

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

October 26, 2011

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

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic presented service awards to the following employees:

Thomas Jerome	Information Technology	25 years
*Eugene Taylor	Parks & Recreation	25 years
*Detective Brian Kendall	Police	15 years
Alma Blake	Parks & Recreation	10 years
*Joseph Bornstein	Fire / Rescue	10 years
Susan DiLaura	Administration	10 years
Teresa Echevarria	Fire / Rescue	10 years
Jose Garcia	Public Works	10 years
*Officer Melissa Johns	Police	10 years
*Officer Todd Smith	Police	10 years
Luis Alfonso	Public Works	5 years
Denva Hudson	Landscape	5 years
Officer William O'Brien	Police	5 years
*Erica Sanford	Police	5 years
Willie Willis	Public Works	5 years

*Unable to Attend

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Resolution No. 11363

3. **RESOLUTION** of Appreciation to Gregory Gosier for 32 years of dedicated service to the City of Plantation.

Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Resolution No. 11363. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Jacobs, Uria, Tingom

Nays: None

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Mayor Bendekovic read a Proclamation designating October as *Pancreatic Cancer Month* in the City of Plantation.

Molly Serrano, Liz Bartel (sic), Denise Bartel (sic), and Sharon Winder accepted the proclamation.

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

- The High School District Swim Meet will be held through tomorrow at the Plantation Aquatic Complex.
- Kids Day Off will be at Plantation Central Park on Friday, October 28, 2011 between 7:30 a.m. to 6:00 p.m.

In response to Councilman Levy, Mr. Romano advised that we hosted a Triple Crown Rising Stars Softball Tournament, a national tournament. Two games were televised; one was an Allstar game and the other was two teams that played in the championship. CBS broadcasted the events live on cable and satellite television and the tape is currently being played on CBS affiliates. He noted that they are hosting another televised national event on January 6, 2012.

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Hank Breitenkam, Utilities Director, made the following announcements:

- This is the time of the year that we do our water system chlorine maintenance program. The Utilities Department will temporarily begin to use free chlorine in the drinking water system to assure compliance with regulatory standards. This is a preventive maintenance program that compliments our normal chlorination method. The program will start on November 1, 2011 and end on November 15, 2011. Some customers may notice a slight change in the taste and smell of their tap water. The water will continue to be safe for drinking water purposes. Select fire hydrants will be opened during this time in order to draw the free chlorine into all parts of the distribution system. This procedure will affect all residents of the City of Plantation.

- In the last couple of years the City of Plantation has had a successful toilet retrofit program. Plantation residents can conserve water and one way to do so is to change out the high use toilets with high efficiency low flush toilets; 1.24 gallons per flush.
- In coordination with 16 other cities in Broward County, the City of Plantation has formed the Broward Water Partnership.

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Mayor Bendekovic mentioned the tornado that touched down in Plantation last Tuesday. She commended the Fire Department, Police Department, Public Works, Utilities and Building Department. Every one of them was on site late that evening and early the next morning.

Fire Chief Harris provided an update on the timeline of the tornado last Tuesday. After several calls and realizing that a tornado had struck, the Severe Weather Operations Plan was instituted and modified. All of the departments were very professional. Residents received the assistance they needed; the power, gas and water was secured and everything was taken care of by 8:00 a.m. The initial call came in for a roof collapse at 10:09 p.m. and between that time and 11:59 p.m., 19 fire calls were received. A command post was established at Broward Boulevard and Flamingo Road so that the calls could be tracked. It was determined that the calls were coming in a perfect straight line, which enabled them to establish a grid pattern on the search areas. The CAD system worked tremendously. That night there were 199 firefighters on duty and all six stations were covered in addition to the response. Another fire alarm and five additional rescue calls were run in addition to the incident. The scene was chaotic; trailers and houses were damaged, trees were down. An initial assessment was done; they did a door to door with the Police Department and Public Works cleared the road so they could get through. Seven gas leaks were stopped. There were only two injury calls from this event. Operations concluded around midnight. The next morning everyone was at the site at dawn. There were a total of 52 damaged structures. All of the gas and power was checked and 12 tarps were distributed for roofs. Two police officers were authorized at the entrance of Sawgrass for security. Interviews were conducted with CNN, the Weather Channel and the Today Show and a mediocre escort through the area was done. Another tour was done on the second day and what a difference. Public Works did a remarkable job cleaning up all of the trees and debris. Chief Harris believes that every call was handled in a most professional and quickest way; we were on scene in less than four minutes.

Councilman Tingom thanked all of the departments for their response on behalf of the residents.

In response to Mayor Bendekovic, Chief Harris advised that there is another event that should be dissipated by Friday. We will get rain but there should not be any problems.

Mayor Bendekovic commented that the homes in Sunrise seemed to get hit the worst. We are setting up with Broward County for counseling services.

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Mayor Bendekovic made the following accouncements:

- The Economic Summit will be held at the Renaissance on Monday, October 31, 2011 at 11:00 a.m.
- The Plantation Volunteer Firefighter's 55th Annual Barbecue will be held at Pine Island Park on Sunday, November 6, 2011.
- A Veteran's Day service will be held at Veteran's Park on Friday, November 11, 2011 at 9:30 a.m.

- Nature in the Woods will be on Saturday, November 12, 2011 between 10:00 a.m. and 11:00 a.m.
- Art in the Park will be held at Liberty Tree Park on Saturday and Sunday, November 12th and 13th, 2011 between 10:00 a.m. and 5:00 p.m.
- The Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 21.

Item No. 4 was removed and one non-agenda item was added.

Item No's 10, 11 and 17 were pulled from the Consent Agenda.

Mr. Lunny read the Consent Agenda by title.

5. Helicopters Inc. is requesting permission to land their WPLG ABC 10 news helicopter at the Pine Island soccer field on Sunday, November 6, 2011 as a helicopter display for the Plantation Volunteer Fire Department's 55th Annual Barbecue.
6. Approve waiving competitive bidding to purchase a Toro Greenmaster 3150 from Wesco Turf, Inc. in the amount of \$25,102.80. (Budgeted – Golf)
7. Approve purchase of yearly maintenance for Avaya telephone system in the amount of \$36,745.32.
8. Request to continue piggybacking the City of Sunrise contract #09C-02-H with Jackson Land Development LLC for forced labor, water, and sanitary sewer repairs through November 30, 2012. (Budgeted – Utilities)
9. Request for authorization to extend the Pinnacle Data Systems utility billing contract for two years, until November 15, 2013, with the addition of Amendment #1 reflecting a reduction of 22% for the mailing of paper bills and the addition of e-bill mailing capability. (Budgeted – Utilities)

Resolution No. 11364

12. **RESOLUTION** for the appointment of a Public Safety Communications Manager for the City of Plantation's Police Department fixing the initial annual compensation to be paid for said Administrative position and the appointment of an individual to said administrative position. (DiPlacido).

Resolution No. 11365

13. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing at 308 NW 45th Avenue. (Davis.)

Resolution No. 11366

14. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 299 NW 102 Terrace. (Chassange)

Resolution No. 11367

15. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 10180 NW 5 Street. (Rich)

Resolution No. 11368

16. **RESOLUTION** to accept a Broward County Resource Recovery System Recycling Grant.

Resolution No. 11369

18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 6 – October 19, 2011 for the Plantation Gateway Development District.

Resolution No. 11370

19. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 6 – October 19, 2011 for the Plantation Midtown Development District.

Resolution No. 11371

20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 6 – October 19, 2011.

Resolution No. 11372

21. **RESOLUTION** approving the expenditures and appropriations reflected in the weekly expenditure report for the period October 6 – October 19, 2011 for the City of Plantation's Community Redevelopment Agency.

- 21.5 Request of First Hispanic Baptist Church of Plantation, located at 5600 Peters Road, to have a special event on Saturday, October 29, 2011 between 7:00 a.m. and 12:30 p.m. for a fundraiser involving a car wash and garage sale in the church parking lot.

Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve tonight's Consent Agenda as presented. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Jacobs, Uria, Tingom

Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 21.

