

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

**October 24, 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 Jacobs.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – July 11, 2012

The Minutes of the City Council meeting of July 11, 2012 was approved with a clarification to Mr. Lunny's statement made at the July 11, 2012 that was in reference to the June 13, 2012 Council meeting when he spoke at the public request of the Council concerning municipal affairs. The June 13, 2012 City Council video will reflect that lobbying the Council by the Mayor did not occur and Mr. Leeds' statement on July 11, 2012 was incorrect.

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Councilman Tingom recognized students present.

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**ITEMS SUBMITTED BY THE MAYOR**

Mayor Bendekovic presented Service Awards to the following Employees:

|                      |                    |          |
|----------------------|--------------------|----------|
| Henry Breitenkam     | Utilities          | 30 years |
| Nicolette Burbank    | Parks & Recreation | 25 years |
| *Officer Ari Dorfman | Police             | 15 years |

|                       |                 |          |
|-----------------------|-----------------|----------|
| *Officer Carlos Muvdi | Police          | 15 years |
| *Officer Edward Ryan  | Police          | 15 years |
| Laurence Duemmling    | Utilities       | 10 years |
| Bisnauth Harnandan    | Police          | 10 years |
| Eric Moshe            | Fire/Rescue     | 10 years |
| Priscilla Richards    | Administration  | 10 years |
| *Officer Jacob Steele | Police          | 10 years |
| *Pedro Valentin       | Utilities       | 10 years |
| Ben Hargreaves        | Building        | 5 years  |
| *Rebecca Kinley       | Human Resources | 5 years  |
| Michael Llerena       | Fire/Rescue     | 5 years  |
| *Ryan Obel            | Fire/Rescue     | 5 years  |
| Thalein Rainford      | Planning        | 5 years  |
| Arlette Steinberger   | Human Resources | 5 years  |
| John Zeilinga         | Fire/Rescue     | 5 years  |

\*Unable to attend.

Congratulations were offered.

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Mayor Bendekovic introduced Maureen Dinnen, our School Board Representative who has represented Plantation for the last eight years. She also introduced Martin Kiar, the former State Representative, who is also the newly elected Broward County Commissioner for one district of Plantation.

Ms. Dinnen thanked Council and the Mayor for the wonderful proclamation she recently received. This City works so well with the schools and is so interested in the children of this community that we are an inspiration to a lot of the cities. She also thanked Council and the Mayor for their interest, support, cooperation and caring for the children who are our future.

Mayor Bendekovic advised that Ms. Dinnen truly did make a difference within our community public schools. She was instrumental in getting the cafeterias done at Mirror Lake and Tropical Elementary. She also helped facilitate the IB Program at Plantation High and also the Middle Year Program at Plantation Middle.

Mr. Kiar commented that Ms. Dinnen has been an incredible School Board member. In the last six years in the Legislature he has primarily tried to focus on Kindergarten through 12<sup>th</sup> grade education issues. He thanked Ms. Dinnen for everything she has done. He also thanked the Council and Mayor and has enjoyed representing Plantation in the Florida House of Representatives for the past six years. As the Mayor said, he was recently elected to be Broward County Commissioner and almost the entire City of Plantation is within the County Commission District. Mr. Kiar added that he will be sworn in on November 20, 2012 at the Downtown Governmental Center at 10:00 a.m. and everyone is welcome to attend. In closing, Mr. Kiar stated that he has learned that the best place to make a difference is in local government and the Mayor and Council have made a huge difference for Plantation.

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

- A High School District Swim Meet was scheduled for tomorrow, Thursday, October 25, 2012; however, because of Hurricane Sandy, the School Board has closed all outside activities for Friday and Saturday. That event will be cancelled on Thursday but it will be held on Monday, October 29, 2012 at the Aquatic Complex.
- The Regional High School Swim Meet will be held on Friday, November 2, 2012 at the Aquatic Complex.
- A “Pool Day” was scheduled at Plantation Central Park for Friday, October 26, 2012; however, the activities will be changed to indoor due to weather conditions.
- The Halloween Safety Festival will be held on Saturday, October 27, 2012 at the Kennedy Community Center between 10:00 a.m. and 2:00 p.m.

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Mayor Bendekovic made the following announcements:

- The Plantation Farmer’s Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.
- There are signs along the median on Sunrise Boulevard advising of the “Annual Water System Chlorination Maintenance Program”, which began last week and will end Thursday, November 1, 2012.
- Broward County Property Appraiser’s Community Outreach events will be held at the Outreach Center located in the Broward County Government Center at the corner of University Drive and Broward Boulevard every Wednesday in November between 12:00 p.m. and 2:00 p.m.
- The Firemen’s Barbecue will be at Pine Island Park on Sunday, November 4, 2012 between 12:00 p.m. and 5:00 p.m.

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## **CONSENT AGENDA**

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

Item No. 10 was pulled for discussion.

Mr. Lunny read the Consent Agenda by title.

4. CVS Pharmacy located in the Plantation Marketplace at 7155 West Broward Boulevard is requesting permission to conduct an Informational Event, Medicare Part D, on Saturday, October 27, 2012 from 10:00 a.m. until 4:00 p.m. in the parking lot.
5. Meals on Wheels is requesting permission to celebrate “Make a Difference Day” on Saturday, October 27, 2012 from 10:00 a.m. to 3:00 p.m. by sponsoring a car wash on their property.
6. Publix located at 10065 Cleary Boulevard is requesting permission to have a “Customer Appreciation Day” event in front of their store on Saturday, November 3, 2012 from 9:00 a.m. until 6:00 p.m.

7. Request by Publix to sell Christmas trees in front of their six (6) locations beginning Saturday, November 24 through Monday, December 24, 2012.
8. Request for permission by Plantation Chamber of Commerce for all applicable road closures on Saturday, November 17, 2012 from 9:00 a.m. until 12:00 p.m. for the Plantation Holiday Parade.
9. Award RFP #076-12 for operation and maintenance of the Community Tram Service to Limousines of South Florida.
11. Request for authorization to purchase replacement parts for the JWC Fine Screen units at the Regional Wastewater Treatment Plant from JWC Environmental for \$61,098.50. (Budgeted – Utilities)
12. Request to approve an emergency purchase order not to exceed \$23,711.15 to Loveland Electric to install a new automatic transfer switch at the Central Water Treatment Plant. (Utilities)

**Resolution No. 11580**

13. **RESOLUTION** amending the City's adopted Community Development Block Grant 2010-2011 Action Plan; providing for severability; and providing for an effective date therefor.

**Resolution No. 11581**

14. **RESOLUTION** concerning Amendment 4 to the Florida Constitution which, if adopted, would create additional inequities in Florida's tax system by granting certain tax breaks to some taxpayers at the expense of other taxpayers.

**Resolution No. 11582**

15. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 480 NW 134<sup>th</sup> Terrace. (Powers)

**Resolution No. 11583**

16. **RESOLUTION** for adopting the Official City Holidays for the calendar year 2013.

**Resolution No. 11584**

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 4 – October 17, 2012 for the Plantation Gateway Development District.

**Resolution No. 11585**

18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 4 – October 17, 2012 for the Plantation Midtown Development District.

**Resolution No. 11586**

19. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 4 - October 17, 2012.

**Resolution No. 11587**

20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 4 – October 17, 2012 for the City of Plantation's Community Redevelopment Agency.

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

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

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

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Mr. Lunny read Item No. 10.

10. Request for authorization to award a Utilities Repair Service contract to Jackson Land Development LLC for two years with an option to renew for two additional one-year periods. (Utilities)

This item was pulled by Councilperson Stoner. Over the last year she has mentioned that felt the purchasing process should be opened up a little more to the public. She appreciates this being opened to others to have the opportunity to participate in the project. She wanted to say thank you and that it did not go unnoticed.

In response to Councilperson Stoner, Mr. Breitenkam advised that Charles Spencer has been the Purchasing Manager for a couple of years. He has put 80 RFQ's and RFP's out on the market and is quite good at it.

***Motion by Councilperson Stoner, seconded by Councilwoman Moody, to approve Item No. 10. Motion carried on the following roll call vote:***

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

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## **ADMINISTRATIVE ITEMS**

21. DISCUSSION CONCERNING KENNEDY COMMUNITY CENTER

A memo dated October 17, 2012, to Diane Veltri Bendekovic, Mayor, from Danny Ezzeddine, A1A, Director of Design, Landscape and Construction Management, follows:

Pursuant to the August 22, 2012 City Council meeting, we were tasked to provide various options for the Kennedy Community Center parcel. Several exhibits are provided for your review and consideration.

Exhibit 1 – Option A: Demolish existing center, create a water playground area, tot lots, corporate pavilion, small pavilion, walkways and site furnishings.

Option B: Demolish existing center and replace with a passive park with irrigation and landscape.

Exhibit 2 – Operation cost provided by Parks and Recreation.

Exhibit 3 – Bid results from August 7, 2012 to repair the canopy.

Exhibit 4 – Memorandum from Legal Department dated May 4, 2012.

Exhibit 5 – Original estimates presented to City Council on January 25, 2012 for three options; repair, remodel or build a new community center.

Exhibit 6 – Dates of presentations and discussions at City Council meetings reference Kennedy Community Center.

Should you have any questions, please contact me.

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Mayor Bendekovic commented that on August 22, 2012 there was a Council meeting at which time you tasked us to return with some options. Several exhibits were provided. Administration would like a recommendation.

Councilman Tingom advised that a grant was received to refurbish Deicke Auditorium. He thinks it would be beneficial to continue to leave the Plantation Community Center until that renovation is completed. At that time it would be prudent to demolish that structure. During the time of renovations, a community forum could be held to ascertain from the people who live around that area what type of facility they would like to see in that location. After garnering that information on a recent basis, we should go forth and use the bond money that was intended to refurbish this area and build a structure that would satisfy the residents in that community. We have waited way too long to make a decision and as a part of good government we should make some type of decision tonight so we have some idea what the future brings for this facility.

Councilman Levy indicated that there has been quite a bit of discussion. He believes it is a lot tougher to rebuild and thinks that the building should be repaired and utilized. While discussion is going on as to what the future use should be, we would have a building that is up, running and being utilized. There was some discussion today about the Halloween Safety Festival that will be held there. He would like to keep the building running even after Deicke is improved. He does not see one replacing the other or in lieu of the other, he believes that both work and both can be saved to help their communities. Doing away with it while we decide will be a long time before anything gets built because there will be visioning sessions and all kinds of special interest groups deciding what they want. He believes that there should be continued communication with the neighborhood and then all together determine what the future shall be.

