

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

December 7, 2011

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

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic introduced Gary Shimun, who is replacing Dan Keefe as the Chief Administrative Officer.

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Resolution No. 11392

3. **RESOLUTION** of Appreciation to Daniel W. Keefe for over ten years of dedicated service to the City of Plantation.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve Resolution No. 11392. Motion carried on the following roll call vote:

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

Mayor Bendekovic presented Cheryl Keefe, Dan's wife, with a survival basket.

Mr. Keefe thanked Mayor Armstrong and Mayor Bendekovic for giving him the opportunity to work with them as part of the Administrative team. It has been an honor and privilege. He also thanked the City Council members, the City Attorney, the Department Directors, the Administrative staff and all of the City employees. He wished Gary Shimun the best of luck with his new position. Mr. Keefe introduced his family.

Councilwoman Uria thanked Mr. Keefe for all of his assistance throughout the years.

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

- The Winter Wonderland exhibit just opened at the Plantation Historical Museum. The hours are Tuesday through Saturday, 10:00 a.m. to 4:00 p.m. They are closed on Sunday; admission is free. Children's day with Santa is on Saturday, December 10, 2011 and Saturday, December 17, 2011. Open House with light refreshments is every Thursday in December from 6:30 p.m. to 8:30 p.m.
- Nature in the Woods will be held at the Kennedy Community Center on Saturday, December 10, 2011 featuring Alex the Alligator.
- The USTA Orange Bowl Tennis Tournament will run through this Sunday, December 11, 2011.
- Santa's visit will be on Saturday, December 24, 2011 between 5:00 p.m. and 10:00 p.m.
- Winter Wonderland Holiday Camp registration began last Monday, December 5, 2011 at Plantation Central Park. Registration hours are Monday through Friday between 8:00 a.m. and 8:00 p.m. and Saturday and Sunday between 8:00 a.m. and 4:00 p.m. This program will run from December 19 – 23, 2011 and from December 27 – 30, 2011 for ages 5 through 11. The hours are from 7:30 a.m. to 6:00 p.m.
- A Winter Break Tennis Camp will begin on December 5, 2011 at the Frank Veltri Tennis Center for ages 6 to 16. The hours are between 10:00 a.m. and 3:30 p.m.
- The Share-A-Pony program registration began on Monday, December 5, 2011 at the Plantation Equestrian Center. This program is for ages 4 through 12.

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Mayor Bendekovic introduced Pat Hind and Gloria Merritt of the Plantation Woman's Club.

Ms. Hind and Ms. Merritt presented a check in the amount of \$12,402 to Frank DeCelles, Public Works Director, for a new Fountain at Deicke.

Mr. DeCelles advised that they are looking forward to the project. He thanked the Plantation Woman's Club for their donation.

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Mayor Bendekovic introduced the Central Area Superintendent of the Broward County Schools, Dr. Desmond Blackburn. Dr. Blackburn introduced Mrs. Tonya Frost, the new principal at Plantation Elementary School.

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Mayor Bendekovic read a Proclamation designating Wednesday, December 7, 2011, as *Rick Case Bikes for Kid's Day* in the City of Plantation.

Rick and Rita Case accepted the proclamation.

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Mayor Bendekovic made the following comments:

- Thanks were expressed to the Plantation Chamber of Commerce, the Police Department and Fire Department for their participation in the Holiday Parade.
- The Health and Community Expo will be held at the Lauderdale West Clubhouse on Thursday, December 8, 2011 between 9:00 a.m. and 1:00 p.m.
- She encouraged everyone to watch the tennis tournament. We are averaging about 200 spectators per day.

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CONSENT AGENDA

Item No. 10 was pulled and discussed separately.

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 16.

Mr. Lunny read the Consent Agenda by title.

4. Request for authorization of Amendment No. 1 to Hazen & Sawyer, P.C.'s work authorization number H&S #1011002 in an amount not to exceed \$95,000 for LS 515 replacement, demolition and building modifications at the Gulfstream Master Pump Station. (Budgeted – Utilities)
5. Request for approval to piggyback the City of Fort Lauderdale's contract #495.10231 for bio-solids treatment and disposal. (Budgeted – Utilities)
6. Request for authorization to continue purchasing sodium hexamataphosphate, from America Water Chemical, Inc., using the City of Plantation publicly advertised RFP #018-10, through November 23, 2012, at a cost of \$1.10/lb. (Budgeted – Utilities)
7. Request for authorization to purchase a Busch vacuum pump from M & B Environmental Solutions, Inc., in the amount of \$27,050 to maintain redundancy at the master vacuum station on State Road 7. (Budgeted – Utilities)
8. Request for authorization to continue to purchase hydrofluosilicic acid (fluoride) from Harcross Chemicals, Inc. utilizing the Southeast Florida Co-op bid #403-10368 through February 28, 2013 for \$0.295/per pounds (full truckloads) or \$0.325/per pound (less than full truckloads) (Budgeted – Utilities)
9. Approve the purchase of software and licensing upgrade from Exchange 2003 to Exchange 2010 in the amount of \$36,328.24. (Budgeted –Utilities)

Resolution No. 11393

11. **RESOLUTION** pertaining to the subject of real property; authorizing the conveyance by Quit Claim Deed of certain surplus property located near Wimbledon Lake Drive, Plantation to Wimbledon at Jacaranda Land Association, Inc.; the property having ad valorem tax folio 5041 08 01 0013; approving the form of the Quit Claim Deed and authorizing changes thereto as may be required; generally authorizing the Administration to take all actions and do all things necessary to perform the conveyance approved by this Resolution; providing findings; providing a conflicts clause; providing a savings clause; and providing an effective date therefor.