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Mr. Lunny read Item No. 10.

Resolution No. 11373

10. **RESOLUTION** for adopting the official City holidays for the calendar year 2012.

Councilperson Stoner pulled this item for discussion. She recalled conversation about this last year. She has checked with several different locations and has found that Federal, State, County, Local, banks and schools do not have consistent holidays. What is consistent are the six Federal holidays, which are New Year's, Memorial Day, 4th of July, Labor Day, Thanksgiving and Christmas, and most people have added the day after Thanksgiving. In reviewing the Human Resources package for the General Employees, they have 11 holidays,

one personal day, 13 sick days, 13 vacation days and three funeral days; 41 days off a year, which is over eight weeks. She questioned whether this should be deferred until a Workshop is done of the benefit packages.

Councilman Levy commented that as courtesy to a colleague who would like some more information, certainly the sick leave and policy can be discussed; therefore, he will vote yes.

Councilman Jacobs advised that he could not support reducing the number of holidays that the City has been providing; therefore, he will vote against the motion.

Motion by Councilperson Stoner, seconded by Councilwoman Uria, to DEFER Item No. 10 until there is a Workshop on this item. Motion FAILED on the following roll call vote:

Ayes: Levy, Stoner, Uria

Nays: Jacobs, Tingom

Veto: Bendekovic

In response to Councilman Levy, Mayor Bendekovic indicated that Council approved the motion and she vetoed it.

In response to Councilman Tingom, Mr. Lunny clarified that the motion to defer did not pass.

Councilman Levy's feeling was that this will be Workshopped because it has come up in the past; however, the holidays, once passed, will remain for this year.

Mr. Lunny suggested that a date be established for the Workshop by one motion.

Mayor Bendekovic advised that she was going to have a Workshop on the Senior Executive package on November 2, 2011 and bring it back on November 16, 2011; however, nothing else could be provided because quite a few questions have been asked. Her recommendation would be to discuss the Senior package so if Council wants to eliminate or make any modifications, but leave in place everybody that is currently a Director and eligible for the Senior package.

Mr. Keefe stated that he would prefer to wait until November 16, 2011 or else everything would have to be together by tomorrow.

In response to Councilperson Stoner, Mayor Bendekovic commented that a review of the General Employee package would have to be sometime in December. In reviewing the calendar, she noted that the discussion could either be held on November 30, 2011, December 7, 2011 or December 14, 2011.

Councilwoman Uria questioned whether there was any way to review the General Employee package and then the Senior Executive package.

Councilman Tingom believed that should be requested during the Workshop and the Mayor would have to work that out.

Mayor Bendekovic preferred to separate the two packages. She prefers to do the Senior package first.

Mr. Keefe reminded everyone that the holidays are set per the FOP contract through September of next year.

Motion by Councilwoman Uria, seconded by Councilman Levy, to approve Item No. 10 contingent upon a Workshop meeting prior to the end of the year.

Amended motion by Councilwoman Uria, seconded by Councilperson Stoner, to approve Resolution No. 11373 contingent upon review of the General Employee package by the second meeting in January 2012. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 11.

Resolution No. 11374

11. **RESOLUTION** for the appointment of a Chief Administrative Officer for the City of Plantation's Administration Department fixing the initial annual compensation to be paid for said Executive position; and the appointment of an individual to said Executive position. (Shimun)

A memo dated October 26, 2011 to All Members of City Council from Margie Moale, Human Resources Director follows:

This is to advise you that the Administrative Department has given a conditional job offer to Gary P. Shimun for the position of Chief Administrative Officer (E-9). Daniel Keefe is retiring December 30th. Funds were budgeted to allow for the overlap when filling this critical position.

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

Councilwoman Uria pulled this item because she has some concerns that have been discussed with Mr. Shimun; however, she will support Mayor Bendekovic and her selection.

Councilperson Stoner advised that she also met with Mr. Shimun and expressed similar concerns. She contacted several of his past employers. She is hoping for the positive and will support Mayor Bendekovic's choice.

Councilman Tingom indicated that he spoke with several individuals who provided outstanding recommendations. This is Mayor Bendekovic's choice and he will support it.

Motion by Councilman Jacobs, seconded by Councilman Levy, to approve Resolution No. 11374. Motion carried on the following roll call vote:

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

Mayor Bendekovic thanked everyone for supporting her recommendation. There was a committee of five individuals and the consensus was that Mr. Gary Shimun was the #1 ranking. Not only were interviews conducted, quite a few people and resources were contacted and raving reviews were received about Mr. Shimun. She introduced and welcomed Mr. Shimun and his wife.

Jerry Fadgen, resident, was present. He commented that the website did not have a resume and he likes to see the experience and background of employees hired. The resume, if put on the website, helps the public make a judgment. He is sure that Mr. Shimun is excellent; however, he would like to see the resume. He questioned the salary range for this position.

Mayor Bendekovic provided a resume to Mr. Fadgen. With regard to the salary range, she noted that it was between \$82,000 and \$140,000 or \$88,000 to \$140,000. The mid range was \$112,000.

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Mr. Lunny read Item No. 17.

Resolution No. 11375

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

A memo dated October 12, 2011 to Mayor Bendekovic and City Council Members from Priscilla Richards follows:

The City has prepared two (2) applications in order to obtain Parks for People grant funding from Broward County's Land Stewardship Program. The total for both applications is \$23,691.27.

One application is for \$8,224.65. The funding will be used to purchase six (6) recycled plastic trash receptacles for Country Club Park.

The second application is for eight (8) recycled trash receptacles and two solar powered battery devices for the two audio signs on the Plantation Preserve Linear Park Trail.

There is no requirement for a match since the City has already developed the sites which were purchased with County Land Preservation Bond funding.

Please feel free to contact me at 954-797-2723 or Sharon Kent at 954-452-2512 if you have any questions concerning these projects.

George Lord, resident, was present on behalf of the Plantation Country Club Estate Homeowner's Association. During last night's meeting he was requested to speak on this subject. Trash receptacles in Country Club Estates are steel with a plastic container and a metal lid. They have been there for seven to eight years and still look perfect. In speaking with Mr. Romano, he was advised that they want to get cast iron trash receptacles for a cost of \$1,370 each. The steel receptacles would be moved to another park. In Mr. Lord's opinion, that is a ridiculous amount to pay for something that is not needed; plastic containers can be purchased at Home Depot for \$9.88. The Country Club Estates Homeowner's Association believes the money could be better spent; perhaps on playground equipment. He mentioned a program that has recycled materials and what they call "Green components out of recycled materials", such as shelters, benches, curb markers, etc. He contacted Mr. Donald Burgess, who runs the program, and his assistant, Mr. Paul Croschesky (sic), both of which said that the City of Plantation could change the application for something other than trash cans. If the deadline for Friday is not met, he was told that the odds are that the funds would go into next years' budget. He was also told that this

is the fourth year they have had \$1 million; however, they did not know how many applications would be received. Mr. Lord emphasized that the money should be used for something else rather than for something that is not needed.

Mr. Romano submitted several photographs of the typical garbage cans south of the trailhead at the Golf Course and at the north trailhead at the Golf Course. He referenced the metal garbage can that was bought for Country Club Circle and noted that these same cans are along Broward Boulevard at all of the bus stops. This garbage can is a great model. The other cans were purchased from another company and they deteriorate. The proposed trash cans are expensive; however, they will last 10 to 15 years. There are 55-gallon plastic drums situated throughout Central Park. Mr. Romano's intent was to take advantage of the grant and get a good garbage can into the trail and Country Club Park because those two parks qualify. Liberty Tree Park also qualifies for this grant as well as the little parcel near Volunteer Park. They put in for 14 additional garbage cans to replace the six that are at Country Club and the eight along the trail. The intent was to take the 14 cans, get rid of the one with the missing slats in the north and south trailheads and take the ones salvageable from the trailheads and replace them with the plastic white and blue cans. They are trying to phase out the 55-gallon cans and get the 31-gallon cans to make it easier for staff to handle. The grant is due Friday and it will come out again next year. Other things can be requested next year. Last year we received the grant and the benches were changed out at the Country Club and along the trail. The benches were recycled into the park system and some of the older benches were removed. According to Mr. Lord's conversation with Mr. Burgess, it was indicated that they are planning to do the grant again next year. There is no match on the City's part; the items must be placed in parks that were purchased through the County Grant 2000 Safe Park Program. Mr. Romano went on to say that the recycled fence at Liberty Tree Park was purchased through these funds along with the solar power restrooms.