Councilman Jacobs questioned if there is a timeframe on the Deicke improvements.

Mayor Bendekovic advised that the RFP's went out for Deicke and the timeline is that it will be closed some time in May 2012 and will hopefully be up and running by October or November 2012. During that time visioning sessions can be held and once the future is decided it can be brought to City Council and the building could be demolished.

Mr. Lunny indicated that an application with the County is currently pending to place this property on a Historic Land Use Series Map and as noted in memorandum form, once the building turns 50 years old, which will be some time next April, it will be harder to keep the interested parties at bay. The entities and third parties have indicated that they have no money to repair the building or contribute to the building and may be able to exercise some control over the asset and mimic the City's discretion for designing something the Council feels is more acceptable to the community should that be a way that you go. He reminded Council that if it is their desire to

wait and let this run its course while doing visioning sessions, the Broward County Historical Commission, the Broward County Trust and perhaps others may, in the mean time, try to influence the outcome.

In response to Councilman Jacobs, Mayor Bendekovic stated that the building will be 50 years old in April 2013. She noted that we will have to go back to the Broward Planning Counsel before January 2013.

Mr. Lunny indicated that it is a business expectation that Council has complete control over this asset that you own and pay for and that others do not own, do not pay for and want to exercise some control over might not be reasonable. He reiterated that once you go past that date it will be harder to keep those interested parties at bay.

Glynn Deaner (sic), resident, was present. She has been teaching at the Plantation Community Center since 1995 and has a group of pilates people who come there every Monday night. Every time she leaves on Monday nights she sees a good group of youths. There is no place else for them to play basketball; it is there for the Girl Scouts and summer camp. Those people need the Community Center. She urged Council not take the Community Center away.

Don Dillan (sic), resident, was present. As a young person he spent a lot of days at the Plantation Community Center playing sports. He is in support of the Community Center; it has historical value. He does not see a lot of original structures around the City other than the Fire siren on East Acre Drive and Broward Boulevard. As a business matter, he realizes the building is old and needs to be tweaked but to tear it down is not necessary. He is in support of refurbishing the building and if anything has to be done he would like to see some of the structure maintain its integrity and the new structure built around it to maintain the historical significance of the property.

Nathan Conner, resident, was present. He is in support of the Community Center and does not think the building should be torn down. As far as a historical building, everything cannot be torn down just because it is 50 years old. People do appreciate history. He urged Council not to tear the building down.

Joan Hanson, resident, was present. She stated that all of her children and grandchildren played at the Community Center park and took lessons there. Her great grandchildren are almost of age to go there for lessons. She has watched as the building has deteriorated and noted that nothing has been done to the building in many years. At the same time, great sums have been spent building other Centers but nothing has been done to preserve this building. People come great distances to visit this park. She believes that some consideration needs to be given to people who use the facility for meetings. We need meeting rooms; we need them locally and at reasonable rates. Deicke is a beautiful facility but most organizations cannot afford the rent, especially on the weekends. With some modifications and improvements at the Community Center, the auditorium could be rented for parties. She questioned whether there is money in the Bond that could be used to remodel and upgrade the building. If the building were reroofed perhaps it would not be the same structure. She understands that there are two lots that could be sold and maybe that money could be used to upgrade the Community Center.

In response to Ms. Hanson, Mayor Bendekovic advised that we were given grant money from the County in the amount of \$2.1 million; therefore, we are not permitted to sell that property. With regard to the Bond issue, there is over \$2 million.

Ms. Hanson stated that 20 organizations used the Community Center in September 2012 and it is now down to 16 because of closing in the morning hours. In October 2012 more than 42 meetings were held at the Community Center; ten on three Saturdays out of the month and the fourth Saturday was for the Halloween Safety Festival. She urged the Council not to tear down the Community Center; we need meeting rooms in that

area. Just because something is 50 years old does not mean that it needs to be torn down and replaced. She submitted petitions of residents who are in favor of keeping the facility.

Councilman Jacobs commented that some good issues were brought up. The roof is a special kind of roof and to replace it would cost \$1,220,000 and to repair it would cost \$290,000. One option is to spend \$290,000 and repair everything we can find; however, in a year more will need to be repaired and in two years there will be even more. In his opinion, there will be a bottomless pit of repairs. If repairs were made, \$290,000 would be put into a defective roof. The estimate to replace the entire canopy was \$1,220,000; that does not address the other buildings which are probably all right as far as in good condition. To tear down the entire building and build a new structure that has space and can better be utilized by the community without the maintenance costs would cost about \$2 million. His thought process was why spend \$1.2 million to fix the roof or even \$300,000 when the building can be replaced with the \$2 million in the Bond for something that would better serve the community and last a lot longer. We need to demolish it and leave the property landscaped nicely and when we are in a financial position to replace the building, do so in a couple of years. His colleagues are talking about going forward with the visioning and getting the process going now to replace the building because we do have money in a Bond issue and that money cannot be given back; however, the Bond issue has certain requirements. He is not in objection to trying to come up with a replacement quicker but he believes keeping this building will cost a fortune. He also thinks it is the ugliest building in the City and believes that the space is poorly designed. So much more could be provided to the community with that much square footage than what there is now.

Councilperson Stoner responded to Councilman Jacobs' comments about the bottomless pit. Based on what he is saying, any building or asset within the City that needs maintenance should be torn down. She thinks the difference is that every asset or building within the City always needs maintenance. What happened was that deferred maintenance was not done.

Councilman Jacobs emphasized that it is a defective building; it is spalding; it is the design in the way it was built; it has nothing to do with maintenance. It will happen regardless of maintenance.

Councilperson Stoner stated that as a General Contractor, she disagreed. She believes that every building needs continual maintenance and that did not happen.

Councilman Levy advised that the bids Council was provided were to repair the roof to where it is in good shape and stands by itself to be a proper roof. The two bids were \$225,000 and \$232,000. That is a long way from \$1.2 million. He thinks that if the roof was repaired and proper maintenance was done, the building could be kept open and running. The \$2 million could be set aside for whatever the community determines it needs in the future.

Betty Cobb, resident, was present. It is hoped that the Plant Affair will be held on Saturday and Sunday at Volunteer Park. There is a meeting tomorrow night at the Plantation Historical Museum at 6:30; a special program on Railroad and Safety. With regard to the Community Center, the Council members have a report from a licensed insured structural engineer practicing in South Florida since 1988 who said the building is very safe; that it needed roof repairs.

Mr. Lunny advised that there is no such report; that engineer was under no responsibility to this City. Mr. Ezzeddine will speak to what the City's consultant stated.

Councilman Tingom clarified that an outside person was secured without the permission of the City and he did a report. The City secured a structural engineer who did a report.

Ms. Cobb indicated that she asked for an honest report. She lives in Plantation Park and the Community Center is the closest facility to her. When there are visioning sessions for the community they should not be only for residents in the immediate area because there is nothing south of Broward Boulevard and never has been. The 2003 Bond issue said, "Renovation of the Plantation Community Center", so that money was part of that Bond issue and it certainly has not been maintained. The building is well used. It may not be pretty but it is used by a lot of people. Deicke Auditorium is always full. She questioned the idea that we would save all this money to close the Community Center. We do not need a larger water park or more passive parks. The Community Center is the office where Deicke Auditorium and the Community Center is booked. The building has great historical significance and architectural significance to some.

Sheryl Melson (sic), resident, was present. She was in favor of not demolishing the building, as the Annual Plant and Garden sale is held there and the funds they earn go back into the City. As far as the opinions, not having the reports, background and specific information, she would have to say that she would rely more heavily on the opinion of Councilperson Stoner, who is also a contractor, than she would on Councilman Jacobs' opinion. She agrees that it would be nice to have a new lovely building but how much will that cost in the long run. She is definitely in favor of keeping and maintaining the Plantation Community Center.

Mayor Bendekovic suggested that Danny Ezzeddine, Director of Design, Landscape and & Construction Management, speak after all of the comments are made.

Paul Beavers (sic), resident, was present. He represents the Cub Scouts and has never been invited to the visioning sessions. Troop 817 meets at the Plantation Community Center every week and his sons are part of that Troop. They walk to the Community Center because it is easy to get there and they play there every weekend. Troop 406 is there as well and next year there will be another Troop and Pack there. If you take away the Community Center, that will affect over 200 kids in the City of Plantation.

In response to Councilman Tingom, Mr. Beavers advised that he is a Cub Master of Pack 111 and they are represented through the Scouts. They also meet at the Community Center once a month and that is another 50 boys that the facilities are being taken away from.

Chris Zimmerman, architect and resident, was present. He has been impacted by the tax increase and is concerned about where the money is going and the fiscal decisions being made. He thinks that one of the things presented in the backup material is the operational cost of the Community Center. He believes that should be evaluated and explained a little more. He questioned whether those are the costs solely associated with the Community Center or whether they are for other facilities within the City. If the personnel and staff there are also going to be maintained for other facilities, that should be broken down so we know what the actual operational costs are. He spoke with the City's consultant regarding the structural ability of that canopy. The structural integrity is there; it is not comprised at all. He believes that we should hear from that consultant as to the structural integrity. The Community Center is currently in a position because no maintenance was done on that facility. The City needs to get an aggressive maintenance program, especially on the roofs. It is our tax dollars and our Bond money. We have an old facility but before we tear something down that can be used he believes it should be re-evaluated a little more.

Rae Carole Armstrong, former Mayor and resident, was present. This was the one project left on the table when she left office. It was left because she could not get a clear vision as to what the best thing to do for this property was, for the neighborhood that immediately surrounds it and for a City as a whole. She also has a special affinity with things that are old and historical. She has a sentimental attachment to the building; however, she does not

personally think that it has any historical significance. In looking at the playground today, it is a better place because a decision was made to build something new, Plantation Woods, instead of retaining the old. In looking back at the Jim Ward Community Center, a decision was made that the better thing for the community was to demolish Plantation Elementary School and build the Community Center. Reality and practicality empowered those decisions. The same is true in looking at the consideration of the old Community Center. This neighborhood deserves a new Community Center. Activities that are held in this location are extremely important to the community as a whole and to the neighborhood. She does not see this as a matter of not having a place for them; she thinks of it as a matter of what kind of place to have for them. The money is in the bank to build a new Community Center and from her perspective it is a matter of timing as to how that is done. The current facility can be left operational for a period of time while plans are drawn in order to appropriately identify exactly what the building will look like. The key is that the money is there and the money is in the Bond because it was well managed so that many of the projects in that Bond were funded by grants. The other part of it was that Mr. Ezzeddine made sure that those projects came in on time and on budget and you can trust his numbers and judgment. It is time to make a decision what Council really wants to do at this location.