Resolution No. 11394

12. **RESOLUTION** pertaining to the subject of real property; authorizing the conveyance by Quit Claim Deed of certain surplus property located near SW 93rd Terrace, Plantation to Scratch Golf, LLC; the property having an ad valorem tax folio 5041 08 01 0042; approving the form of the Quit Claim Deed and authorizing changes thereto as may be required; generally authorizing the Administration to take all actions and do all things necessary to perform the conveyance approved by this resolution; providing findings, providing a conflicts clause; providing a savings clause; and providing an effective date therefor.

Resolution No. 11395

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 10 – November 30, 2011 for the Plantation Gateway Development District.

Resolution No. 11396

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 10 – November 30, 2011 for the Plantation Midtown Development District.

Resolution No. 11397

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 10 – November 30, 2011.

Resolution No. 11398

16. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 10 – November 30, 2011 for the City of Plantation's Community Redevelopment Agency.

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

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

NOTE: Mayor Bendekovic voted affirmatively on Item No. 16.

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Resolution No. 11399

10. **RESOLUTION** confirming a Plantation Special Assessment Lien on 452 SW 63rd Terrace for the City's cost to repair or replace sidewalks. (Henderson).

This item was pulled by Councilwoman Uria. She would like some background information and questioned the reason for the sidewalk breakage and repair. She questioned whether the amount of \$426 was double the cost or whether it was the cost of the repair.

Mr. DeCelles advised that during an inspection of the area the sidewalk was damaged and the damage was not caused by the City of Plantation. Most of the time damage to the sidewalk occurs from swale tree roots uplifting the sidewalk. In this case, a complaint was received by someone using the sidewalk. The homeowner was notified and given a period of time to repair the sidewalk. Nothing was done within a reasonable time; therefore, a second notice was sent saying that if the sidewalk was not repaired within another ten days the City would make the sidewalk safe for pedestrian use. No response was received. The City is obligated liability wise and according to the ordinance, it is up to the City to make sure that the sidewalk is repaired and then the homeowner is billed for the cost. If the homeowner does not pay the cost then a lien is filed. He could not recollect what caused the breakage of the sidewalk without the file. He imagined it was either a tree located on the resident's property side or a drive over. The \$426 is the associated cost for the City to make the repairs.

Councilperson Stoner questioned whether the property owner acknowledged that they damaged the sidewalk and whether there was any personal notification to the homeowner. She mentioned the drive over and noted that every driveway has a sidewalk through it.

Mr. DeCelles indicated that a homeowner acknowledging that they damaged the sidewalk is a very rare occurrence. The homeowner is notified by certified mail. When he mentioned a drive over he was referring to an area where the driveway is not situated. Some residents have campers and boats and areas that are constantly driven over and may require reinforcement.

In response to Councilperson Stoner, Mr. Lunny stated that he did not know where the 10% for the interest was coming from. He offered to check that information and give her a call back. He believes the City has an ordinance with a default rate but he would have to check it. The City does not use the same rate as the State of Florida.

Motion by Councilman Tingom, seconded by Councilman Jacobs, to approve Resolution No. 11399. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

Mr. Lunny read the item by title.

Resolution No. 11400

17. **RESOLUTION PERTAINING TO THE SUBJECT OF ETHICS; IMPLEMENTING PROVISIONS OF BROWARD COUNTY ORDINANCE NO. 2011-19 WHICH AMONG OTHER THINGS ESTABLISHED FOR MUNICIPAL OFFICIALS AND OTHER SPECIFIED INDIVIDUALS A COUNTY-WIDE LOCAL CODE OF ETHICS; REQUIRING LOBBYISTS TO REGISTER WITH THE CITY CLERK BEFORE ENGAGING IN LOBBYING ACTIVITIES; PROVIDING IMPLEMENTING CLARIFYING DEFINITIONS; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A memorandum dated December 1, 2011 to Mayor and Members of the City Council from Donald J. Lunny, Jr. City Attorney, follows:

On October 11, 2011, the Broward County Commission adopted an Ethics Code applicable to municipal elected officials. The Resolution attached as Exhibit "1" is necessary in order to implement a few parts of this law. A copy of the new law is attached at Exhibit "2".

The highlights of the Resolution are:

1. Sec. 1-19 (c)(5), Broward County Code (Exhibit "2" Page 14), creates requirements that apply to elected officials soliciting funds for certain charitable events. The new code will require elected officials to fill out records concerning fundraising on forms created by the County attorney unless the events are "sponsored by the City." The Resolution details the various ways in which the City can "sponsor an event" in Section 1 B(1).
2. As of January 2, 2012, Sec. 1-19 (c)(1), Broward County code (Exhibit "2", Pages 8-9), will prohibit an elected official, their spouses, registered domestic partners, their relatives, and their office staff from accepting, directly or indirectly, a gift of any value from a lobbyist, the lobbyist's employer, or the lobbyist's clients. The County law requires that lobbyists register with the City in accordance with the City's registration requirement before engaging in any lobbying activities. The purpose of the registration requirement is so that a list can be maintained of the persons and business entities from whom no gifts can be accepted. Section 2 of the Resolution creates the City's Lobbyist registration requirement. The City Clerk will compile a list of these persons and business entities so that they may be made known to any elected official at any time.