In response to Councilman Levy, Mr. Romano indicated that each trash can costs approximately \$1,300. It does seem a bit extraordinary but if we get 15 years of use out of the cans, it comes out to less than \$100 per year. In his opinion, it is better to put in good equipment rather than replace it in five years. These particular garbage cans weigh over 200 pounds. The cans will be lag bolted in cement and cannot easily be removed.

Councilperson Stoner confirmed with Broward County that there are no strings attached to the grant and no matching funds are required. She understands Country Club Estate's concern and noted that possibly next year, when applying for the grant, perhaps the residents can be included in a conversation that will allow them an opportunity to provide suggestions as to what their park needs. While the pricing is high, it is not for this particular piece. She appreciates the opportunity to do this.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Resolution No. 11375. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS - None

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 22.

22. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF PLANTATION LOCAL BUSINESS TAXES; AMENDING VARIOUS SECTIONS OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE CITY OF PLANTATION PERTAINING TO LOCAL BUSINESS TAXES SO AS TO INCREASE LOCAL BUSINESS TAXES BY UP TO 5% IN ACCORDANCE WITH SUBSECTION 205.0535, FLORIDA STATUTES 2010; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Mr. Lunny explained that it is his understanding that during the budget discussions staff advised that one proposal in order to make the budget workable would be that these business receipts would need to be increased in accordance with this ordinance, which was done and is being presented for consideration. It is his understanding that in order to adopt this ordinance the vote will have to be a majority plus one.

Mayor Bendekovic commented that there are over 5,000 Business Licenses and of those, all but about 300 have yet to be renewed. This would probably not make an impact until next year; the only ones it would impact would be new businesses coming in or the ones that have not got their renewals in as of yet.

In response to Councilperson Stoner, Mr. Lunny indicated that this increase is allowed per Statute. The ordinance is being redone because the dollar amounts are being raised up to 5% in accordance with the Section.

In response to Councilperson Stoner, Susan Slattery, City Clerk, advised that the increase is up to 5%; however, some of them did not go up the entire 5%. She noted that State license requirements can be added for contractors.

In response to Councilperson Stoner, Mr. Lunny noted that it would be the Clerk's responsibility to implement the definition. He does not know how long the language has been there; today the Business Receipts Law is less regulatory and more revenue oriented. He would not have any objection to dropping all of that language because he assumes that State licenses are being checked prior to a Building permit being issued. Rather than complicate things and have the Clerk policing it as well, he proposed to delete the language. Mr. Lunny commented that he can review this for second reading.

Councilwoman Uria indicated that she did not support this increase in the Budget Workshop; however, she did support the Parks and Recreation fee increase. She referenced G-2; real estate person fee is \$55.25 and she paid \$52.50; she believes that is a misprint. Going up to \$58 is over 5% and someone may want to check that. She will not be supporting this.

Motion by Councilwoman Uria, seconded by Councilperson Stoner, to DENY Item No. 22. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Uria
Nays: Jacobs, Tingom
Veto: Mayor Bendekovic

Mr. Fadgen commented that Council has probably heard over the last several years about how much the fee has gone up. A couple of years ago it was suggested that small property owners that also occupy buildings be

exempt from the second Local Business Tax fee. It was suggested that those with properties under 15,000 square feet that the Local Business Tax fee for the common areas should be considered covering the local businessman's occupancy. He requested that Council consider that. He still receives comments from business people regarding this fee. It is not necessarily business friendly. He believes the number of property owners that also occupy would have a minor impact on the City.

In response to Councilman Tingom, Ms. Slattery advised that our fees are on the low end with other comparable Cities.

In response to Councilperson Stoner, Mayor Bendekovic stated that the total dollar calculated was \$36,000.

Councilperson Stoner commented that there were other places to cut \$36,000; however, that did not happen during the budget process. She initially said all right to this and no to the Parks and Recreation increase. She has received many calls regarding the fee increase and questions as to why some things were cut and some were not. As Councilwoman Uria indicated, she believes this is not the time to raise fees. She has to stick with the business owners who are struggling. This does not stop at the business owner; it gets passed on to the consumer.

Councilman Levy explained that he voted for the denial because over the last couple of months we have discussed tax increases. The last time we mentioned a utility fee, now we are talking about Business Tax License fees and we are going to be discussing a bond issue as well, which puts us in debt for years to come. He understands that we have to find revenue sources; eventually there has to be an end. It is very difficult to put it on the small business owners, developers and the people we are encouraging to come here. He questioned whether we can have a City by City comparison with our fees with adjacent Cities of comparable size so we can compare and see rather than just our City Clerk mentioning that we are on the low end. If we are on the low end and we have been charging too little for a long time, he would like to see that.

Mayor Bendekovic advised that Councilwoman Uria was the only one that objected to it at the time of the budget, it should have been mentioned then.

Councilwoman Uria concurred with Councilman Levy; government's got to stop somewhere and this is a good place to stop when it comes to the businesses.

Mayor Bendekovic commented that the Council did give \$100,000 back to the developers last week and she thought that was a very generous gesture.

Councilman Jacobs stated that the budget was created based upon expectations that the increases would go in place. He does not think that things should be changed at this late time.

Councilwoman Uria emphasized that she did not support the tax increase at budget time.

Motion by Councilperson Stoner, seconded by Councilwoman Uria, to override the veto. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Uria

Nays: Jacobs, Tingom

Mr. Lunny noted that the item is still pending.

Mayor Bendekovic suggested getting the comparisons from the other Cities and deferring this item to November 16, 2011.

Motion by Councilman Jacobs, seconded by Councilman Levy, to DEFER Item No. 22 until November 16, 2011. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Jacobs, Tingom
Nays: Uria

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QUASI-JUDICIAL CONSENT AGENDA - None

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No.'s 23 and 24. These items were heard in tandem.

23. REQUEST FOR SIGN SPECIAL EXCEPTION FOR HHGREGG/MATTRESS X-PRESS GROUND SIGN LOCATED AT 12300 WEST SUNRISE BOULEVARD.

A Staff Report dated October 26, 2011 to the City Council from the Planning, Zoning and Economic Development Department follows:

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

REQUESTS:

- 1) **From:** Section 22-35(c) which limits ground signs for center establishments to those parcels having direct street access and those constructed as directory signs to have the principal message (center name) to be located on the upper half of the sign and secondary messages (tenant panels) to be located on the lower half of the sign.
To: To allow two ground signs for a "center establishment" without direct access and allow secondary messages (tenant panels) on the entire sign face.
- 2) **From:** Section 22-35(d) that specifies that the size of the ground sign shall be limited in area to 32 square feet for sites with street frontage over 30 lineal feet and less than 500 lineal feet.
To: To increase the ground sign area from 32 square feet in area to 48 square feet on Sunrise Boulevard and 51 square feet on Flamingo Road.
- 3) **From:** Section 22-20(p) which allows a maximum height of nine feet for ground signs on properties that have six or more driving lanes adjacent to frontage where the sign is to be placed.
To: Increase the height from 9 feet to 12 feet for two ground signs (one fronting on Sunrise Boulevard and the other fronting on Flamingo Road).

- 4) **From:** Section 22-20(q) which requires the sign to be setback from the property line a distance equal to the height of the sign.
To: Reduce the sign setback on Sunrise Boulevard from 12' to 8.7'.
- 5) **From:** Section 22-35(f) which specifies that all secondary message panels (tenant panels) must be of matching color, size and font.
To: To allow the tenants to have individual size and font in accordance with the sign plans submitted with this application.
- 6) **From:** Section 22-20(u) which specifies that the font of the secondary message (tenant name) shall be a minimum of six inches in height and a maximum of 12 inches in height.
To: To allow the "Broward Christian School letter height to be five inches in height and the "hhgregg" letter height to be 24 inches in height.