Jerry Fadgen, resident, was present. He commented that the earlier part of the discussion made him think of previous discussions in the Nation about deck panels. From hearing the public speak, there is no question that this facility is utilized quite heavily and is a valuable asset to the City. Ultimately, it may come down to a business decision. He appreciates Councilman Levy's comments about keeping it in place to satisfy the needs for so many organizations and so many people. He urged Council to preserve the Community Center until the visioning session is completed and as Mr. Zimmerman indicated, getting structural information from the engineer about his findings of that building and how structurally sound it is. He is in favor of preserving the Community Center.

Dennis Conklin, resident, was present. There was a provision for meeting a figure for eliminating the Plantation Tram for \$200,000 savings and eliminating the Community Center for about another \$200,000. In the last two weeks \$400,000 has been put back on to an unbalanced budget that was passed one month ago. The problem is that a long term systemic shortfall that has been created. He has previously recommended what has to be done in order to save the City and that is to immediately terminate the Defined Benefit Pension Plans and immediately start with Defined Contribution Plans. That will not solve the problem but it will put some of this at bay. The next thing is to give a one-time 8% for a 2% per annum increase in pay to all of the City employees and then immediately, with a 20% pay cut, by running the City with a four-day week at 8 hours per day, not ten hours per day, to experience a 20% cut.

Councilman Levy indicated that Mr. Conklin's initial assertion is incorrect; we did not cut the Community Center when going through the Budget cuts. We did cut the Plantation Tram, which we reinstated by not voting; however, the Community Center was not part of the cuts done in order to balance the Budget. They realized that the Community Center would have to be discussed; therefore, it was not included in the Budget cuts during the Budget process.

Mr. Conklin stated that the Budget was unbalanced and it was not offset. The decision has been placed into this year and there was no compensation at the time for that cost.

Mayor Bendekovic clarified that the Plantation Community Center was never taken out of the Budget.

***Motion by Councilman Levy that we repair the roof for a sum not to exceed \$250,000 within the bids and that we maintain the Center and keep it open until we have a chance to meet with the community and continue the discussion while Deicke is being improved and then we look at the future of what we are to do.***

*There was no second to the motion.*

*Councilman Levy withdrew his motion.*

Councilperson Stoner referenced Mr. Lunny's comment about the building turning 50 may have some issues about the City's control over the building. She questioned whether we could have a time certain that the issue comes back to Council so that we do not lose the ability to control our own.

Councilman Tingom clarified that if Councilman Levy's motion passes you want to be sure that something is done prior to the 50-year mark so that we control our own fate.

In response to Councilman Jacobs, Councilperson Stoner noted that he made some excellent points. This is personal to her but ultimately it is a bit of a disposition. We have asked employees to take cuts and even though there is Bond money we cannot get it back.

Mr. Lunny advised that Council can call for redemption if you are outstanding with Bonds and pay it off early.

Councilperson Stoner believed that we would want to pay the debt down. The building is not falling down and no activities have been cancelled at the Community Center.

Councilman Tingom believes that Councilperson Stoner was saying to delay the repair, hold the community forums now and make a decision prior to the 50-year anniversary.

Councilperson Stoner concurred.

Mr. Ezzeddine indicated that he has heard both sides for many months. He can go either way; repairing the building is an opinion and demolition is an opinion. He questioned whether repairing the building and building a new building next to it would be an option.

Councilperson Stoner thought that would be financially burdensome.

Mr. Ezzeddine stated that the decision has to be made very soon because the bid is 120 days and he will have to rebid. If you choose to give direction to repair the canopy and fix the roof he can do so; however, if you later decide to demo the building and build a new one we will have lost the \$225,000. If you want to keep the building after repairs the boxes will stay. He is not sure when the canopy will deteriorate again; it could be a few years but he could not state that for a fact because he does not know exactly what is going on inside. The idea would probably be to build another building next to it.

Mayor Bendekovic questioned what Mr. Ezzeddine would estimate the life of the canopy at this time. She also questioned what the gentleman the City hired indicated on his report.

Mr. Ezzeddine could not give an estimate for the life of the canopy. With regard to the contractor that the City hired, he advised that within a few more years there might be some more deterioration.

Councilperson Stoner mentioned that the report said that the life span of the building with appropriate repairs had an additional use of life of almost 40 years.

Mr. Ezzeddine noted that the contractor did not indicate exactly how many years it would be. He said that the lower portions are fine; however, we do not know exactly what is inside of the canopy. It is repairable, as indicated in the report.

Mayor Bendekovic questioned the feasibility of coming to a decision because once that April threshold comes some of that will be taken away because the County will step in. That is why this Administration has brought it back at such an early state. Within the next six months we could say that the canopy will stay in tact as is.

Mr. Ezzeddine indicated that he was asked a question by Councilwoman Moody during a previous meeting if there is any immediate danger. When he visited the building with Public Works staff he forced some of the concrete to fall.

Mayor Bendekovic advised that the pillars out front have already been reinforced. She needs some definitive direction.

Councilman Levy reiterated that he would like to keep the Community Center open taking whatever steps we can in-house to maintain the building and get a group of people representing everyone to sit down and decide what we plan to do. There are a lot of ideas but he is not proposing anything until we hear from everyone involved that has a vested interest. He cannot see demolishing the building before having a true plan on what is going to be done. He wants to keep the Community Center open and functioning because we are also going to be redoing Deicke Auditorium and people will not have access to Deicke.

Mayor Bendekovic stated that we were going to give the groups notice of where they could continue meeting; they were not going to be without a meeting place. She questioned if Council is going to go along with the idea if we go through this process and the consensus is a new Community Center or whether this will be just another vision. Broward County has given us two postponements.

Mr. Lunny commented that he is very confident in this case as long as the building is under 50 years old. The site has no overwhelming historical significance and the Trust for the Historical Commission or whoever else is behind this application will not meet that burden. Once it goes to 50 years, the case is much different; the legal test is different.

Mayor Bendekovic advised that she found the original plan and the date was April 2, 1963. She questioned whether Council will be agreeable to a new Community Center.

Councilman Jacobs stated that if the building were to be demolished we would go out for bid and once the contractor is selected the approval comes back to the Council before anything happens. He requested to have the contract for demolition come back to Council on March 13, 2013.

Councilperson Stoner commented that we have not approved any plans.

Councilman Jacobs clarified Part 1; we instruct staff to go forward, get the bids, find the best contractor to do the demolition and bring it back to Council on March 13, 2013. Also tonight we direct staff to go forward with the vision to put together a package for a replacement Community Center. If that vision falls apart then we can not approve the demolition on March 13, 2013.

Mr. Lunny advised that in order to place something on a County Historical Resources Map it is a Legislative decision by the County Commission and that is not necessarily triggered by the 50-year rule and that creates a planning consequence for preservation. That decision is hampered when the County Commission decides to advertise to accomplish that. That is something that can occur before April of next year.

In response to Councilman Jacobs, Mr. Lunny stated that 50 years changes the analysis and the facts in the case. Currently, there is an application to put the Community Center on a Historical Resource Map that the Broward County Planning Council, and at the Mayor's request it is continued until January of next year. It was continued one time for six months, until September, and when the Mayor reported that no decision was made it was continued again until January of next year. The second application, which is described in the memorandum, is the one with the 50-year test. That is the one that also has a change in facts and then a consequent change in legal analysis effective in April next year. By continuing to delay this decision, Council is giving the other third party interested people an opportunity to influence the outcome because there is no guarantee that the Administration can go back to the Planning Council and ask for a third continuance for another period of time. The deadline to respond to the Planning Council application is January of next year. Then it goes to the County Commission and if they choose to amend the plan then there is a base level of obligation to preserve the asset but it is not intense as the 50-year test.

Councilperson Stoner commented that Mr. Lunny earlier stated that they would not even remotely meet the test; you were very emphatic about them not meeting it.

Mr. Lunny agreed and noted that the memorandum says to place the application on the Historic Cultural Resource Map of Broward County, which is a Land Use Plan. That is the application that is presently before Council that has been continued until April and if it is adopted by the Broward County Planning Council it then has to go to the County Commission and if they approve it there is a base level where the City has a planning obligation to consider preservation as part of the ultimate disposition of the asset. That would allow you to do what Councilman Levy first proposed, which was to maintain some of the significant architectural elements in a new building. Putting it on the map allows the interested third parties to seek to have the asset designated as a Broward County Historical Resource site. It is an entirely different proceeding. That is the proceeding that we will prevail so long as the building is less than 50 years. Once the building is over 50 years old, the case will be much more interesting as to whether we can defend against an effort to designate the site as a Historical Cultural Resource site. The first step, changing the Land Use Plan, is a Legislative step and with that you still maintain significant control over the asset, you just have a planning consideration that you have to take in mind, which you do not have to currently take in mind. The second issue is that if that occurs and if the third parties take it to the next step, by then the building will be over 50 years and there will be a different case.

Mayor Bendekovic found a letter from Broward County that says, "Preservity of Plantation correspondence dated August 13, 2012 referenced item will not be scheduled for a first public hearing prior to early 2013".

Councilperson Stoner indicated that a rough drawing was presented way back and she questioned whether an outside architect would be hired to do a full design and how much it would cost. She noted that the City would have to put everything together, put it out on the street and award it. The plans will never be completed feasibly by the end of January. The plans are not going to be made by the April deadline anyway.

Mr. Ezzeddine advised that an outside architect would cost approximately \$160,000 to \$170,000. The process of selecting the architect will take two to three months and doing the plans, permitting it and building it will take another three to four months. It will not happen prior to the deadline.

Councilman Levy commented that the options have lessened. If we move forward we lose a possible control of what happens to the building if we do not do anything prior to January, not April. If Broward County places it on the Historical Trust Map we possibly lose some control of what happens.

Mr. Lunny agreed.