At the present time, the Administration is not proposing that the City charge a fee for Lobbyist registration. The Administration plans on generally monitoring the time and expense that the City incurs in implementing and complying with the new County law. The Administration may in the future ask the Mayor to approve a new fee for Lobbyist registrations to offset some of the City's new regulatory expenses, or may propose a Lobbyist registration fee when the Council commences its 2012-2013 budgetary review.

3. As of January 2, 2012, Sec. 1-19(c)(1), Broward County Code (Exhibit "2", Pages 8-9), will prohibit an elected official, their spouses, registered domestic partners, their relatives, and their office staff from accepting, directly or indirectly, a gift of any value from an actual or "potential" supplier of goods and

services to Plantation. The County law does not define what a “potential” supplier of goods and services means, and until it does, the City is able to establish a reasonable definition of the term. Section 1 B(2) of the Resolution establishes this definition. The Administration will compile a list of these persons and business entities, update it monthly, and file a copy with the City Clerk so that the list may be made known to any elected official at any time.

The Administration and I ask each of you to make an appointment with us so that we can go over with you various aspects of the law and how the resources of the City will be used to implement the new requirements. The Administration had hoped to be able to use a County electronic system for recording Lobbyist contacts, but on Tuesday of this week, the County informed many cities that its system would not be available for this purpose. This has required Plantation to establish its own system. We plan to be ready for training on or after December 12, 2011. If you have not done so already, please call Administration to make an appointment for this purpose.

The Resolution is now ready for consideration as an Administrative item.

Mr. Lunny explained that the citizens of our County amended the charter to give the Broward County Commission supreme authority over any conflicting municipal codes for the establishment of an Ethics Code for Municipal Elected Officials. They exercised that authority and two things are necessary at this time for the City to do. First, we do not have a registration requirement and this Resolution proposes one. He clarified that the registration will be annually so records do not have to be kept from now until the end of time on who has ever registered with the City. Secondly, the Ethics Code allows Elected Officials some leeway in terms of reporting for events sponsored by the City. He encouraged Council to adopt the Resolution and requested that the Elected Officials meet with him to review the Code.

Councilwoman Uria indicated that she would prefer to meet with Mr. Lunny prior to bringing this forward.

Mr. Lunny stated that all the Resolution does is create a registration requirement. If anyone has any ideas about how you wish for yourselves to determine when the matter is sponsored by the City he would be happy to include them. He noted that this piece needs to be completed by January 1, 2012. This item could be deferred until December 14, 2011.

Councilwoman Uria commented that this Resolution is like an overall opinion on certain things and her understanding was that whenever an opinion was needed it needed to be individually.

Mr. Lunny advised that this is not an opinion. This is only trying to implement two parts of the law, which cannot be handled by an opinion. Those two parts are that we need to have a registration requirement and the City Attorney issuing an opinion does not create a registration requirement, it has to be created by a City Council Resolution or Ordinance and this is the cheaper way to do it. The second thing is that when charitable or fundraising events are sponsored by the City there is less burden on the Elected Officials if you wish to fundraise for those events. When the Broward League of Cities was reviewing this it was determined that rules have to be established as to how things are going to be sponsored by the City and that is not something that he has the authority to do.

Councilwoman Uria stated that she has some questions and would rather defer this and meet with Mr. Lunny.

Councilman Jacobs indicated that he met with Mr. Lunny and he understands everything; he believes it is a good approach. The registration allows the City to sponsor events in several different ways and gives some flexibility. When saying annual registration, he questioned whether individuals would renew their registration on the date they received it yearly or whether the intent is that everybody in the first two weeks of the calendar year have to renew their registration. He questioned whether there will be a fee.

Mr. Lunny commented that he would have to discuss that with Mr. Shimun. It might be better to say that the first registration will be good until the end of the calendar year and then renewals will be at the same time but at a time that does not conflict with Business Licenses. A day would probably have to be picked that is convenient for the administration of the City's business. He personally did not think that having a calendar year per registration works because each one would have to be tracked. The first one will be for part of a year and thereafter a full year depending on whatever cycle is chosen. At this time, the memorandum says no fee is proposed; Administration will keep track of costs and this part may come back at a later date.

Mayor Bendekovic commented that Broward County charges a \$50 registration fee.

Councilman Jacobs questioned whether the code requires that when a lobbyist gets a new client it must be registered. Would that be considered a registration or modifying a registration?

Mr. Lunny stated they have not gotten to the fee yet; they are trying to put the requirement in place because the requirement has certain consequences for all of the Elected Officials. We want to be sure to get that requirement is in place by the end of the year. He has attempted to come up with some practical ways that we can sponsor events so that it would happen at a meeting so that everyone would know that it is being sponsored by the City and why. That way if there is an objection you can elect not to do that one.

Councilman Tingom indicated that this is a preliminary framework of what is required by the County. He has read through it and agrees with Councilman Jacobs that this is the first step and that we are going to feel our way as we go along. He did not see any reason to delay it.

Councilperson Stoner disagreed. For her, this is vague. There is not a central entrance for everybody to register; therefore, there will be potential people for projects meeting with members of a Selection Committee; they need to sign in; they need to be registered, and none of that has been addressed in how to do so. We need to remember that this is not just an attorney or lobbyist representing a specific client but sometimes the client themselves want to speak to staff. She recently found that in the last year staff is choosing not to meet and discuss a project with anyone even months before it is advertised. They have been given direction because they are concerned about the lobbying activities. She believes this needs to be a little tighter and that other issues be defined. She does not understand the urgency by the end of the year when we are already covered by the Ethics Ordinance with the County.