EXECUTIVE SUMMARY:

Staff disagrees with applicant's justification and recommends it not be used by Council to justify the granting of the "sign height" special exception (Request to increase sign height from nine feet to 12 feet).

Staff will not object to the requests to increase sign area, reduce sign setback, waive font size and type uniformity, and allow two signs (instead of one), based on the following:

- a. Shopping center location and size.
- b. The location of adjacent Sun Trust and Jared Jewelers.
- c. The height of the Jared Jewelry building.
- d. Special circumstances relating to site location, access, and characteristics of the adjoining road system.

Staff's recommendation is also based on the condition that the City Council deny a separate special exception to increase the Mattress X-Press wall sign from 55 to 87 square feet. If the monument special sign exception is approved, the entrance to Mattress X-Press will be clearly visible from the two signs fronting Sunrise Boulevard and Flamingo Road and there will be no need for a larger wall sign on the building.

Please note, the Council previously granted a sign special exception (60 to 100 square feet) for "junior boxes" (25,000 square feet) at the Fountains Shopping Center. At 11,600 square feet, Mattress X-Press does not warrant the same treatment as a tenant more than twice the floor area.

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

On January 6, 2011 the Plan Adjustment Committee approved dividing the existing 44,400-square-foot store previously occupied by Circuit City into two retail spaces. hhgregg occupies approximately 32,800 square feet on the east end of the building while Mattress X-Press occupies approximately 11,600 square feet in the mid-section of the building. Quarterdeck Restaurant occupies the existing westernmost tenant space.

In 1997, City Council approved two ground signs for the property. One sign, located on Sunrise Boulevard is 32 square feet in area and ten feet in height with one tenant name (Circuit City). A second sign, located on the

Broward Christian School property fronting Flamingo Road, is also 32 square feet in area and ten feet high. This second monument sign contains an additional sign referencing the Broward Christian School.

In addition to the 1997 special exception:

1. Staff has approved the following special exception in February 2011.

Section 22-20(b) allows only one wall sign color for buildings having four or fewer tenants. The PZED Director administratively approved two colors (red and green). The applicant is processing a concurrent application requesting a third color (white).

2. The City Council has approved the following special exception in May 2011.

Section 22-35(g) allows a maximum wall sign area of 6 square feet. City Council approved an increase in the front wall sign for hgeg from 60 square feet to 176 square feet and the side sign area from 30 square feet to 71.4 square feet.

The code classifies this property as “center establishment” as the site has no direct access from adjacent roadways (access is through adjacent properties). The applicant is requesting approval to replace the ground signs previously approved in 1997 with two 12-inch high backlight box signs having three tenant names and being 48 square feet in area on Sunrise Boulevard and four tenant names and being 51 square feet in area on Flamingo Road.

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code, attached hereto as Exhibit “A”.

STAFF COMMENTS:

ZONING: See Executive Summary (above) and Section 22-11 Criteria (attached).

ENGINEERING DEPARTMENT: No objections.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

At time of permitting please include the following on plans:

1. Please note on plans submitted that any or all plant material disturbed/destroyed at time of construction will be restored.
2. Any existing plant material that is currently dead, missing, or irreparably damaged will be replaced accordingly.
3. All existing trees or palms are to be protected during construction.
4. Juniper typically does not do well in Plantation; please consider the use of an alternate specie.
5. Please include on plans that all planting beds will be mulch and include the type of mulch to be used (for environmental reasons please do not use Red or Cypress mulch. Eucalyptus, Melaleuca, or recycled mulch is acceptable).

UTILITIES:

No objection. The City is not responsible for any sign, fence, post or structure damaged during the operation, repair, maintenance or replacement of utilities appurtenances.

EXHIBIT “A”

SPECIAL EXCEPTION:

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

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

Applicant’s Response:

The owner makes this request as a means to remedy the inherent drawbacks of their positioning within the shopping center. For the most part, the tenant’s wall signage is barely visible. Because the tenants are set back three-hundred and fifteen (315) feet from Sunrise Boulevard behind developed outparcels, special conditions and circumstances exist that are peculiar to the property justifying the grant of the owner’s request for a special sign exception. At this location, Sunrise Boulevard is nine (9) lanes with a right-of way (“ROW”) width +/- 130 feet. The vehicular traffic traveling on Sunrise Boulevard is generally moving at a high rate of speed and has limited opportunity to identify businesses, especially those set back from the roadway/intersection behind the outparcels. Mattress X-Press, along with other tenants, requested increased wall signage and monuments due to this unfortunate hindrance. In fact, in a recent approval, the City Council approved additional wall signage for hhgregg due to its poor location and nearly non-existent visibility. Like hhgregg, the tenants have a very small view corridor, if any. The property design leaves the tenants behind outparcel buildings with very heavy vegetation. The monument signage will help to mitigate this lack of visibility. Further, the landlord is required by lease to provide hhgregg, Mattress X-Press and Quarterdeck with an area within the monument signage. There is little flexibility in fitting all of the tenants on the sign while having lettering of a size that is legible (hhgregg’s logo alone has 29 letters). Although the Mattress X-Press and Quarterdeck can comply with the 10% limitation, due to the number of letters in its logo, hhgregg needs additional area in the monument signs to fit its entire logo.

Staff’s Response:

The parcel contains a combination of unique site-specific conditions that justify two monument signs, not to exceed nine feet in height. These site-specific conditions include the following:

- e. The hhgregg/Mattress X-Press building is located in between and to the rear of “Jared Jewelry” and “Sun Trust Bank”.
- f. While Jared is a single-story building, the height approaches that of a mid-size box store and obscures a portion of the hhgregg building.
- g. No traffic signal is provided at the entrance to the shopping center.

- h. Turning movements are challenging based on the very high traffic volumes in this commercial corridor.
- i. The hhgregg building is visible from a very narrow view corridor (the main entrance driveway to the store).
- j. The location of the hhgregg building relative to buildings in the adjacent shopping center to the east.

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

Applicant's Response:

By allowing for a special sign exception, the City gives consideration to properties, such as Mattress X-Press and the adjoining hhgregg, which are at a significant disadvantage due to very limited visibility. The request for lenience with signage compliance is a reasonable response for the inherent disadvantages of this building's location and situation. The signage is part of an effort to balance the scales and give the tenants with little to no visibility some leeway due to their concealed positions behind the outparcels along Sunrise Boulevard. The design and construction of the building have made the subject property unlike most other properties along this corridor. If the parcel was wider with the typical gaps between outparcel buildings and openings that you find on typical shopping centers, there would be a reasonable view of the corridor to see the wall signage. The current owner was not responsible for the current design and has been working very closely with the tenants to make the most of what is otherwise a less than ideal situation.

Further, hhgregg could not use its registered trademark if limited by the 10% rule unless you reduce the size of the letters to a size that is barely legible.

Staff's Response:

A literal application of the ordinance, which allows a nine-foot high, 32-square-foot sign on Sunrise Boulevard does not deprive the applicant of rights commonly enjoyed by other property of lands, structures or buildings of similar character with identical special circumstances. The surrounding neighborhood is not blighted and possesses a healthy economic demographic. Approval of the special exception will not enhance the City's tax base, as no expansion of building size or floor area is proposed.

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

Applicant's Response:

The special conditions and circumstances are not a result of the petitioner's actions. As mentioned above, this owner and applicant did not design this center. They acquired the property well after the property was constructed. Further, the owner is attempting to make reasonable use of an existing building within an existing shopping center for which the site design and layout was previously determined. As such, petitioner is simply requesting adequate signage to mitigate the existing visual obstacles created through poor design.

Staff's Response:

Staff concurs that special circumstances identified in staff's response to Criteria 1 do not result from the actions of the applicant.