Councilman Levy stated that the options are limited and whatever we do has to be done before January unless we decide to keep the historic part of the building and refurbish the rest and make it as new and good as possible with the \$2 million sitting in the Bond issue and to him; that would solve everyone's problem. We would have the historical part of the building and we would be able to refurbish and remodel what we have and; therefore, we would not have to create a problem in the park next door or wherever a new building would be built. We would take what is there and make it new.

Mr. Ezzedine advised that it could be done.

Councilman Levy requested other options where we could keep the building going and still maintain our design and needs for the area.

Mr. Lunny advised that if Council wishes to maintain exclusive control over what is going to happen for this small portion of this site then the only safe way to do so is to demolish the building before January.

Councilman Levy commented that is not a position to take; he would like to maintain the historical elements of the building.

Mr. Lunny stated that the historical elements of the building can be maintained with the Land Use designation but to him, that is not a plan based in concrete, this is what we are proposing; it is a goal.

Councilman Levy agreed that it is a goal to bring experts in. This is a Pancoast building that experts have said is rare in Broward County and has elements to be preserved of his style of architecture that are unlike any other Pancoast building in Broward.

Mr. Lunny indicated that might be able to be done with the County's plan in place.

Councilman Levy noted that he would rather do it when we control the decision making rather than anyone else. If that decision is made tonight, and that is a compromise from what he originally proposed, that we repair the building as it is until we determine with the community input and the visioning where we go from there but he is being told that we really do not have time to do that with the January and April deadlines looming ahead. The point is, if a decision has to be made tonight why can't we come up with a compromise that solves the historical nature of the building.

Mr. Lunny commented that if Council decides that they wish to construct a building that has thematic attributes that are consistent with the current design and that you commit to do that amongst yourselves knowing that you have not seen a final concept plan or construction costs, at least you reach a consensus of that is where you want to go. The budget to do so is \$1.983 million or \$2 million. If you make that decision certainly there is no use to keeping this building in the ground; we should demolish it in his judgment, because you made that decision and can instruct the Mayor and Mr. Romano to find a place for the organizations to meet in the interim.

Councilman Levy emphasized that is not what he is suggesting. There are certain elements of that building some people like and some people do not but they are very interesting architectural features. The circles on the walls, the fluted roof, etc., are very unique and those are the things that maintain its significance as a Pancoast style building. He is saying that we get someone from the Historic Preservation Society to point out the historic elements that keep this a Pancoast created building that are significant to our future. He is not asking to knock it down and build over, then we lose the ability to maintain what makes it special now.

Mr. Lunny stated that Council can decide and say that they are looking for the following goals and say everything you just said. Then you can say that you do not want to spend more than \$2 million. If Council is committed to doing this and knowing that you have to review plans and go through a visioning process; if three Council members are committed to do so, then one has to ask the question why not at that moment allow yourself the full discretion to do what you may want to do and that means demolish the asset before January. The decision has already been made to go forward with something else.

Councilman Levy advised that is where we are having a failure to communicate. We are acting like it is a terrible thing to be in this register of a historic place. This is not something bad. Many communities want to be included in the list of historic buildings. There are very few in Plantation; why not work towards that as a goal rather than deny it. We can compromise so that we get a new structure using the same elements that maintain the Pancoast orientation of the building; the fluted roof, the portholes and the various elements for air; that made it is a special building to some people. He wants to keep the special part of the building so we can call it a national historic; he would be proud to say that.

Mr. Lunny noted that the question is how much control is Council willing to give up to get there. His only purpose is to try to give the Council the power to make whatever decision it wants.

Councilman Levy indicated that he is not being negative; but deadlines are being pointed out and he wants to know where they can come to a compromise that accomplishes everyone's goal. We need to come up with a way to keep the elements of the building that make it special and provide the best possible use of a newly refurbished, newly modernized Community Center for the area.

Mr. Lunny advised that one way to do it is to involve the Administrative litigants in this discussion and the Broward County Historic Trust.

Councilman Jacobs clarified that Councilman Levy's original proposal way back seemed to indicate that he wanted to keep certain architectural elements that were originally in the old building, not destroy them and rebuild something that looks like it. He questioned whether he was saying that tonight or whether he was saying destroy the whole thing.

Councilman Levy stated that he wants to keep the Community Center.

Councilman Jacobs commented that essentially Councilman Levy is saying keep the roof and rebuild something else.

Councilman Levy agreed. That way we get the new structure that everyone says we might need but we keep the elements that make it special.

Councilman Jacobs stated that the structure we need is the roof and he noted that he could not agree. He believes that trying to keep old elements is a very expensive way to do so. He feels that if the building was torn down and a new structure was built with some new elements, it would not satisfy any historical goal at all. He thinks that the historical part will be satisfied by taking pictures of the building and maybe by having an exhibit in the Historical Museum or in the new building with certain qualities and aspects of the historical structure. He could support leaving the building empty for a while or going forward and designing a new building. He cannot support repairing or renovating the old structure. It is not because it is old, it is because it is going to be a money pit and it does not serve the community as well as it could.

Mayor Bendekovic read, "The Broward County Code will require that the Plantation Community Center site is overwhelmingly historical significance to the County before it can be designated as a Historical Cultural of Resource site". It was stated and noted in our Workshop that the property was never the site of any significant cultural or social events or that it marked a moment in history. It was also noted that the building is not a pioneer building of the City and that the site was constructed after the City had, by annexation, grown to exceed its original size by 300%.

In response to Councilperson Stoner, Mayor Bendekovic advised that this was a Legal opinion and it is included in the backup.

Mr. Lunny advised that those were statements made to the Council that were emphasized in his memorandum.

Councilperson Stoner was not insinuating that the information was made up; she asked who the author was of those initial statements. She believes that these statements were presented to us when we began the discussion at the Workshop.

Mr. Lunny indicated that those statements only relate to the 50-year test. Once you pass 50 years they may no longer be relevant.

Councilman Tingom questioned if a decision is made but the actual work is not done whether it has to be done by a timeline in order to relieve us of the 50-year test.

Mr. Lunny advised that there are two things that can happen. The first is that at any time, as a matter of Legislation, the County Land Use Map can be changed to put this asset on the Historical Cultural Resource Map. That will result in some loss of control because you have to consider preservation and forced preservation when you deal with the asset thereafter. That can happen anytime after January. If that occurs and the application is made to designate this as a Historical and Cultural Resource site, at that point the Building official is no longer allowed to issue certain permits relative to the building without more strenuous preservation considerations and Council loses significantly more control over the site. It is not an issue of when the decision becomes effective; it is a question of the age of the building and how these two processes, which are currently stalled, continue. He is fairly certain that the Administration will tell you that a further extension of the Planning Council's pending application, but at some point that may not be obtainable. When you pass the 50-year test then the legal analysis for sure changes as to the second test.

***Motion by Councilman Jacobs, seconded by Councilman Tingom, to demolish the building.***

Councilwoman Moody indicated that when this discussion first started we were talking about the cost of maintaining this building then we started talking about the Bond. She questioned why we need to rebuild if the building is demolished; we have Deicke that is going to be renovated.

Councilman Tingom advised that the Community Center has many small meeting rooms where classes can be held and it is a different structure than the other building; it is a different use. The need for small classrooms is great there and he feels that the residents deserve to have a Community Center of some design at that location. He does not have a good feeling about the future of that particular building; he thinks that something should be built and that the Bond money should be used to do so.

Councilwoman Moody stated that Deicke can be divided into separate rooms. When this conversation first started we talked about how much money could be saved annually by not maintaining that building. Even Councilman Jacobs said, "Let's demolish it" and she said, "If we do that, let's not build anything, return the \$2 million to our Bond issue, wait a few years and see what the economy is going to do". We also decided on the three options; either to repair the roof or to build a new building. It was \$290,000; a \$1.2 million and almost a \$2 million. There is no sense in spending \$1.2 million when you can get a new building for \$1.9 million. We are going in circles. Councilman Jacobs clearly stated, "Just demolish it, we can save money and not build anything for a while". If we spend any money, she would like to just repair. She really does not think that a new building needs to be built at that location. At the same time, she does not want someone having power over us telling us what we can and cannot do. She would rather demolish the building if that is the case. In the long run, if that building is designated it will cost us more money because with that designation there are certain things that we have to maintain and she does not know that it has been proven to her that the building is historical enough to go through that expense. She recalled Jim Romano saying how much money could be saved and it was discussed. We have to think a little broader in long term as to how this is going to impact our finances and if everything needs to be put on hold at this time. She stated that if we do not make a decision and go forward either with a new building or just demolish it, she thinks that in the long run, a designation will cost us more money. She questioned whether Council and staff are willing to do that. She knows that certain contractors have to be used if the building gets designated and those are things that need to be considered. For her, this is a Budget issue.

Councilman Jacobs commented that he can go either way. Option B under Exhibit 1 is demolish existing center and replace with a passive park with irrigation and landscape. He can go with that and he is comfortable with the Council discussing, independently, about our vision for when and what to put there in the future. If there are not enough Council members comfortable with that option for it to pass as a motion, he is willing to put in the motion that we will replace the Community Center within a certain timeframe. He would prefer to leave the two separate and that we pass Option B.

***Amended motion by Councilman Jacobs, seconded by Council Tingom, to approve Option B Exhibit 1; demolish existing center and replace with a passive park with irrigation and landscape. Motion FAILED on the following roll call vote:***

Ayes: Jacobs, Tingom

Nays: Stoner, Levy, Moody

Councilman Tingom would prefer that we mandate to ourselves that we replace the Community Center with a structure of functional use. He would support the motion but he would prefer that the Center will be replaced.

Councilman Jacobs advised that he would make a commitment that he intends to replace the Center but that is a long process. We have to figure out what we are going to do; the best need for the community; how much it is going to cost; and whether we have the money. He is not willing to make that decision tonight.

Councilman Levy stated that he does not understand why the building is not repaired and used as it is being used. It has another life of five, ten or 15 years, then we address it then. Why not leave it alone, repair what is needed, and make sure than an engineer says that it is structurally sound and use it?

Councilman Jacobs indicated it will become a historic building and we will not be able to do anything with it.

Councilman Levy commented that they cannot tell us everything to do in that building; we still use it as a Community Center; that is what it is there for. If we want to use it as a Community Center and are going to replace it with a Community Center, why not make it what it is, keep it going and use it as a Community Center. A lot of money would not be spent; the money is there in a Bond issue to help, and the issue is no longer valid up to 40 years. Everyone wins; we are not using money in the budget; we are not doing anything other than letting the neighborhood use the facility and repairing it.