Mr. Lunny advised that the County Ethics Ordinance defines the terms. There is nothing he can do about the definition of a lobbyist or the requirement that people who are not lobbyists register before they meet with a covered individual. All of the things mentioned are going to be required in Plantation as a result of the County's law. The County's law says that they must register in accordance with the City's registration requirement and we have never had one; therefore, in his opinion, we need to adopt a registration requirement. As to the question of sponsored by the governmental entities or as to the definitions of potential suppliers of goods and services, those are terms that are within the City's province to define until they are further defined. The County has a three-year reach back of potential suppliers. Our vendor list, as of Tuesday, was over 1,000. If we go back three years it will compound the practical difficulty of trying to comply with this new law. He has proposed a

reasonable implementation. We cannot choose not to follow the definitions that the County provided. All we can do at this point is comply with the mandate, the citizens of the County wish to have this, we need to implement it and he is trying to do that as best as he can.

Councilperson Stoner advised that the ordinance already defines charitable events. It was her understanding that the municipal attorney could address specific questions and we could rely on your opinion. She questioned why we would want to apply a general thing on the charity and fundraising instead of having a specific example of what we want to do. Why not vote on the individual item as it appears instead of the vagueness of what is going to be done. She also questioned whether we are going to expand on Selection Committees. We need something in writing that says the City Attorney has reviewed this and that it meets the County ordinance requirements.

Mr. Lunny stated that is correct, you can ask in writing for an opinion and he can render an opinion in writing. Council sets, to a large extent, their own operating procedures; he cannot do that. He cannot determine, because there is no law on when an item is sponsored by the governing authority of Plantation. That is why he says it is specifically approved as part of a budget where there is an appropriation and we have in the past had specific appropriations disclosed and approved; that is not vague, it is identified at a Mayoral Proclamation made before Council where it is signed and delivered to the City Clerk; that is not vague, it is identified in a Resolution that Council adopts; that is not vague, or it is identified in a motion made by an Elected Official, which is passed by the City saying we would like to sponsor this item. In each of those examples there would be a collective discussion, either at budget or at a particular time at a meeting, that we are sponsoring something. In terms of potential suppliers, they were never defined and there needs to be some reasonable rule for that and that is what this does. We need a reasonable list and a reasonable requirement that can be tracked. The tracking and implementation is going to be quite a chore. If someone wants to meet with a certain person of the City, PAC or Selection Committee they are going to have to register and we are going to have to tell them that they have to register prior to discussion and the registration requirement is over here. We are not proposing a cone of silence that is uniform. In terms of other implementing questions and legal questions, that is the subject of his meeting with Elected Officials. If the City is going to sponsor a charitable or fundraising event that is not a political event, there must be some disclosure to the Council either in the form of a public proclamation or one of the Elected Officials saying they need a motion, a formal Resolution or discussion at budget. Otherwise it is only sponsored by one of you. If there is a proclamation that means the event is sponsored by the City and any of us can do fundraising for that event without filling out all the paperwork.

Councilperson Stoner commented that those types of questions go to the City Attorney who issues an opinion that we rely on.

Mr. Lunny stated there would be no need for that; he would have to say that he does not know what this means because Council has not said what they would like to see when the City sponsors something.

Councilwoman Uria's understanding is that anytime something like this occurs, written documentation from the attorney is required.

Mr. Lunny is trying to suggest that he needs to have Council agree to some operating rules that he thinks were reasonable, and if not they can be written any way preferred, that says this is how the Council has decided that the City is going to sponsor events. This will add consistency and this is not a big issue.

Councilperson Stoner indicated that each of the proclamations would need to have a caveat that indicates that it has been reviewed by the City Attorney and he finds that it is in fact in compliance with the County's ordinance. There needs to be something in writing.

Mr. Lunny stated that in other words it is a proper 501c. He would happy to do so but it will cost more money than is necessary. He suggested that he meet with Mr. Shimun and that somebody could be trained to do it and if that person had a question they can ask him. It is not too difficult to ascertain whether this is something that is subject to this rule because the exception to the sponsoring is for charities or fundraising and is not a linked requirement that it be a charity as defined by the Internal Revenue Code. He would be happy to issue a guidance memorandum. This is the first step; something needs to be done before the first of the year.

Councilperson Stoner suggested deferring this item to the next Wednesday meeting.

Mr. Lunny pointed out that this is a Resolution not an ordinance; it can be revised as of the first. He does not believe this is problematic. He suggested that we make sure the registration is annually.

In response to Councilperson Stoner, Mr. Lunny questioned who would monitor this if it were done in real time. He believes that the cost of compliance would be more expensive than trying to put everybody on the same. With regard to phone calls to committee members, he suggested meeting with him to discuss. That has nothing to do with this requirement.

Councilwoman Uria commented that if we go ahead with this it can be changed.

Mr. Lunny suggested that the Resolution be adopted. He wants to be clear that his advice is that some rules be adopted in these three areas.

Motion by Councilman Tingom, seconded by Councilman Jacobs, to approve Resolution No. 11400. Motion carried on the following roll call vote:

Ayes: Jacobs, Tingom, Uria
Nays: Stoner

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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. 18.