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

Applicant's Response:

The landlord's current dilemma is precisely the type of predicament that justifies having a special sign exception provision. The size and layout of the sign is reasonable. The owner is only asking for two additional feet in height to allow all of the tenant's name. The variance from 22-20(g) allows hhgregg's full logo to be reflected on the monument sign. As was the case with their wall variance, the reference to appliances and electronics is needed to understand what they sell. The lettering and colors are appealing and compatible with the wall signage. The applicant has limited the area to the minimum found acceptable by the tenants. With the competitive lure of the surrounding Sawgrass Mills Mall and hidden position of tenants, the increase in the ground sign size is reasonable.

Staff's Response:

The minimum measure needed to address the special conditions referenced in staff's response to Criteria 1 can be accomplished with a nine-foot high sign allowed by code, not 12-foot as requested.

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

Applicant's Response:

The special sign exception will be in harmony with the general purpose and intent of Chapter 22 and will not be injurious to the neighborhood, or surrounding property, and will not otherwise be detrimental to the safe and convenient use of nearby rights-of-way. As mentioned above, the design is compatible with the surrounding signage. This is a minor deviation by two feet in height.

Staff's Response:

The 12-foot high sign is not in harmony with the current sign code requirements, which allow a nine-foot high sign.

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

Applicant's Response:

The property is well maintained. The landscaping on the site is thriving; the landlord is attempting to make a reasonable use of the old Circuit City space in a market where most retailers are moving out and closing their doors.

Staff's Response:

The other signage is not in substantial compliance with the sign code as a special exception was previously granted to increase the hhgregg wall sign from 60 to 176 square feet.

24. REQUEST FOR SIGN SPECIAL EXCEPTION FOR MATTRESS X-PRESS LOCATED AT 12300 WEST SUNRISE BOULEVARD.

A Staff Report dated October 26, 2011 to the City Council from the Planning, Zoning and Economic Development Department follows:

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

REQUESTS:

1. **From:** Section 22-35(g), which allows one (1) wall sign on the front of the building limited to 55 square feet in area;
To: Increase the size of the wall sign from 55 square feet to 97 square feet.
2. **From:** Section 22-20(b) which limits the number of wall sign colors for shopping centers having four (4) or fewer occupant spaces to one (1) color.
To: Allow a third color (white) in addition to red and green.

EXECUTIVE SUMMARY: ZONING

The applicant does not meet the Section 22-Criteria (see below) and is not a candidate for a wall sign special exception based on the following:

1. The Quarterdeck Restaurant is set back 315 feet from Sunrise Boulevard and has signage that meets current code requirements.
2. hhgregg has 150 feet of frontage and 32,800 square feet of interior floor area compared to Mattress X-Press that has 55 feet of frontage and 11,600 square feet of interior floor area. A 55-foot sign Mattress X-Press wall sign is in proper proportion to the hhgregg wall sign based on floor area and store frontage.
3. Staff's recommendation regarding the hhgregg wall sign was based on the applicant not submitting any additional sign special exceptions.
4. Approval of the companion Monument Sign Special Exception will provide Mattress X-Press superior visibility from both Sunrise Boulevard and Flamingo Road, rendering the need for a wall sign special exception unnecessary.

ANALYSIS:

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

On January 6, 2011 the Plan Adjustment Committee approved dividing the existing 44,400-square-foot store previously occupied by Circuit City into two retail spaces. hhgregg occupies approximately 32,800 square feet on the east end of the building while Mattress X-Press will occupy approximately 11,600 square feet in the mid-section of the building. Quarterdeck Restaurant will continue to occupy the existing westernmost tenant space.

In 1997, City Council approved a special exception to allow two ground signs for the property. The applicant is processing a concurrent application requesting replacement of these signs with larger and taller signs that do not meet the visual attribute requirements of the code.

In 2011, two sign special exceptions were granted for this site:

- Section 22-20(b) allows only one wall sign color for buildings having four or fewer tenants. The PZED Director administratively approved two colors (red and green).
- Section 22-35(g) allows a maximum wall sign area of 60 square feet. City Council approved an increase in the front wall sign for hhgregg from 60 square feet to 176 square feet and the side sign area from 30 square feet to 71.4 square feet.

The code allows wall signage limited to one-square-foot of sign area for each lineal foot of storefront to a maximum of 60 square feet. The applicant is requesting approval to increase the allowable sign area for Mattress X-Press from 55 square feet in area (based on a 55-linear-foot storefront) to 97 square feet in area. In addition, the applicant is requesting white letters in addition to the two colors currently permitted (red and green) in lieu of the code requirements which limits this building type to one color for wall signs.

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

EXHIBIT "A"

SPECIAL EXCEPTION:

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

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

Applicant's Response:

Special conditions and circumstances exist that are peculiar to the land, structure or building that creates a site-specific justification for the Mattress X-Press sign special exception. The shopping center was originally developed in the late 1990's and was designed with the anchor tenant building setback from the roadway (Sunrise Boulevard) allowing for development of smaller freestanding retail buildings in front of the tenant's space. Although typical shopping centers are designed to highlight the anchor tenant building/space by providing a larger storefront and incorporating one or more of the following design techniques for the anchor tenant: prominent/embellished architectural elements, height increases (i.e. building, parapet wall, etc.), paint colors, larger signage, etc., this shopping center differs by

entirely screening the anchor tenant from view of anyone on Sunrise Boulevard. The existing design is also inconsistent with most shopping centers as those centers generally restrict the height, layout and size of freestanding buildings in the foreground to ensure the prominence of the anchor store and its visibility.

As mentioned above, the Mattress X-Press is intended to occupy a portion of the existing anchor tenant building space, which was previously occupied by the now out of business Circuit City. The proposed primary wall signage is 156 total square feet with a maximum letter height of 50 inches which is to be located on the parapet, all of which is comparable to that approved for Circuit City. The building height of Mattress X-Press is comparable to the height of the freestanding buildings, with the only difference being the proposed parapet to identify its recessed location, again, which was also approved for the previous Circuit City. It is also important to note that the proposed wall sign is the Mattress X-Press logo.

In addition to being significantly obscured by the outparcel building located in front of the Mattress X-Press, the excessive setbacks from Sunrise is also a contributing factor to the lack of visibility. The Mattress X-Press store is set back approximately 315 feet from Sunrise Boulevard, which has nine travel lanes and a right-of-way ("ROW") width of +/- 139 feet. The vehicular traffic traveling on Sunrise is generally moving at a high rate of speed and has limited opportunity to identify businesses, especially those set back from the roadway/intersection. The code doesn't recognize or give any latitude to buildings that are significantly set back from the right-of-way. Further, the code also gives little credit or latitude to the center's anchor by allowing some additional square footage.

Mattress X-Press is hopeful that the City of Plantation will allow the increased signage in support of their decision to expand their business to Plantation during these difficult economic times. By occupying a portion of the bankrupt Circuit City building, Mattress X-Press will help the surrounding businesses by bringing in customers and filling the previously vacant space, which would otherwise become dilapidated.

Mattress X-Press' adjoining property, hhgregg, recently received a special sign exception approval from the City for a 176-square-foot sign for their 50-square-foot surface area. With a surface area measuring 43 square feet, Mattress X-Press is only twenty percent less than that of hhgregg. Consequently, it would logically follow that the 156-square-foot Mattress X-Press sign should receive similar approval to maintain the consistency and proportionality among the wall signs to enhance the shopping center's aesthetics. This request is also consistent with the hhgregg special sign exception, which recently allowed for 176 square feet for their 50-foot surface area.

Staff's Response:

There are no special conditions or circumstances distinguishing this site from similarly situated properties in the City. Quarterdeck Restaurant is set back 315 feet from Sunrise Boulevard and has signage that is within current code requirements. In addition, approval of the companion Monument Sign Special Exception will provide Mattress X-Press superior visibility from both Sunrise and Flamingo Road, rendering the need for a wall sign special exception unnecessary.