Councilwoman Moody questioned exactly what they can tell us we can and cannot do on that property.

In response to Ms. Cobb, Mayor Bendekovic clarified that she stated that a site that has been historically designated on a State Map can be torn down. It was also indicated that there was money from the Historical Society to help with this and there is not.

Councilperson Stoner commented that as far as architectural guidelines for renovation, there are guidelines. Materials are made of present day material; they are not old materials and plaster; they would have to be recreated. As far as qualifications for installation, when they submit qualifications if they happen to have it fine, if they do not, they do not, because you are still dealing with specifications for installation. There is not necessarily a designation that one acquires over time but present day materials are easily obtainable but they do have some guidelines. Given that this building does not have a lot of things; it will not be difficult to obtain the materials.

Mr. Ezzeddine agreed. Old materials are stucco and concrete.

Councilwoman Moody requested clarification on the motion.

Councilman Jacobs advised that he is willing to modify the motion if needed. He clarified that it is for Option B Exhibit 1. He does not feel that this should be left as a construction site. If Council wants to make a commitment to replace the Center and the property can be safely left without putting sod and irrigation but he thinks the reasonable thing to do is to spend the money. The other option, Option A is to put a water park there but that would restrict the ability to replace the building. He believes that the building should eventually be replaced. He is in favor of removing the building and moving forward.

Mayor Bendekovic questioned if there should be a timeline on bringing the new building back to Council.

Councilman Jacobs believes that the new building should be a separate discussion. If the motion passes we can decide how we are going to go forward with the new building.

Councilwoman Moody stated that she was not opposed to giving people a minute to speak.

Mr. Lunny indicated that the question has been called and normally that cuts off debate; however, Council has the power, as indicated from the floor, to reconsider that and allow limited discussion. If the Council wishes to have more limited discussion the Council members need to state that.

Councilman Jacobs advised that he would be willing to listen to Mr. Fadgen speak for one minute.

Councilwoman Moody concurred.

Mr. Fadgen stated that as the discussion went on there is another thing to be considered. At this point Council's decision is being driven by the impact of a historical designation. He thinks that we should have a Legislative type of approach. The Legislature will be going into session the first of the year and we should ask them to extend the period that designation becomes possible, the 50-year threshold; move it to 60 years. Have the Legislature exempt cities rather than forcing them to destroy something that may have structural value, wasting resources in that regard. Also have the Legislature suspend this law because of the economic conditions that we are currently in. That would be his consideration.

Councilman Jacobs commented that we are dealing with the County not the Legislature.

Councilperson Stoner noted that there are presently restrooms for the tennis facility. If the Community Center is torn down there are no restrooms for the water park.

Mr. Ezzeddine advised that the restroom was renovated between the tennis courts and Plantation Woods. The capacity and distance are sufficient.

***Motion by Councilman Levy, seconded by Councilman Tingom, to look at Option 3 Exhibit 5; canopy and structure demolition and building a new structure that will include all parties in a visioning group to come to a common solution for the new structure and the building will continue to be used until demolition takes place. Motion carried on the following roll call vote:***

Ayes: Jacobs, Levy, Tingom

Nays: Stoner, Moody

Councilman Jacobs clarified that Councilman Levy is not comfortable leaving the property empty and wants to move forward and approve a new building right now.

Councilman Tingom noted that the design would take place with a vision group.

In response to Councilman Jacobs, Mayor Bendekovic advised that the budget will be set by the Bond.

Councilman Jacobs suggested that instead of doing it with the numbers make the motion to demolish the existing building and replace it with another building.

Councilman Levy stated that he would like to see the motion moved so that the people get a Community Center as soon as possible. Council has said that they will find locations for groups to meet within the City for organizations to continue during the time this is happening. He is doing the best he can within the ramifications they have been given. He can only offer Jim Romano and the Mayor, who have made promises to find a place for organizations to continue.

Mr. Romano assured that no matter what happens they will continue to have a Parks and Recreation program within the City. Whatever decision is ultimately made, they will make accommodations for existing groups that are meeting at the Community Center to meet, whether it is at the Library, the Museum, City Hall or any other

facility available. He believes that for the short amount of time that Councilman Levy is looking at; we are only looking at construction time. For temporary measures they will be able to accommodate all of the classes and programs that are currently held at the Community Center. The best part of the arrangement is that there will be a brand new facility after that timeframe.

In response to Councilman Tingom, Mr. Romano advised that the visioning sessions will be scheduled before the end of the year.

Councilman Tingom requested that all parties be involved in the visioning sessions.

Mr. Lunny questioned when the current demolition bids expire.

Mr. Ezzeddine indicated that there is no demolition bid right now; there is only a bid for repair to the canopy. He can move forward with the RFP.

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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. 22.

22. REQUEST FOR SITE PLAN MODIFICATION FOR TEMPORARY TRAILERS FOR NATIONAL HEALTH & NUTRITION EXAMINATION SURVEY AT CORNERSTONE OFFICE PARK.

A Staff Report dated October 24, 2012, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST:** Consideration of a request to allow four temporary trailers at Cornerstone Office Park (east of Plantation Renaissance Hotel).

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

**ANALYSIS:**

The National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), and U.S. Department of Health and Human Services (DHHS) are conducting a study of the health and nutritional trends of persons living in the United States. The City of Plantation has been selected as one of the Broward County survey locations during the current National Health and Nutrition Examination Survey (NHANES).

The survey will be conducted from November 15, 2012 through February 24, 2013. Survey participants are provided examinations that are conducted in a Mobile Examination Center (MEC) which consists of four specially designed trailers which are linked together to form a single unit. The medical trailers will be located in the cul-de-sac to the east of the Renaissance Hotel located at 1230 South Pine Island Road. During the examination period (early January through late February) approximately 20 participants will visit the MEC site each day.

The applicant requests City Council approval of the temporary trailer placement from approximately January 1 through March 1, 2013.

**STAFF COMMENTS:**

**PLANNING AND ZONING:** No objection.

**TRAFFIC CCONSULTANT:** See Engineering.

**ENGINEERING DEPARTMENT:**

1. The proposed plan shows the trailer in the cul-de-sac which is the fire truck turn around. The Fire Department must approve the location of the trailers.
2. The parking area shows no disabled spaces located near the entrance(s) to the trailers.
3. Please provide a signing and marking plan that will prevent traffic from interacting with the trailers in this location. As shown, vehicles will be able to drive up to and around the trailers. Physical barriers may be required if the signing and marking plan will not prevent vehicular access to the trailers.
4. The letter states that a schedule of the examination period by day was attached. It was not included in my package, please provide.

**Permit Comments (required at time of submittal for permitting)**

**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.

1. An Engineering permit will be required for the requested signing and marking plan.
2. An MOT plan may be required if the signing and marking plan will not prevent vehicular access to the trailers.

**DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:**

Staff has no objections to the conditional usage in the proposed location; the proposed temporary facility is adequately screened from I-595 as well as the hotel clientele with existing plant material.

**BUILDING DEPARTMENT:**

1. Details required for the anchorage of the trailers per the FBC.
2. Indicate where electric, water and sewer hookup are located at the site.
3. ADA parking and an accessible route is required.

**FIRE DEPARTMENT:**

1. Provide collapsible bollards, with a maximum three-foot gap between each, across whole roadway just past last entrance to hotel property. This requirement should prevent vehicles from parking along roadway to trailers, keeping it clear for emergency vehicle access and approach.
2. Provide bollards (collapsible not required), with a maximum three-foot gap between each, across exit to the north of the trailers. This requirement should prevent vehicles from parking along this area, keeping it clear for emergency personnel and equipment access and approach.
3. Provide “NO PARKING FIRE LANE” signs on ends of both bollard sets requested above, per City of Plantation Engineering Department standard. This requirement will allow for enforcement of the “NO PARKING”.
4. Indicate how electric power is being provided to all four trailers.
5. Show location of main power shut off.
6. Any type of security fencing will require an approved gate at each roadway opening secured with a Knox Padlock.

**POLICE DEPARTMENT:**

1. Security requires will vary according to the complexity and scope of service provided to safeguard unauthorized access to equipment, computers, documents and records.
2. Controlled access to building, facility and perimeter security must be addressed in initial state to safeguard unauthorized access. Recommended security fencing should be considered to discourage persons from entering the area unobserved on foot.
3. The installation of security/alarm system should be scheduled for completion to allow protection of the facility and equipment.
4. Outdoor lighting should be installed to act as a deterrent and allow for effective recognition of persons and activities on property. At this time, the location has no lighting.
5. Vehicle control and perimeter entry point access, pickup/drop off stops should be identified and situated to maintain perimeter control and unobserved pedestrian access. Clear zones and signage for general parking and handicap parking is required.
6. The need for night-time private security or off duty detail officer is recommended.

**UTILITIES DEPARTMENT:**

1. Plans must provide to show how temporary connections to water and sewer service would be provided.
2. Capacity Charges must be determined and paid in full prior to permitting.
3. No structures may be installed in existing Utility Easement.
4. Access must be maintained to all existing utility infrastructure.

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*Motion by Councilman Jacobs, seconded by Councilwoman Moody, to approve Item No. 22. Motion carried on the following roll call vote:*

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

\* \* \* \* \*

Mr. Lunny read Item No. 23.

23. RESOLUTION APPROVING A 250-FOOT COMMUNICATION TOWER AS A CONDITIONAL USE TO BE LOCATED IN AN I-L2P ZONING DISTRICT ON PROPERTY LYING IN SECTION 33, TOWNSHIP 49 NORTH, RANGE 41 EAST, AND DESCRIBED AS THE MOTOROLA PLAT, PARCEL A, AS RECORDED IN PLAT BOOK 101, &#160, PAGE 14, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF UNIVERSITY DRIVE AND SUNRISE BOULEVARD, 8000 WEST &#160, SUNRISE BOULEVARD; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR. (MOTOROLA) &#160.

A Staff Report dated October 24, 2012, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST:** Consideration of a request for conditional use approval to erect a 250-foot high self-supporting telecommunications tower.

**WAIVER REQUEST:** None.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; Conditional Use/site plan application; Planning and Zoning Board meeting minutes of August 7, 2012; and Review Committee meeting minutes of June 18, 2012.