18. CONSIDERATION OF REQUEST FOR A SITE PLAN MODIFICATION (PARKING WAIVER) FOR PLANTATION SQUARE LOCATED AT 1729 NORTH UNIVERSITY DRIVE.

A Staff Report dated December 7, 2011, to the City Council from Planning, Zoning and Economic Development Department, follows:

REQUEST: Consideration of request for a site plan modification (parking waiver) for Plantation Square.

PARKING WAIVER REQUEST:

1. The applicant requests a parking waiver to reduce required parking from 393 parking spaces (based on a calculating each tenant according to its use) to 319 spaces (based upon application of the Planned Shopping Center requirement). The purpose of the parking waiver is to substitute 3,800 square feet of medical office (non-urgent care) for retail tenant space.

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

ANALYSIS:

City Council approved the original site plan for Plantation Square to allow development of a 65,796-square-foot shopping center, including a free standing Denny's restaurant. Based on the current tenant mix (which includes retail and approximately 25.2% restaurant space) 393 parking spaces are required. Currently, 319 spaces are provided, resulting in a 74-space deficiency.

The applicant requests the parking waiver to lease out 3,800 square feet of a freestanding retail building to a medical office tenant. It is our understanding that this is not an urgent care facility. Replacing retail use with medical office use increases the existing parking shortage as medical office requires nearly twice the parking of retail.

The applicant requests approval to apply the "planned shopping center" code requirement. Planning shopping centers require 4.44 parking spaces for each one thousand square feet of restaurant, retail, and office parking, the latter not to exceed 10% of the gross floor area.

For that portion of the office space exceeding 10% of the gross (6,374 square feet), an additional 42 spaces are required, bringing the grand total to 306 spaces, below the 319 spaces currently provided on site.

Provided parking includes 36 spaces located behind the shopping center. If employees do not utilize this parking area, sufficient parking may not be available in the primary parking field.

PZED RECOMMENDATION:

Should the City Council choose to approve the requested waiver, staff recommends maximum restaurant floor area be limited to 28% of gross shopping center floor area. This would allow the reintroduction of one additional 1,500-square-foot restaurant into a space formerly occupied by Firehouse Subs.

Mr. Lunny indicated that this consolidated application has one principal waiver request and that is to apply the planned shopping center parking so as to justify and; therefore, not require otherwise a waiver from a requirement of 393 parking spaces to 319 parking spaces. The conditional use comments are also noted in the package.

Councilman Tingom made a Jennings Disclosure. He spoke with Mr. Laystrom and Mr. Kall and those conversations will not influence his vote.

Motion by Councilman Tingom, seconded by Councilman Jacobs, to approve Item No. 18 for discussion.

Mr. Leeds explained that this is an existing shopping center located on the southwest corner of University Drive and Sunrise Boulevard. The current parking requirement is 393 spaces and that is based on applying the requirement for each individual use. The applicant has requested a reduction in the parking requirement essentially to allow an area that is currently vacant retail to be occupied by a medical office. This request increases the parking requirement; a medical office requires twice the parking of retail. The applicant could have requested a stray waiver but instead, he has requested an application of another parking standard in the code called the Planned Shopping Center requirement. The Planned Shopping Center requirement essentially requires about 4.5 spaces per 1,000 square feet of gross floor area and the only limitation is that there cannot be more than 10% office in the total shopping center. Staff does not have an objection. Mr. Leeds noted that 36 of the provided spaces are located behind the shopping center. If these are not used then there will be a problem in the future in the primary parking field, which is in front of the center. Also, staff would like to cap the restaurant space in the center to 28%. It is currently about 25.2%; 28% would allow the area formally occupied by Firehouse Subs to be reoccupied by another restaurant. Restaurants require the most amount of parking and he believes it should be capped at 28% because that could also cause a problem. With that one recommendation staff has no objection to the request.

Marvin Feinstein, General Partner of the owner of the property of Plantation Square, was present.

In response to Councilwoman Uria, Mr. Feinstein stated that typically they do require employees to park in the rear parking area but since there have not been any parking problems at the center it has not been a problem. If there were a shortage of parking spaces employees would be requested to park in the rear. He noted that he does not have a problem capping the restaurant use at 28%.

In response to Councilperson Stoner, Mr. Feinstein advised that they will take the back 47%. The applicant is not concerned about signage on the building. Currently occupancy is about 84% to 85% and it will go up to close to 90%.

Amended motion by Councilman Tingom, seconded by Councilman Jacobs, to approve Item No. 18 with the condition of capping restaurant use at 28%. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 19.

Resolution No. 11401

19. **RESOLUTION** AMENDING RESOLUTION NO. 8719 APPROVING A 6,140 SQ. FT ADDITION TO AN EXISTING 112,178 SQ. FT. SELF STORAGE FACILITY AS A CONDITIONAL USE TO BE LOCATED IN A B-7Q ZONING DISTRICT ON PROPERTY LYING IN SECTION 6, TOWNSHIP 50 SOUTH, RANGE 41 EAST, AND DESCRIBED AS JACARANDA PARCEL 521, AS RECORDED IN PLAT BOOK 114, PAGE 5 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA AND LOCATED AT 10325 WEST BROWARD BOULEVARD. PROVIDING FOR CONDITIONS AND LIMITATIONS ON THE ALLOWED USE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

AND

REQUEST FOR SITE PLAN, ELEVATION AND LANDSCAPING PLAN MODIFICATION APPROVAL FOR SECURITY SELF STORAGE LOCATED AT 10325 WEST BROWARD BOULEVARD.