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

By allowing for a special sign exception, the City gives consideration to properties, such as the adjoining hhgregg property, that are at a significant disadvantage due to restricted visibility. The circumstances that Mattress X-Press face are similar to those of hhgregg, thus, the reasons for which the special sign exception was granted to hhgregg also apply in this instance.

Staff's Response:

Staff disagrees with applicant's argument. hhgregg has 150 feet of frontage and 32,800 square feet of interior floor area compared to Mattress X-Press that has 55 feet of frontage and 11,600 square feet of interior. A 55-foot sign Mattress X-Press wall sign is in proper proportion to the hhgregg wall sign based on floor area and store frontage. In addition, approval of the companion Monument Sign Special Exception will provide Mattress X-Press superior visibility from both Sunrise Boulevard and Flamingo Road rendering the need for a wall sign special exception unnecessary.

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

Applicant's Response:

The special conditions and circumstances are not a result of the petitioner's actions. The Mattress X-Press retailer proposed to occupy an existing building within an existing shopping center for which the site design and layout was previously determined. As such, petitioner is simply requesting adequate signage to mitigate the existing visual obstacles in identifying the presence of the Mattress X-Press.

Staff's Response:

The applicant was advised of the City's sign regulations prior to the interior build out of the tenant space. On May 11, 2011, staff recommended approval of the hhgregg wall sign special exception, provided the applicant submit no additional sign special exceptions for this shopping center. Had the applicant indicated it would be requesting a second wall sign special exception; staff would not have supported the hhgregg sign approval.

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

Applicant's Response:

Considering that the Mattress X-Press surface area is only twenty percent less than that of hhgregg, the requested 156 square feet is appropriate as compared to the 176 square feet approved for hhgregg. The amount that Mattress X-Press is requesting is an adequate amount in order to maintain proportionality with hhgregg and surrounding stores.

Staff's Response:

hhgregg has 150 feet of frontage and 32,800 square feet of interior floor compared to Mattress X-Press (55 feet of frontage and 11,600 square feet of interior). hhgregg has almost three times the store frontage as Mattress X-Press and almost twice the square footage of the interior. Quarterdeck Restaurant has a front and a side sign. The front sign is 54 square feet and the side sign is 32 square feet. The lineal frontage for Quarterdeck is 142 feet on Flamingo Road and 61 feet on West Sunrise Boulevard. Again, Mattress X-Press' request is out of proportion with the wall signs in the center. Again, approval of the monument sign renders approval of the Mattress X-Press unnecessary.

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

Applicant's Response:

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

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

Staff's Response:

The Mattress X-Press sign special exception is not in harmony with the general purpose and intent of Chapter 22. Also as indicated above, it is not proportional with respect to the size of existing businesses and respective sign size in the shopping center. In addition, as indicated before, approval of the monument sign renders the Mattress X-Press request unnecessary.

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

Applicant's Response:

We are also asking for one wall sign special exception as we have no other wall signage; therefore, we are in compliance with Chapter 22.

Staff's Response:

Contrary to applicant's statement, applicant is also requesting multiple ground sign special exceptions that if granted, will provide excellent visibility from both Sunrise Boulevard and Flamingo Road for Mattress X-Press. The Quarterdeck Restaurant, Jared Jewelry and Sun Trust Bank have signage that is within the current code requirements. The other signage on this property (existing hhgregg wall sign and monument signs) were previously granted special exceptions and do not comply with Chapter 22.

Mr. Lunny indicated that with respect to Item #23, there are six principal waivers, which he read.

Councilman Jacobs made a Jennings Disclosure and stated that he had a meeting with a representative, Bonnie Miskel, from hhgregg and Mattress X-press, and it will not affect his decision, as he will based it upon the evidence presented this evening.

Attorney Bonnie Miskel was present. She combined the presentations since they are related. This property is located on the southeast corner of Sunrise Boulevard and Flamingo Road and on the western perimeter of the City. Although it is defined and classified as a center, her client owns the Quarterdeck, what will be the Mattress X-press base, and hhgregg; they do not own the Sun Trust Bank, the Jared's Jeweler or the school. Initially, Circuit City was in the space that hhgregg currently occupies, as well as a portion for Mattress X-Press. When they went out of business, the property was vacant for a while and there was a concern that they would not find a large enough tenant to fill the space. They then made a decision to divide the space because they would have a better chance finding multiple retailers versus an individual retailer. They came in with a plan that envisioned a split. Ultimately, hhgregg entered into the equation and a lease was negotiated. When they began negotiating their lease, due to the market conditions, they got most of what they wanted. They wanted larger signs than required by code and came before City Council. Their sign currently sitting on the wall of their building is approximately 177 square feet. The center is very different from most other centers, but because of the ownership and how it has been carved and cut out, they literally have no visibility to Sunrise Boulevard and very little visibility to Flamingo Road. When they came in with the hhgregg sign, hhgregg had already negotiated with the owner that they would get top billing on the two existing pylon signs. There are two signs that were approved and have existed for years; those signs were at ten feet. They have been refaced and what is currently there is temporary. They started with a larger sign with the logos of all of the users. It was green, red, white and blue, and it was red with a yellowish orange dot. Because hhgregg won, everyone else conformed. Apparently there was a law suit many years ago. An easement resulted from the law suit and the sign sitting on Flamingo

Road is actually in the right-of-way that was conveyed by virtue of whatever that dispute was. Broward Christian School has the same colors and letter sizes on the sign. They have no control over their signage but it has to be blue and what was approved years ago. Ordinarily, the tenants would be on the lower half and the center information would be on the top half; they are reversing that. They are not occupying the entire sign face but are flipping it. They would like to have some ground landscaping running along the footing and the base of the sign. That is item #1. Item #2 limits the square footage of the face of the sign to 32 square feet. Because of the Broward Christian School they have had to add that, which brings them to 51 square feet on Flamingo Road. The proposed sign shows 48 feet. Item #3 shows the maximum height as nine feet. There is some question about where the sign is measured. Currently the sign is at ten feet. The previous sign did not meet any of the City's architectural standards and was not cast in any way; it had no architectural embellishments. This sign is a huge improvement from the previous sign, which was very flat. Item #4 references the setback. Code says there needs to be a foot for every foot in height. The old sign was non-conforming; it was only about ten feet high and set back to a little less than nine feet from the right of way. They are not changing the setback; they are locating the signage where it was before, at the base, so it will not be any closer to the right of way or any further away. They increased the height a little so that increased the setback. Item #5 refers to matching colors, size and font. As explained previously, they have gotten their tenants to agree to the same font and the same color; the only difference is that hhgregg has insisted they get top billing and something larger. The sign on Sunrise Boulevard is substantially in conformance with code because they have the same font and colors. The two things that require the request for this waiver are that they have to have Broward Christian School on the Flamingo Road sign and they feel that they have no obligation; that they are vested for what they have and want it to stay. The other reason is that hhgregg wants top billing and the client is trying to make them happy. They believe they are the anchor and should get some recognition for that. Item #6 requires a waiver because hhgregg exceeds the maximum letter size and Broward Christian School does not meet the minimum.

With regard to the wall sign, Ms. Miskel distributed photographs. She described the photos as follows:

#1; the closest structure is the drive-thru structure for the bank on the right hand side of the driveway. There is a very large sign; 177 square feet; however, it cannot be seen.

#2; going to the parking lot the driveway is to the right directly in front of hhgregg. You can see some red letters but you really cannot see the sign. The Mattress X-Press wall sign will be the building to the right and you cannot see it at all.

#3; closer to the buildings and now approaching the drive-thru opening and you still cannot see signage. This is the only driveway into their portion of the center.

#4; beyond the driveway opening for the bank and you can barely get a glimmer of the red letters of hhgregg to the left and you see the glass doors to Mattress X-Press, but again, you cannot see the signage because you cannot see the entire wall that it will be placed on.

#5; the existing hhgregg appliances and electronics logo and their opening. The important thing is when they redesigned the center they created two tower parapets envisioning that it was going to be split, not knowing at the time what the division would be. The hhgregg is over 30,000 square feet and the Mattress X-Press, which is the next picture, is a little over 11,000 square feet. The parapets are very close in square footage. The hhgregg is 50 feet wide and the Mattress X-Press parapet is 47 square feet. The height is about 1.5 to 2 feet lower. Essentially that façade is very close in square footage and that is the opening where the Mattress X-Press sign would go.