**PLANNING AND ZONING BOARD RECOMMENDATION:** DENIED subject to staff comments. (3/1; August 7, 2012).

**REVIEW COMMITTEE RECOMMENDATION:** NO OBJECTION to the project moving forward for further review (June 26, 2012).

**ANALYSIS:**

The subject property is zoned I-L2P (“Large Light Industrial District”) and developed with a three-story, 877,869-square-foot building on the (+/-) 77.54-acre site.

The applicant proposed to construct a 250-foot high self-supporting tower at the southeast corner of the building in an existing loading zone/compound area that is enclosed by a 12-foot wall on the south and east sides. The I-L2P does not limit building height and requires a minimum 25-foot setback from interior lot lines. However, because the use requires conditional use approval, the City Council is permitted to add conditions of approval including limitation on the height and/or setback of the tower.

The tower is setback over 500 feet from the adjacent residential properties to the south and over 600 feet from adjacent residential properties to the east. The setback is more than two times the height of the tower. The applicant has already obtained permits for an eight-foot high chain link fence to secure the north and west sides of the compound, an unmanned 12’ x 32’ (384 square feet) equipment shelter, and a 100kw generator within the compound area.

Please see the attached letter dated June 26, 2012 regarding the use of the proposed tower.

**STAFF COMMENTS:**  
**PLANNING AND ZONING:**

*Planning:* No objection.

*Zoning:*

1. Note: For comparison, the telecommunication tower at the Police Department is 400 feet in height.
2. While the proposed tower meets many of the conditional use criteria, the applicant has not provided information necessary to evaluate all the criteria. The Planning and Zoning Board recommended denial of the applicant in part because the applicant did not respond to resident questions regarding the safety of tower transmissions, landscape buffering, and impacts on property values. The applicant has indicated these items will be addressed at the City Council meeting.
3. The applicant has stated in their response letter that there are no plans to install wireless cellular antennae on the tower. The applicant and property owner shall submit a letter acknowledging and agreeing that if a wireless provider were to approach Motorola regarding collocation of antennae on the tower, the wires provider must first meet criteria required by the City of Plantation Code of Ordinances.

**TRAFFIC CONSULTANT:** No objection.

**ENGINEERING DEPARTMENT:** No objection.

**DESIGN, LANDSCAPE, AND CONSTRUCTION MANAGEMENT:**

At time of permitting please include landscape plans to screen the proposed facility; include an existing tree/palm survey as well as proposed landscape material.

**BUILDING DEPARTMENT:** No objection to conditional use.

**FIRE DEPARTMENT:** No objection to use.

**POLICE DEPARTMENT:** No objection.

**UTILITIES:**

No objection to the conditional use approval; however, the following comments apply:

1. Water and Sewer Utility Plans were not provided with this submission. Prior to a Building permit or Business License being issued, the following must be provided:
  - Capacity Charges must be paid in FULL.
  - Contact: Danny Pollio if you have any questions, 954-797-2159.
2. A pre-design meeting is required with the Utilities Department.
3. Offsite and onsite improvements and equipment may be required at applicant's expense to support project.
4. Water and Wastewater Utilities must be shown on plan before a proper review can be completed.
5. Show all existing water and wastewater facilities on site plan.

6. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.
7. Maintain all utilities and utilities easements for water and wastewater system access.
8. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".

**O.P.W.C.D.:** No objection.

**WASTE MANAGEMENT:** No objection.

### **EXHIBIT "A"**

Where applicable, the review of a Conditional use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, attached hereto. The applicant is required to identify the following:

1. A binding and buildable site plan that allows the Council to determine the architectural features and buffering needed to protect the surrounding property.

A binding and buildable site plan has been submitted for the proposed project for City review.

2. The proposed conditional use will be consistent with the general plan for the physical development of the district including any master plan or portion thereof adopted by the Council.

The development of a tower, based on Future Land Use Designation of "Industrial", the Zoning Designation of "IL-P2", and the minimum setbacks from adjacent residential (2x the tower height), is consistent with the general plan and physical development of the property.

3. The proposed conditional use will be in harmony with the general character of the neighborhood, considering population density, scale and bulk of any proposed structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. A present need for the conditional use must be demonstrated.

Based on the tower location and setbacks to residential (2x the tower height), the tower is consistent with the general plan and physical development of the property. The tower will not impact adversely the population density, scale and bulk of any proposed structures, intensity and character of activity, traffic and parking conditions.

4. The proposed conditional use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood, and will cause no objectionable noise, vibration, fumes, odor, dust, glare or physical activity.

Based on the applicant's representations, the development of the tower and its associated unmanned equipment shelter will not be detrimental to the use, peaceful enjoyment, or development of surrounding property or neighborhood, and will cause no objectionable noise, vibration, fumes, odor, dust, glare or physical activity. Staff cannot determine if the tower will have any detrimental impacts on the economic value of adjacent property.

5. The proposed conditional use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood.

The applicant indicates the tower will operate microwave links to various public safety agencies in Broward. Staff has requested, as well as residents at the P&Z Board Public Hearing, documentation that the proposed use of the tower will not adversely affect the health of workers or residents in the area.

6. The proposed conditional use will not, in conjunction with existing development in the area and permitted development under existing zoning, overburden existing public services and facilities.

The development of a self-support tower and its associated unmanned equipment shelter, will not, in conjunction with existing development in the area and permitted development under existing zoning, overburden existing public services and facilities.

7. The proposed conditional use shall meet all other specific standards that may be set forth elsewhere in the Code of Ordinances.

The development of a self-support tower and its associated unmanned equipment shelter will meet all associated conditions for this zoning district.

8. The proposed conditional use shall disclose the square feet of use sought for approval so that an adequate evaluation may be made.

The development of a self-support tower and its associated unmanned equipment shelter will encumber forty-four hundred and sixty square feet on a seventy-seven-acre tract.

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Mr. Lunny advised that this is a conditional use approval and the staff report indicates that there are no waiver requests. This industrial zoning district of I-L2P is the heaviest zoning district within the City.

Alfredo Amuedo (sic), on behalf of Motorola Solutions, was present.

Mr. Amuedo explained that the intent is for Motorola to construct a 250-foot high self-supporting tower in the southeast corner of the property to accommodate emergency service for Broward County, including the City of Plantation. The tower is 500 feet from most of the property lines, which is double the requirement of any towers in that location. The applicant has already obtained a permit for an eight-foot chain link fence to secure the north and west sides of the compound for an unmanned 12' x 32' structure that it will accommodate equipment through the Building Department of the City of Plantation.

In response to Councilman Tingom, Mr. Amuedo advised that he has spoken to Motorola in reference to landscaping and to his understanding there are certain projects going on that include certain foliage in the area. There are a lot of trees that are in the process of being planted and will mature eventually. There is a perimeter around the compound that has landscaping. They are willing to adhere to any other concerns and requirements necessary.

Mr. Lunny indicated that the Planning and Zoning Board did not approve this application and recommended that Council investigate landscape mitigation, construction hours and tower locations.

Councilman Tingom commented that the Planning and Zoning Board did not approve this application and questioned why.

Mr. Amuedo stated that it was his understanding that three points were discussed. One was landscaping and another was safety in reference to radiation. He noted that the FCC 1986 Telecommunications Act allows for these structures to exist. He has a report from an engineer stating the affects of that. Landscaping is something that can be addressed in any hearing and even part of the Building permit process requires the necessary landscaping if approved.

In response to Councilperson Stoner, Councilman Tingom advised that the tower is for emergency services.

Councilperson Stoner questioned whether anyone pays for this service.

Mr. Amuedo commented that he is not privy to that information.

Mayor Bendekovic indicated that the report also says that at the time of the Planning and Zoning Board Motorola stated that the questions would be answered at the Council meeting. They did not answer that night; therefore, we need answers tonight.

In response to Councilperson Stoner, Mayor Bendekovic believed that Deputy Chief DeLeo would be able to answer most of the questions.

Deputy Chief Michael DeLeo was present.

Councilperson Stoner stated that no one spends dollars just to contribute to the County. She is asking if any of the governmental agencies using the tower are paying.

Deputy Chief DeLeo advised that any governmental agency hooking into the system does have to pay. Basically everyone has their own isolated infrastructure system, which costs everyone individually much more money to Motorola owning a hosted master site like a network, and they are going to host it, maintain it and keep the upgrades going and we are going to lease space or access to the tower to continue to maintain our radio system.

In response to Councilperson Stoner, Deputy Chief DeLeo meant the City, Broward County, Fort Lauderdale, Coral Springs, Hollywood, Sunrise and Davie when he said "we". We still need our system. In order for all of us to talk together regardless of jurisdiction this is a way for us to maintain that same compatibility in communications level that we have now. As discussed over the course of five-year budgets, capital and bond issues; everyone throughout the County has infrastructure issues. Our infrastructure is almost 20 years old; the County is in worse shape than ours. This is a way to give us a band-aid approach to help us buy the next few years while the economy is hopefully turning around to give us time to build back our coffers and reserves and go out for a bond issue to be able to invest in our own infrastructure, which will have to be replaced anyway. This master site will give us the ability in the meantime without being desperate if something breaks. It will also give us the ability to have a redundant system, which we do not have right now. Currently, we will be hooked in through fiber. If the fiber breaks we are down until that break is found and repaired and that means construction that is underground. Once this tower is up, one of the things discussed with Administration is in the future we will have a direct microwave link to the new tower, which will give us two systems running concurrently. If one is broken, whether it is the fiber or the microwave, we will not lose connectivity and will maintain all emergency services and communications. We do not have that ability right now. Our cost is already budgeted; it is in this year's budget.

Councilperson Stoner questioned what happens during a hurricane; how many of these towers come down.

Councilman Jacobs questioned if they are designed to bend over in a strong wind.

Mr. Amuedo stated that is why the engineers are present.

Councilman Tingom believed that Councilperson Stoner was leading to the safety aspects of the tower collapsing or falling and the microwave issue.

Bud Salerno (sic), Senior Program Manager for this project. He stated that the tower is being designed for 160 mph wind loading. When these types of towers fail they simply fold down on top of themselves. He has only seen two in the State of Florida that have had a problem with failing and both were in tornados not in hurricanes. This tower was specifically designed for public safety to be strong up into the category 5 wind area and it does meet the South Florida Building Codes and the National Building Codes for such. They do not design to International Code. With regard to the microwave issue, the radiation was calculated based on FCC scientific standards and right now the radiation level at a 6 GHz microwave, which would be the longest hop would be 40,000 times below what the FCC guidelines are for safe operation of a microwave.

