenario to ourselves when the people of Plantation can concentrate on who their elected officials will be and local issues become paramount. Councilman Levy reiterated that it is fairness and the ability to get the issues across that are affecting us locally and that is why he is in favor of keeping it the way it is.

Mayor Bendekovic noted that it would have to be done during an even year because that is when the Governor runs and the National Elections are held in order to save the money.

Councilman Jacobs commented that the savings is not \$75,000 per year because we do not have an election every year. In the last election there was a 5% drop for people voting for Seat #1 than for Seat #3.

Mr. Lord indicated that he received his absentee ballot and it has four pages on both sides; it is going to take him a long time but he goes item by item. He thinks that Plantation residents would still vote for Plantation.

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Dennis Conklin, resident, was present. He also received his absentee ballot and heard the Mayor mention that she got it as well. He reminded everyone that after they have marked their ballot and put it in the envelope to return it. The return envelope is a certificate and must be signed on the outside in order for the vote to be opened and counted. If it is not signed the envelope will remain sealed under Florida Statute.

In response to Councilman Levy, Mr. Conklin advised that are only two drop off locations in the County; the Downtown office and the Lauderhill Mall.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 10:50 p.m.

Peter S. Tingom, 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 _____, 2013.

Susan Slattery, City Clerk