#6; what the sign would look like if we had to meet code. The square footage to the right is 55 square feet; it is so out of proportion and out of scale with the façade. The design does not look right and she thinks that is important in making a decision. The design came in at a time when they did not know what the square footage of the space would be but they tried to take an empty large building and break it up to provide a more attractive façade than when Circuit City was there. Mattress X-Press requested 154 square feet and she stated that she would not go before Council with that. They scaled it down significantly; they are down to 98 square feet. Even at 98 square feet, it still doesn't look quite in scale; it should be a little larger.

In response to Councilperson Stoner, Ms. Miskel stated that she visited the property and counted the squares herself. There is a ledge that comes out on the drawing and there is a row that cannot be seen.

Councilperson Stoner indicated that there are four rows; the picture shows five.

Councilman Jacobs could see it being five.

Paul Henson (sic), with GM Signs, was present. There is a block on the bottom row that cannot be seen because of the ledge; therefore, the bottom row could be considered the brown ledging.

Mr. Lunny clarified that the photograph shows four rows of boxes, the bottom of which is obscured by the ledge. The diagram prepared shows the Mattress X-Press with five.

Ms. Miskel stated that it is not clear and agreed that this is not a very good presentation. She believes what is missing is that the ledge is not reflective of what was constructed.

Councilperson Stoner does not feel this is an accurate representation to consider.

Ms. Miskel mentioned the dimensions; 50 and 43; and the height. The difference that the two facades, based on their massing, are very close in size; they are 50 to 75 square feet difference. The signage is between 177 and 55 is so dramatic that it does not match the space; it is not in proportion to the space. The designer attempted to make it look a little more in proportion to the wall it is going on. The drawing is 98 square feet and that is what they are requesting. Their logo is red, white and blue. They managed to get them off of that and also got them down significantly from the 150 square feet that they original started with. She went on to say that neither building is particularly visible; however, eventually hhgregg will have visibility on Sunrise Boulevard; the Mattress X-Press will never have visibility because they are entirely behind the bank. Her client is trying to keep the tenants happy.

Councilperson Stoner found it interesting when she went on hhgregg's website that they are not showing a Plantation location, they are advertising it as a Sawgrass location.

Ms. Miskel advised that during her interactions with the corporate office, they have been very excited to be in Plantation. They targeted Plantation because of the demographics. They really believe that the wall sign should be given some consideration because they are entirely blocked out. She feels that 98 square feet is reasonable, particularly given the face of the wall and the impediments they have. Both neighbors to each side of Mattress X-Press have two sets of signs; they have signs on the ends of their buildings. They have changed their trademark to accommodate some of the issues about fonts and colors and would be very happy if some consideration were given with regard to square footage.

Mr. Lunny's recollection of the law suit many years ago was that Plantation Acres Improvement District was sued by the prior owner of the shopping center and one of the issues was the change in the berm and the loss of the berm occasion by the southwest corner proposed access to Flamingo Road. It was very controversial to that community and resulted in a significant expenditure by those residents that were represented by P.A.I.D. At P.A.I.D.'s request, the City assisted in the settlement of that law suit by agreeing to allow the berm to traverse within Volunteer Park and the relocation of certain waterway facilities that now border on that park and part of the resolution of P.A.I.D.'s case involved wrapping the berm around a portion of the Broward Christian School, which resulted in the sign for Broward Christian School being located where it is, which is probably one of very few off premises signs in Plantation. The sign is non-conforming. The City then passed a sign law in 2004 and amended it in 2006. The 2004 enactment was in response to Federal litigation. Generally, his recollection is that the Broward Christian School sign can remain as is. If it is ever reconstructed, because it would be non-conforming, it would have to comply with today's ordinance. He advised Mr. Leeds of this and has not re-reviewed the file. The case file was 94, 93 or 96 and he can only state that this is his recollection. He has spoken with Counsel for the developer at that time, who litigated the case on behalf of the developer; he shares the similar recollection. P.A.I.D.'s current Counsel was not Counsel at the time. Mr. Lunny gave a cautionary warning; when special exceptions are granted some precedent is created for the future. He knows that Council is being practical when the transaction demands this but he strongly encouraged Council not to consider any statements about hhgregg and the economic arrangement that they made with the landlord; that cannot be a justification. If it is stated that this be a justification, then every tenant will request sign exceptions. He also cautioned Council to be very concerned about the practical argument of landscape obstruction. As the City's canopy continues to mature, that will be a statement from a practical perspective while true, should not be a legal basis to grant a special exception. He further cautioned that the mere fact that someone chooses to propose a parapet that is of a certain size or nature and it is approved at site plan, should not be cited as a reason to then justify a sign special exception. All of what Council said are practical observations that affect every day life. He is not discounting this. Should Council choose to approve this application, please find a basis other than those. If not then he is very concerned about every single property owner making the same request.

Mr. Leeds advised that when Ms. Miskel first approached him she came in with a sign for hhgregg of 178 feet. At that time there was no request to increase the existing monument sign. There was no discussion of a larger sign for the second tenant. He had no objection to the 178-square-foot sign because there are some obstructions on the site. At the time same time, Ms. Miskel requested a larger sign on the east side of the building, which he did not object to. The sign at 178 square feet is not much smaller, maybe 20 square feet, than the sign that identifies Dick's Sporting Goods. Dick's Sporting Goods is a 50,000-square-foot store; it is set back nearly twice as far from University Drive and it also has many buildings and restaurants in front of it. Based on the specific conditions at this site and the traffic situation, he agreed with the original wall sign. Ms. Miskel later came in with a sign for Mattress X-Press. At this point the architecture for the building has already been approved. At the same time she stated that hhgregg wants to have this monument sign and Mattress X-Press wants a sign and the restaurant wants a sign. The sign was not much bigger. Ms. Miskel was told that the first wall sign was approved for hhgregg based on no other signs. She replied that she was not aware of additional requests and this is what they want to do. Mr. Leeds is also concerned about precedent because there are other shopping centers on Sunrise Boulevard in this area. This sign is the second largest; the only sign taller is at Pet Smart Shopping Center, which is a much larger shopping center. The area of the Pet Smart Shopping Center is actually less than what is being proposed for the monument sign. He is concerned that if these signs are approved that we will set off a desire to have larger signs for the shopping centers directly to the east and north. Best Buy is only about nine feet tall. Circuit City and Borders Book Store did not close because their signs were too small or because people could not see the store; they closed because they had structural problems with their business enterprise. He is willing, based on the criteria in the code, and believes there is a need for the monument sign. He thinks it is important to identify the vehicular entrances into the shopping center. His only

concern is the height at 12 feet; he thinks that is a bit much. The code is 9 feet. In his opinion, 10 feet is more in line. The other thing he would say is that if these two monument signs are approved as is except with a reduced height, there is absolutely no need to grant a sign special exception for Mattress X-Press because the idea, according to some of the backup received from Ms. Miskel, is to identify the entrances. He believes that the additional signage is large enough. He also thinks that if the sign is granted for Mattress X-Press it will create a problem with precedent. He thinks the monument sign is all right except for the height. If the monument sign is approved regardless of the height, he thinks the Mattress X-Press sign should be turned down. People are off the street and it is safe; that is the point. Mr. Leeds recommended, and it was not made a condition, when hhgregg came in originally with the 178-square-foot sign and their 70 or 80-square-foot sign on the side, that this be the last sign special exception. Whatever is done today must be the last sign special exception for this complex.

Councilperson Stoner indicated that she is a little uncomfortable for the sign setback to be reduced. They are requesting to reduce it from 12 feet to 8'7".

Councilman Tingom commented that the setback is already there.

Mr. Leeds advised that the sign setback of the existing sign was the result of the law suit.

Mr. Lunny stated that is his unconfirmed but fairly confident recollection.