Mr. Amuedo indicated that is basically less exposure and less microwave energy than powered by a laptop wifi connection or a modem inside your house.

Councilwoman Moody questioned why this tower was not placed closer to Sunrise away from the residential.

Mr. Salerno advised that the area chosen was based on the facilities ability to support a radio system compound, which would include both the tower and a communications equipment shelter and be able to facilitate the power. They also wanted to put it behind a 14-foot tall wall where it would not be as obtrusive to the general public. A 250-foot tower, whether it is put by Sunrise or moved a little further to the south, is still 250 feet tall. Several towers have been put up in the State of Florida and when they first go up everyone looks at it for the first one or two weeks and after that they kind of become invisible.

Councilwoman Moody commented that if she lived on Marcano Boulevard and had to see the tower everyday that would bother her. If she were coming down Sunrise Boulevard it would be less intrusive because she does not live on Sunrise Boulevard. She mentioned the cell tower at Volunteer Park and noted that it is just to the east of some businesses and she does not like it. She does not understand why it can't be moved to the north away from the residential. She understands the purpose but believes that on that parcel there is a better location on a busy street instead of coming by a residential neighborhood.

Mr. Salerno stated that was the only location that was feasible to put this particular radio compounding tower.

Councilperson Stoner indicated that a lot of cell towers are this size and are put on top of the buildings. She questioned whether that would be feasible. She also questioned the cost of the tower and how much the yearly rental is.

Mr. Salerno advised that he was not aware of a self-support tower that could meet that kind wind loading on a rooftop. It was not designed to be a cell tower, it was designed to be a public safety tower to support microwave dishes that are six feet in diameter. He noted that these particular towers sell for around \$200,000 and Motorola is making the investment. He could not speak to the yearly rental.

Mitch Norak (sic), with Motorola, was present. Motorola put in about a \$3 million investment for the entire County including the City of Plantation, which includes the tower and this hosted master site. The main controller the City is tapped into has been end of life since probably the early 2,000's. Everyone is very vulnerable so they put the investment into building this tower so everyone else could connect in. No one is making money off of the tower specifically; they are usage fees as Deputy Chief DeLeo mentioned in regard to the hosted master fees. The cost is about \$100,000 to \$150,000 per year per entity.

In response to Councilperson Stoner, Mr. Norak indicated that currently there are two entities. They are looking to recruit more and they will be paying the maintenance every year, which is about a \$400,000 investment on their part.

Deputy Chief DeLeo commented that we have a 400-foot tower and this is going to be 150 feet less. The structure is the same as the one they would be building.

Linda Gossick (sic), was present. She stated that they did not receive notification; a neighbor accidentally found it from someone else. She submitted petitions from several neighbors who live on Marcano Boulevard that are not in favor of the tower.

Maurice Spates (sic), was present. He took the opportunity to drive down NW 5<sup>th</sup> Street and there is a 400-foot tower; however, you have to almost upon the Police Department before you actually see the tower because of beautiful trees that somewhat cover it. Plantation has done an excellent job on maintaining the residential look in harmony with the City. Now we have a business starting to encroach upon that. He does not want to see a 250-foot tower from his backyard. Motorola does not want an eyesore on their property; they would rather put it in a residential area and let the residents look at it. As far as law enforcement, when it comes to a tower, law enforcement sits on a trunk system. There is not one tower that runs a law enforcement radio system; they operate off of many towers. He understands the improvement of a tower to make sure there is communication in case of emergencies but they are not going to rely on just one tower. There is no room for trees in the southeast corner of the property. During the last meeting it was suggested that Motorola meet with the residents to discuss the tower; however, that never happened. He is all for progress but he is also for making sure that peace and harmony remains in Plantation.

Earl Taylor, resident, was present. He has several concerns but the main one is health. As earlier stated, there is a limited amount of radiation people will be exposed to but without some kind of study to be sure that is correct all we have is his word. He understands the County's need for an additional tower but why Motorola, which is going to ruin the aesthetics of our neighborhood. He questioned why it can't be somewhere else in Plantation. Aesthetically speaking, the tower is not going to do anything for the neighborhood or property values. He thinks we should seriously consider another location.

Mike Eagan (sic), resident, was present. Having a 250-foot microwave communication tower could adversely affect any of our personal cell phones, wireless telephones, and internet service. He questioned whether any studies are being done as to whether or not they will affect our garage door openers, car alarms, etc. From what he sees on the plans, the microwave link will go directly from the proposed location to the Police Department and that would most likely bring it over most of our houses. He questioned what affects that would have on personal electronics in the house; wifi, portable telephones, etc. They are going to be beaming a lot of energy directly over the houses and that is another concern besides the health and safety possibilities.

Councilperson Stoner commented that the plans show the same available space in the northwest corner of the property, which would solve some of the residents' issues and address Councilwoman Moody's comments about

where to place the tower. More importantly, each of the residents that have spoken has said that they did not have any notice or conversation with Motorola. She suggested that this be deferred until there is a neighborhood meeting.

Councilman Jacobs suggested continuing this item to the next meeting, which is November 14, 2012. Because of advertising it would be better to continue to a date certain.

Councilwoman Moody questioned how difficult it would be to look at a different location on Motorola.

Mr. Salerno stated that it would be difficult to look at a different location on Motorola because at this time because of the public safety implications. As his colleagues stated, they had to put the communication shelter in and connectivity to some of the public safety entities that required the use of this master site and it would probably cost a half a million or more dollars to pick everything up and move it at this time. He does not believe that it is moveable. They looked at that facility and there were reasons they did not go to other spots on the facility. In public safety they normally do not talk things through for a long period of time when there is equipment that is under risk, which right now there is some risk to the public safety community if we do not get this in place.

Councilwoman Moody commented that in looking at the Planning and Zoning Board meeting that was held on August 7, 2012, their recommendation was that Council should investigate landscape mitigation and construction on this tower location. They strongly urged that the location of this tower be considered to the north side of the property and it was stated that you should meet with the neighbors and review other locations on the property that may not be as intrusive. She understands public safety but she feels for the residents. Suggestions were given in August and obviously they were not taken; therefore, you can listen to Councilperson Stoner's suggestions and meet with the neighbors.

Mr. Salerno was given three questions; one had to do with landscaping; one had to do with the health and safety of microwave and the other had to do with property values. It was never suggested that the tower be moved to a different location.

Councilwoman Moody reiterated that the minutes say that it was suggested to look at another location on the north side of the property.

In response to Councilperson Stoner, Mr. Salerno indicated that they cannot put a tower up until the zoning is approved and he has to file for a permit.

Councilperson Stoner stated that residents are saying that work has already started on the tower.

Deputy Chief DeLeo advised that as far as he knows, the only work that has started is the actual shelter for the equipment, which was done through the Building Department. The shelter is housing equipment that is operational regardless of the tower. That is what we are hooking into right now. The redundancy will come in when the tower is built and hooked into the shelter. They are two separate systems that are going to be linked together.

In response to Councilperson Stoner, Mr. Salerno stated that they have not gone before the Landscape Planning and Review Board.

Councilperson Stoner did not understand why the applicant was at this meeting. The Planning and Zoning Board denied the request and said that some things needed to be done. They have not gone to the Landscape Planning and Review Board and they have not met with the residents.

Mr. Muedo commented that they went through all of the due diligence necessary. The Staff Report states that any recommendations for landscaping can be done at the City Council. Motorola will accept whatever landscaping is necessary.

Councilperson Stoner indicated that there is a Landscape Planning and Review Board for a reason.

Councilwoman Moody noted that it is difficult to landscape a 250-foot pole. She questioned whether the Mayor has been to the site.

Mayor Bendekovic advised that she has not been out to the site but she lives seven houses down from a 26-story building and understands the residents concerns. She relies on Deputy Chief DeLeo because he keeps her updated on everything that is going on.

Councilwoman Moody understands why we need the tower. She is perplexed on why they did not adhere to any of the suggestions made by the Planning and Zoning Board.

Councilman Levy stated that currently we are in a huge discussion with the County relative to dispatch. That is an area that is a part of this discussion. He questioned how this will affect what is going on with the County as they are trying to develop a centralized dispatch system in various parts of the County, which he knows Plantation opposes because we have a better system and want to keep our own. Obviously this will help keep our system and allow us to communicate throughout the County, which we do not have that ability to that extent at this point.

Deputy Chief DeLeo explained that there are a couple of issues; they do have inner operability right now where agencies can talk with each other. Dispatch is able to do a few patches through the radio system and there are some things that are preprogrammed into the handheld radios that can be switched over. This project will help us maintain that as it stands right now. As far as the consolidation of the public safety answering points, the main focus of that are the 911 answering centers. To some extent, and one of the reasons they have been opposed to it as far as their agency and the Fire Department, is because we would still have to maintain our own dispatch center to handle the majority of calls for service that come in. The consolidation would not address all of our communications needs. A hosted master site will give the County the ability to have a centralized communication center if everyone agrees and plugs in but hypothetically they have that ability now. The problem is that the infrastructure is so old that they cannot maintain it. The need for modernization is in case certain parts break. This will help us band-aid until we can fully explore our full infrastructure upgrade, which is not just needed by us but by everyone throughout the County. This will not drive consolidation one way or the other.

Councilman Levy clarified that this will be temporary until we determine how to develop our own fix.

Deputy Chief DeLeo advised that they are looking at entering a user agreement with Motorola for a fixed term, which will allow us to maintain our current system but there are still components of our system that will have to be replaced and upgraded as far as repeaters and different locations throughout the City where hardware needs to be replaced due to age; most of it is about 20 years old.

Councilman Levy understood that we need to send off of another tower while fixing our tower.

Deputy Chief DeLeo stated that will be an issue when it comes time for the upgrades and replacements.

Councilman Levy agreed that not enough work has been done on the location. He feels that the community should have been involved in the discussion and it should have been brought to us when the community agreed and Motorola and all factors agreed where it should come. He thinks it is premature to be here at this point. As much as he understands the need, we are a community and he does not want to have residents uncomfortable. We need to find out why the tower has to be where it is rather than saying, "Well, that's it because we've already started it there and it's going to cost money to move it". Having worked with other companies, there are some avenues that can be realized where everyone fulfills the need. The main concern is health and safety. There must be a proper ability to communicate when dealing with people's lives. Certainly the needs of the community must be taken into account and he requested that the company go back and do this before any decision is made.