A Staff Report dated December 7, 2011, to the City Council from Planning, Zoning and Economic Development Department, follows:

REQUEST #1: Conditional use approval to allow a 6,140-square-foot expansion to the existing 112,178-square-foot self-storage facility.

REQUEST #2: Site plan, elevation, and landscaping plan modification approval.

ZONING WAIVER REQUESTS:

1. From: Section 27-743(27), which requires 65 parking spaces;
To: Reduce the required parking from 65 to 26 spaces.
2. From: Section 27-747(1), which requires four loading zones;
To: Reduce the required number of loading zones from four to zero.

LANDSCAPE WAIVER REQUESTS:

1. From Section 13-41(a)(b)(c). Pedestrian zones along building facades.
Landscape pedestrian zones shall extend the full width of each façade which abuts a parking of vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.
 - *10' required along the northern façade – 0' provided.*
 - *10' required along the eastern façade – 0' provided.*
 - *10' required along the western façade – 0' provided.*One tree shall be installed in this zone per each 30 lineal feet, or fraction thereof, of façade width.
 - *Two trees required along the northern façade – zero provided.*
 - *Six trees required along the eastern façade – zero provided.*
 - *Six trees required along the western façade – one provided.**Staff supports waiver requests; staff requests the mitigation of the 14 required trees throughout the landscape pedestrian zones.*

EXECUTIVE SUMMARY

This applicant requests re-approval of an expired site plan modification with generally the same waivers as were requested and approved by City Council in November 2003. The prior approved and current parking waivers both require the elimination of 16 paved on-site parking spaces. PZED has insufficient information to determine if sufficient parking spaces remain to accommodate on-site demand (See zoning comments below).

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; and Conditional use/site plan application.

ANALYSIS:

The self storage facility is zoned B-7Q and encompasses 4.74 acres of an overall 9.76-acre master plan (June 1989), which also includes a drugstore, car wash, service station and multi-tenant retail building. The self storage facility site is bound by single family residential homes to the north, commercial uses (within the same master plan) to the south and east, and multi-family residential uses to the west.

In 1999, the City Council approved an 112,178-square-foot self-storage facility consisting of three buildings arranged around a central parking courtyard. The plan included 36 paved spaces and plus room to construct an additional 24 spaces in designated green areas should the need arise in the future. The parking code required a total of 62 spaces (two more than provided), requiring a two-space waiver by City Council. When the building was constructed, the reserved green parking areas were developed as retention areas (including a catch basin). As such, the future 24 parking spaces identified in these areas will never be available and have been removed from the "provided parking" count.

The plan was revised in 2003 to add a fourth building (two stories, approximately 12,000 square feet) in the central parking courtyard. City Council approved a parking waiver to allow 26 spaces where 68 spaces were required; acknowledging that the originally reserved green parking can never be built and should; therefore, not be counted. The fourth building plan approval expired due to failure to obtain building permits and complete the building.

The applicant is now requesting re-approval of the fourth building, reduced to one-story and 6,000 square feet in area. The applicant is required to also obtain a parking waiver to allow six spaces where 65 spaces are required.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. Please provide an executed concurrency review form prior to issuance of a building permit.

Zoning:

1. This facility is limited interior self-storage of goods or items. Business uses or exterior storage of vehicles (including but not limited to trucks, vans, recreation vehicles, buses, boats, etc.), equipment, or materials are not permitted.
2. Prior to issuance of a building permit, obtain an approved "Paint Color Approval and Agreement" form from the Zoning Department.

3. Staff has insufficient information to determine if 26 parking spaces are sufficient for 118,000 square feet of self storage area. A survey of cities that specifically identify “self-storage use” generally require one parking space for each 2,000 to 2,500 square feet of floor area (Plantation requires one space per 2,000 square feet). If approved, this facility will provide one parking space for each 4,500 square feet of floor area.

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT:

Note: A detailed review of 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. Provide an erosion and sedimentation control plan.
2. A demo plan will be required with a building permit.
3. A Maintenance of Traffic (MOT) plan may be required. Coordinate with the Engineering Department to discuss prior to permitting.
4. The entire site must be brought into compliance with Chapter 9 of the City Code for floodplain and stormwater management. Please provide complete drainage calculations, signed and sealed by a professional engineer registered in the State of Florida, complying with all applicable sections of Chapter 9 of the City Code, particularly with Sections 9-41 through 9-44.
5. Provide a copy of Old Plantation Water Control District (OPWCD) and/or South Florida Water Management District (SFWMD) permit.
6. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

1. All site plan and planting plan comments from the Department of Design, Landscape & Construction Management must be addressed at time of permitting.
2. Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.
3. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.
4. If you would like the comments forwarded to you via e-mail, please call our administrative secretary, Judy McBride, at 954-585-2360 or email her at jmcbride@plantation.org

Site Plan:

1. Code requires landscape pedestrian zones to extend the full width of each façade abutting a parking or vehicular use area; the minimum width shall be half the height of the proposed wall or ten feet, whichever is greater (paved areas in the lpz may not constitute more than 50% or six feet, whichever is less, of the required lpz).
 - a. Ten-foot lpz is required along the northern façade – zero provided.
 - b. Ten-foot lpz is required along the eastern façade – zero provided.
 - c. Ten-foot lpz is required along the western façade – zero provided.
2. Please clarify the affect the proposed building will have on the overall site drainage.