Mr. Leeds advised that the proposed sign setback on Sunrise Boulevard is 8.7 feet for hhgregg; the existing monument sign is nine feet. It does not meet code but it is in the neighborhood. His issue is the height.

In response to Councilman Tingom, Mr. Leeds indicated that it is further off of the road on Flamingo Road.

Mr. Lunny stated that the City should recognize the existing Broward Christian School sign as non-conforming with whatever today's requirement is.

Councilman Tingom visited the site, measured the sign and walked the distance. If you construct a 12-foot sign it will be hidden underneath the tree. The top of the sign is currently less than ten feet and it comes to the bottom of the existing tree. There is a considerable amount of landscape underneath the monument sign. He would prefer to see both signs ten feet tall and meeting the conformity with the Broward Christian School size of the lettering. He believes that 12 feet is in excess. The sign is very visible when traveling east and west along Sunrise Boulevard because it is a green back drop with a red sign. He feels that we need to meet the code with respect to the signage and lettering.

Ms. Miskel indicated that they were trying to add some architectural embellishments but can probably condense the sign to ten feet. They did not consider any potential landscaping impediments that are out there.

Councilman Jacobs commented that if the height is changed to ten feet that will change the square footage of the signage.

Ms. Miskel advised that the base can be shrunk so it may not necessarily reduce the face. They can scale the entire sign down.

Mr. Leeds stated that the sign will get shorter and the hhgregg panel will get smaller.

In response to Councilman Tingom, Mr. Leeds indicated that he does not have a problem with the width of the sign.

Ms. Miskel believed that a foot would be taken off of the hhgregg panel; six inches on both sides and they would also shrink the base of the sign.

Motion by Councilwoman Uria, seconded by Councilperson Stoner, to approve Item No. 23, the sign exception with all of the waivers except for #3 to allow the increased height to ten feet. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Jacobs, Uria, Tingom

Nays: None

Councilman Jacobs clarified that there will be two ground signs; the square footage would be in relation to the height change, the setback would stay the same along Sunrise Boulevard; the size of the letters and font will stay the same and the letter height will stay the same on the school sign.

Mr. Leeds commented that we need to acknowledge that the special exception #2, the 48 square feet, would be reduced commensurate with the sign height.

Councilman Tingom referenced Item No. 24, the size of the sign for Mattress X-Press.

Councilman Jacobs understands Mr. Leeds' statement but he was concerned that the sign might be too small in proportion.

Mr. Leeds agrees with Mr. Lunny, he does not think that Council should recommend in favor of a sign special exception based on the architecture of the building, especially in this case, when the architecture was proposed without any assurance that a sign special exception would be requested or granted.

Councilman Jacobs comments that there are other circumstances; you cannot see the sign from the road.

Mr. Leeds stated that their position is that the monument signs get you into the site and once in the site there are only three choices. He is not going to comment on whether it is proportional or not; that choice was taken away from staff when they came in with the large entry feature and did not tell us they were going to have a larger sign.

Councilperson Stoner indicated that when they came in we always knew there was vacant space and that there would probably be an additional tenant. When we evaluated the hhgregg sign we did so based on the architecture of the building.

Mr. Leeds advised that the evaluation was not done based on the architecture of the building; it was based on the fact that hhgregg was coming in with only a wall sign special exception. If the monument sign had come in at the same time he would not have supported the hhgregg wall sign because he does not believe it is necessary if there is adequate signage near the street to get people into the center.

In response to Councilperson Stoner, Mr. Leeds stated that the signs are based on the building frontage and the building frontage is 60 square feet.

Ms. Miskel commented that at the meeting Mr. Leeds did say that this should be the last variance and questioned whether we would agree to commit to that. At that time she told the Council that she had no authorization to do so, the owner clearly was not willing to allow her to commit because they would need the same freedom and flexibility for the same reasons that hhgregg was granted the exception. She pointed out that the height has been dropped by two feet. There is currently a monument sign with a ten-foot sign for Circuit City; that is not new, it is existing and old. The City process is such that we have to apply for Building permits for the signs and get rejected prior to applying for a waiver. Since they have dropped the sign down to the ten feet that is there today, they feel that this user, for the same reasons that hhgregg was penalized for their location, and this may be worse. At least hhgregg has a view corridor and when the trees grow it will have a very clear view corridor. This building will never have a view corridor. A bank went in and blocked them entirely; they have no visibility to Sunrise Boulevard or to Flamingo Road. They should get some relief as they are the most disadvantaged in this center.

In response to Councilman Jacobs, Mr. Leeds advised that the code allows 55 square feet because of the building frontage limits it to 55. In this case it is 55 square feet and not 60 square feet.

Councilman Tingom stated that the applicant is requesting 98 square feet and they are allowed 55 square feet.

Councilman Jacobs noted that the question is whether it is justified.

Councilman Tingom indicated that he tends to agree with Mr. Leeds, the signs on Flamingo Road and Sunrise Boulevard are important. He does not see that there is a disadvantage to the tenant once people are inside the center.

In response to Councilman Jacobs, Mr. Leeds advised that there is not a problem with a third color. Staff has not objected to any of the colors and font waivers requested by the applicant.

In response to Councilwoman Uria, Mr. Leeds stated that he cannot justify an increase based on the criteria in the zoning code; the special exception criteria, and in light of the fact that they are allowing special exceptions for two monument signs on the street.

Motion by Councilman Levy, seconded by Councilman Tingom, not to grant the special exception to the Mattress X-Press sign. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Jacobs, Uria, Tingom

Nays: None

Councilman Jacobs thought the motion should be made to approve the waiver with 55 square feet.

Mr. Lunny believed Council was trying to approve the application for the wall sign but limit the size to 55 feet so that all of the other wall sign waivers were made. You would be approving one out of two requests.

Councilman Tingom commented that the white color would be allowed. He clarified that the motion is to approve the waiver for the color but not to approve the size, which would be within code.

In response to Councilwoman Uria, Councilman Tingom reiterated that the motion is to approve Item No. 24 with the size being 55 square feet according to code and allowing the exception of the color.

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COUNCILMEMBERS' COMMENTS

Councilwoman Uria wished everyone a Happy Halloween.

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Councilman Tingom made the following comments:

- The activity put on at the Kennedy Community Center by Parks and Recreation was outstanding.
- He commended Frank DeCelles, Public Works Director, for a job well done with regard to removing all of the debris caused by the tornado.
- He congratulated the leaders and volunteers that run the Plantation Athletic League. The audit had no exceptions this year; it was a clean audit for an organization of over 6,000 people and several million dollars.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, was present. He made the following comments:

- The streaming online is a fantastic system.
- Plantation will be playing St. Thomas Aquinas in football this Friday at the PAL field at 7:00 p.m.
- He complimented Danny Ezzeddine, Design, Landscape and Construction Director, for what he thought was a very sound presentation of the 911 sacred relic that the City has.

Mr. Conklin stated that during the summer he suggested that Plantation make the effort to recognize our 40th President, Ronald Reagan's Centennial anniversary of his birth and rename NW 5th Street, which becomes NW 65th Avenue. He reintroduced that suggestion for a Proclamation and recommended that the name of two streets be solidified into one in recognition of President Reagan.

Mr. Conklin requested a repeal of Resolution No. 10481, which is the Green Resolution that was passed many years ago. He complimented the City for not funding and participating in the upcoming year, which we are currently under.

Councilman Levy stated that in regards to commemorating Ronald Reagan, he believes that it would set a bad precedent in the City because as each President comes up someone could request a road. He noted that the State has already honored Ronald Reagan; the entire Turnpike is called the Ronald Reagan Turnpike. He does not think that a street needs to be named after him in our City.

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SEALED COMPETITIVE SOLICITATIONS - None

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WORKSHOPS - None

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Meeting adjourned at 10:11 pm.

Peter S. Tingom, President Pro Tem
City Council

ATTEST:

Susan Slattery
City Clerk

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Minutes was received by the Office of the City Clerk and entered into the Public Record this _____ day of _____, 2012.

Susan Slattery, City Clerk