Councilman Tingom understood that Councilperson Stoner would like to continue this item to the November 14, 2012 meeting and the company has the obligation to meet with residents to discuss health concerns and landscape concerns. They also need to discuss why that location is necessary at that site and then come back to City Council.

In response to Ms. Gossick, Councilman Tingom believed that there should be a 500-foot radius with regard to notice letters.

Mr. Lunny indicated that it is best to stay with whatever the Council's advertising requirement are, which have already been done as opposed to creating new ones. If there are a couple of Associations in this area, perhaps we can write to the Associations and have them provide notice to their members.

Councilman Tingom commented that the people who attended the Planning and Zoning Board meeting and the people who attended tonight must be notified.

Mr. Lunny understood the questions as, "What are the notice requirements when a company meets with residents", and that is something we do not have a regulation on. The other question was, "What are the notice requirements when the item is returned to Council", and he is suggesting that there be no additional ones because he thought we were continuing the item.

Councilman Tingom stated that there is one exception and he reiterated that the people who attended the Planning and Zoning Board meeting and tonight's meeting must be notified.

Mr. Lunny advised that whoever spoke tonight should provide the City Clerk an address so that the company can notify them for the public information meeting requested.

Councilman Jacobs commented that there is not a list of the people who attended the Planning and Zoning Board meeting.

Councilwoman Moody mentioned that the people who signed the petitions should get a notification.

***Motion by Councilperson Stoner, seconded by Councilman Jacobs, to continue Item No. 23 to the November 14, 2012 meeting. Motion carried on the following roll call vote:***

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

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#### **COMMENTS BY COUNCIL MEMBERS**

Councilperson Stoner commended the Plantation Preserve for a job well done.

\* \* \* \* \*

Councilperson Stoner attended the Mayor's Council meeting last week and there was an exceptional turn out.

Mayor Bendekovic stated that the next meeting will be held on February 20, 2012 at the Historical Museum. Her hope is to keep a personal connection with City Hall. The following meeting will be at the Plantation Preserve and after that it will be in October at the newly renovated Deicke Auditorium.

\* \* \* \* \*

Councilman Tingom commended the Mayor on a good public input.

\* \* \* \* \*

Councilman Tingom indicated that Peters Elementary School has received an NFL Place 60 Super Schools \$10,000 grant. They were one of 34 schools chosen nationwide who will have the Dolphins visit their school next Tuesday, October 30, 2012. They will be given \$10,000 to increase exercise and health and wellness. He congratulated the principal and the students.

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Councilman Tingom reminded everyone interested that the League of Women Voters is having a 5k race at the EOC on November 4, 2012 at 7:30 a.m.

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#### **PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS**

Dennis Conklin, resident, was present. He heard on the radio that the Plantation High School and St. Thomas High School Aquinas football game was moved from Friday because of the storm.

With regard to municipal affairs, Mr. Conklin requested that Council not vote for President Obama in this election to protect all of your First Amendment Rights of Religious Liberty and Free Speech. The war against the Catholic Church that he has put on, particularly against St. Gregory, does not only affect the Catholic Church. The HHS mandates affect all people of conscious and St. Gregory is not just a church, it impacts St.

Gregory's school. There are other schools of different faiths in the City as well that are impacted similarly because they hold to similar precepts of the sanctity of life.

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**SEALED COMPETITIVE SOLICITATIONS – None.**

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**WORKSHOPS**

Mr. Lunny read Item No. 24.

**24. DISCUSSION CONCERNING PROPOSED ORDINANCE PERTAINING TO MASSAGE ESTABLISHMENTS.**

A memorandum dated October 24, 2012, to Mayor and Members of the City Council, from the Legal Department, follows:

**I. Introduction**

The City has had “under study” for some time changing the regulations that applies to Massage Therapists and Massage Establishment. Changing the City’s regulations is recommended because the City’s current law is outdated. Additionally, more control over these occupations is desired because of the possible negative secondary effects they can cause. By adopting significant “operating requirements” for these uses, the City can effectively enforce Business Tax Receipts (f/k/a Occupational License) regulations that are designed to discourage improper activity. The ordinance attached includes provisions from recently adopted State Legislation designed to discourage human trafficking.

**II. The State Scheme**

The practice of Massage is regulated by Ch. 480, Florida Statutes and by Administrative Rules which implement this law. The State regulatory scheme defines a “Massage Establishment” as a site or premise or portion thereof where a License Massage Therapist practices Massage. Fla. Stat. 480.052 (2012) confirms the authority of a city to regulate Massage Therapists and Massage Establishments, provided such municipal regulation does not exceed the powers of the State under such law or be inconsistent with State law. It is important to remember that the focus of the proposed City Ordinance is on zoning and Business Tax Receipt regulation, and not on creating any supplemental regulations that affect a State license.

**III. Existing City Zoning Scheme**

The City’s Zoning Division interprets the zoning law to regulate “Massage Parlors” as a type of “personal service”. Currently, “personal services” are allowed as a conditional use in the OB-C, B-1P, B-2L, B-2P, B-3P and B-4P Districts as well as the SPI-3 Midtown District. Within Plantation Gateway, “personal services” are permitted as permitted uses in the Healthcare Services, Professional Office, Artisan Commerce, and Four Corners Commercial Districts. A review of the City’s issued occupational licenses discloses that the City has Massage Establishments located in the B02P, B03P, SPI-3, B-7Q, and OP-P Zoning Districts, as well as within Plantation Gateway in the Hybrid Commercial (HC) District.

#### IV. The Proposed Ordinance

The attached Ordinance:

1. Changes the nomenclature of the City zoning law to make “Massage Parlors” be defined consistent with State law as “Massage Establishments” (lines 44-52, and lines 188-193).
2. In view of prior concerns about the scope of the previously proposed Ordinances, clarifies that the administration of a massage in the following contexts are not covered by the regulation (lines 246-277):
  - a. A massage of the upper body while the client is fully clothed and seated in a chair.
  - b. A massage administered in a hospital, medical clinic or in the office of a physician, chiropractor, osteopath, nurse, or physical therapist licensed by the State of Florida.
  - c. A massage administered in a nursing home, convalescent care facility, assisted living facility, progressive care facility, life care facility, or as part of a licensed home health care program (such as hospice, for example).
  - d. A massage administered by a physician, chiropractor, osteopath, physical therapist or nurse, licensed by the State of Florida, in any location.
  - e. A massage administered at a client’s residence or office, or at an organized public event, such as a health fair or sporting event, which is open for participating or viewing by the general public.
  - f. A massage administered at a school which offers a massage therapy program that has received programmatic approval from the Florida Board of Education; provided, however, that this exclusion applies only if the individual administering the massage is a student enrolled at the school and receives no compensation for doing so.
  - g. Athletic trainers employed by or on behalf of a professional, fitness club or school athletic team performing or training within this State may administer a massage without complying with the Ordinance.
3. Changes the City’s zoning use regulations to allow “Massage Establishments” in the following zoning districts only, and only as conditional uses:
  - a. In Plantation Gateway, the HCS: Health Care Subdistrict, and HC: Hybrid Commercial Subdistrict (lines 66-89).
  - b. In the rest of the City, the B-2P Central Business District, B-3P General Business District, and SPI-3 District (lines 99-126).

Any Massage Establishments that wish to locate in any other zoning district will need either a Use Variance or an amendment to the zoning code.

4. Amends the parking requirement so that Massage Establishments shall provide parking in accordance with medical and dental office requirements (lines 132-138). In Plantation, Massage Establishments’ floor plans historically include four to eight plus small rooms where each patient can be treated by a Licensed Massage Therapist. There is also typically a waiting area, similar to a doctor’s office. Based on design and operational commonalities, staff recommends amending the Massage Establishment parking requirement (citywide) consistent with that of a medical office so as to be one space per 150 square feet of gross square feet of floor area.

5. Imports operating requirements into the City business regulations which help implement the State regulatory scheme, and provide ongoing, improved control over possible negative secondary effects. The highpoints of the City new operating requirements include:
- a. A detailed application for a Local Business Receipts Tax that requires disclosure of not only current State license status, but also of historical matters associated with the license (lines 328-359 and lines 368-385), and prevents the City from issuing a Local Business Tax Receipt when licenses are not “in good standing”. A definition of “in good standing” has also been provided (lines 159-182).
  - b. A disclosure of all persons in Massage Establishments who are engaged in the Massage Practice occupation.
  - c. Self reporting provisions for when circumstances arise that would cause a reasonable person to conclude that requirements have not been followed. If such reports are not made, the Local Business Tax Receipt can be revoked (lines 285-293, and lines 303-317, and lines 433-440).
  - d. Public notice requirements when the State takes action against a license (this is in the form of a notice posted on the front door) (lines 294-302 and lines 318-326).
  - e. Enabling the City to revoke a Local Business Tax Receipt under circumstances which would allow the State to suspend or revoke a State license.
  - f. Providing that appeals from a denial (or from a suspension or revocation) of a Business Tax Receipt, will be heard by the Board of Adjustment as is normally the case for appeals of the City regulatory administrative determinations (lines 466-479, and lines 503-516).
  - g. Consistent with recently enacted State Legislation designed to prevent human trafficking, requiring that all Massage Therapists possess a “Valid Government Identification” (lines 649-652), and defining this term (lines 217-233).
  - h. Providing that no Massage Establishment may operate between the hours of 10:00 p.m. and 8:00 a.m. the following morning (lines 699-703).
  - i. Finally and importantly, the Ordinance creates a definition for Massage Establishments that are operated in a manner to become a public nuisance. This usually involves criminal activity or improper sexual conduct and results in a loss of legal status. Once determined to be a public nuisance, the City is authorized the abatement the nuisance by injunction in addition to all other remedies afforded to the City for enforcing its laws (lines 78-89, lines 115-126, and lines 715-724).

#### V. Conclusion

This recommended Ordinance is now ready for Workshop consideration.

Direction is sought to advertise and to use the “zoning in progress” legal principle so as to authorize staff to apply the Ordinance’s requirements to any application for a Business Tax Receipt which is submitted prior to the Ordinance becoming effective.

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The consensus was to advertise.

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Meeting adjourned at 11:05 p.m.

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Peter S. Tingom, President  
City Council

**ATTEST:**

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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.

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Susan Slattery, City Clerk