Planting Plan:

1. As discussed and agreed upon, landscape plans submitted are dated 10/2001; at time of permitting these plans must be updated reflecting current/existing conditions as well as proposed changes to the site plan and landscape plan.
2. Tighten the spacing on all hedge and ground cover material – the tips of plant material should be touching each other (i.e. 12' x 12' plants should be planted 12' on-center).
3. Please remove container size from hedge and ground cover material.
4. Please include Tree Protection details as per codes. 2' x 4' post, 48' in height, with three 2" X 4" rails spaced equally to be placed around all trees or palms in close proximity of construction.
5. Show all existing trees and/or palms on site. Provide information in tabular form and include species, spread, height, caliper, condition and disposition. City staff will verify all trees proposed to be removed or relocated. All proposed trees (to be removed) must be mitigated for as per City codes; tree mitigation will be above and beyond code-required trees on the property. Performance bonds are required on trees to be relocated.
6. Tree removal and/or Relocation permits are required directly through the Department of Design, Landscape & Construction; please contact Diana Berchielli at 954-797-2248 prior to removal or relocation of any tree or palm. Please make a note to this effect on the landscape plans.
7. A pre-planting meeting with the Department of Design, Landscape & Construction is required before any planting commences on the project; please note on plans.
8. A minimum of one tree is required every 30 lineal feet, or fraction thereof, of façade width (three palms = one tree):
 - a. Two trees are required along the northern landscape pedestrian zone – zero trees have been provided.
 - b. Six trees are required along the eastern landscape pedestrian zone – zero trees have been provided.
 - c. Six trees are required along the western landscape pedestrian zone – zero trees have been provided.

Staff requests the mitigation of the 14 required trees throughout the landscape pedestrian zones.
9. Staff requests the replacement of all missing, dead, irreparably and/or declining plant material throughout the overall site as per City Council approved landscape plans.
10. Three inches of clean mulch shall be installed around all new and existing trees, palms and plants. Please do not use Cypress or red mulch.

BUILDING DEPARTMENT: No objections to conditional use.

FIRE DEPARTMENT:

1. All areas within this structure shall be protected by an automatic fire sprinkler system.
2. This fire sprinkler system shall be monitored by property's fire alarm system.
3. Present vehicle gates are automatic, not manual. Any new gate system, just like present system, shall meet Fire Department emergency access requirements.
4. Vehicle entry and exit access shall have a 20-foot minimum width from curb to curb.
5. Vehicle entry and exit access shall have a 14-foot minimum vertical clearance.

POLICE DEPARTMENT: This project will have little or no impact on police services.

Recommend that the project maintain current security lighting and access control standards.

UTILITIES: No objection to the conditional use approval; however, the following comments apply to the site plan.

1. Prior to a Building Permit or Business License being issued, the following must be provided:
 - BC EPD Permits must be approved.
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions; 954-797-2159.
2. Show all existing water and wastewater facilities on site plan.
3. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.
4. Maintain all utilities and utilities easements for water and wastewater system access.
5. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".
6. No structures allowed in utilities easements.

O.P.W.C.D.:

1. Old Plantation Water Control requires an acceptable drainage plan with retention and runoff calculations and a construction drawing prior to issuance of a building permit. Calculations are to include the master stormwater system and include an as-built of the existing features.
2. Acceptance of as-built drawings and Certified Stormwater Inspection Report will be required prior to issuance of a Certificate of Occupancy.

WASTE MANAGEMENT:

This site needs to have a 12 x 12 enclosure with six-foot gate stoppers to secure gates during servicing.

Mr. Lunny read the principal waivers.

Ron Kall, architect, was present on behalf of the applicant.

Mr. Leeds explained that this is a project that Council has approved previously. It is a self-storage facility located on the northwest corner of Nob Hill Road and Broward Boulevard, directly west of the car wash on Nob Hill Road. There is air conditioned storage in several units; however, there are non-air conditioned units in the rear with roll down doors. What was previously approved was a two-story 12,000-square-foot building that would eliminate 16 parking spaces on the inside. That plan has been changed to a lesser plan. Instead of a 12,000-square-foot two-story building it is a 6,000-square-foot building with non-air conditioned units; they are larger roll down units. Apparently the original plan was approved with what was shown as reserve grass parking and this parking, as indicated, as available should there be a shortage of the paved parking spaces. Inspection of the property indicated that these areas to the south and east of the self-storage are actually depressed active retention areas and are not suitable for parking. Cars would have to drive in, go down a slope, and park next to a catch basin. The last time the Council reviewed this apparently there was an acknowledgement that these spaces were no longer available. Back in 2003 the parking waiver was to allow 26 spaces where 68 spaces were required. This is probably the least intense use in terms of parking; however, most of the codes in the County require one space to 2,000 or one space to 2,500; Plantation is one to 2,000. This request is one space per 4,500. Generally when people go to a self-storage facility they usually want to pull right in and park next to the entrance of the unit. He does not believe that people will use the parking spaces outside unless they are going into the office.

Councilman Tingom visited the site and spoke to one of the managers who has been there three years. He believes that Mr. Leeds is correct; the parking is not really an issue and he would support the request.

Mr. Kall provided a brief presentation of the project. He designed the project in 2002. At that time they were approved for a two-story. Of the 112,000 there are only 4,500 for the non-air conditioned roll up units. Since its inception they have always had a need to have additional non-air conditioned units and that is the reason they are putting in the additional 6,000+. It will be approximately 10,500 of 114,000. There is a great demand from their clients to have additional non-air conditioned spaces.

In response to Councilperson Stoner, Mr. Kall advised that the dimension for the entrance is 12 feet. He met with Division Chief Larry Stearns of the Fire Department this morning. The facility will be 100% sprinkled; therefore, the entrances do not need to be widened. Sprinklers are annually inspected. With regard to parking, typically there will be eight to nine cars at any one time.

In response to Councilwoman Uria, Mr. Kall indicated that they are in agreement with Landscape comments and they are going to meet with Diana Berchielli and work it all out prior to permitting.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Resolution No. 11401 subject to conditions. Motion carried on the following roll call vote:

Ayes: Stoner, Jacobs, Tingom, Uria

Nays: None

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COUNCILMEMBERS' COMMENTS

Councilperson Stoner commented that while attending Art in the Park and the holiday parade she felt a sense of pride at how great the City looks. She thanked all of the employees.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Attorney Bill Laystrom was present on behalf of Lennar. While discussing their item at the last City Council meeting he was under the impression that they would have the opportunity to come back and present some changes to the site plan that may address comments made by the City Council. For whatever reason they were not on tonight's agenda; therefore, he requested that this item be placed under a Workshop or Administrative item so they can discuss the changes.

In response to Councilwoman Uria, Mr. Lunny believed that the tape was checked and there was no continuance.

In response to Mr. Lunny, Ms. Slattery advised that the advertising requirement is ten days prior. This was a site plan and it was advertised for the last hearing.

Mr. Lunny mentioned that the code was changed to say that we only need to advertise for one meeting.

In response to Councilwoman Uria, Ms. Slattery indicated that she listened to the tape and there was a consensus to send it back to staff; no time certain was said to come back to Council.

Mr. Laystrom questioned whether the item could be reconsidered at this meeting and continued to the December 14, 2011 meeting.

Mr. Lunny advised that any Council person can make any motion at any time so you depart from Robert's Rules for that. It says, "When the City Council considers a public hearing an application to approve a site plan or an amendment to site plan, which is not a minor amendment, the City Clerk shall advertise a notice of at least one public hearing in a newspaper of general circulation within the City one time approximately ten calendar days prior to the hearing, post the agenda and place a sign for at least one public hearing".

In response to Mr. Lunny, Mr. Laystrom believed the sign was still up.

In response to Mr. Lunny, Councilwoman Uria stated that no one from the public spoke on this time.

Mr. Lunny recommended that if the Council wants to hear the item next week, a second ad should be posted even though we do not have the full ten days and it can be placed on the December 14, 2011 agenda.

Mr. Laystrom indicated that he was fine with that. He noted that they would pick up the cost for the publication.

Ms. Slattery commented that she could get the item in the paper on Monday.

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

- He commented on the walls that were constructed in the Westgate Lake region which they refer to as the E Lake area. In his opinion, the walls do not seem to fit. There are so many driveways opening onto Broward Boulevard that the walls are practically on top of the building structures themselves. He requested that Council think hard about spending anymore taxpayer money on something like that prior to doing so.
- He has attempted to raise an alarm about the SEIU getting into and organizing the two hospitals in Plantation. He distributed an article in the Wall Street Journal from the now former president of the SEIU Union. He expressed concern and wants the City to be on alert that they are threatening our medical delivery system and they are next to our early voting site.
- He requested that the Council repeal the "Green City" resolution and noted that we should not be flying the flag.

Councilwoman Uria commented that if there is an issue with the delivery of medical services our Police Department will take care of it. Nobody has the right to interfere with that. People do have the right to make a statement but not when it comes to interfering with medical services or anybody else's rights to go to and from work.

In response to Councilwoman Uria, Mayor Bendekovic advised that she would check into why we are flying the flag since we are not a member of ICLEA.

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Ainsley Taylor, resident, was present. He has been before the Special Magistrate and was told to go to Council pertaining a variance for parking of commercial vehicles.

Mr. Lunny explained that the Special Magistrate indicated to Mr. Taylor that the Council is the one that has the power to change the law and that he does not make the law, he is the person that enforces the law. The question Mr. Taylor has is whether the City Council is willing to change the City ordinances to allow the parking of commercial vehicles in the City's residential areas. If this is something the Council wants to explore they can give it to staff to review or give staff some guidance as to what is desired in that regard. The commercial vehicle ordinance has been on the books for quite some time and is one of those in the nature of community standards.

In response to Councilman Jacobs, Mr. Taylor indicated that he was cited for a Chevrolet 2500 work truck just like a Comcast truck. It is not a pickup truck, it is a cargo van. He has removed the magnetic signs; however, the ladder rack remains on top. He was cited for the signs and ladder rack.

Mayor Bendekovic advised that she previously spoke with Mr. Taylor and he was aware that the ladders needed to be removed from the vehicle.

Councilman Jacobs agreed with Mayor Bendekovic and suggested that the ladders be removed.

In response to Councilwoman Uria, Mr. Taylor stated that he does electrical work.

Mr. Taylor commented that he would be happy to comply by removing the ladders but he was told by the Code Enforcement Officer that he needs to remove the racks as well. Taking the racks off would take two hours to take them off and two hours to put them on.

Councilman Tingom indicated that he attended the Special Magistrate meeting. He noted that this is one of the consistent complaints he hears from residents is commercial vehicles parked in residential neighborhoods and he would not be inclined to consider changing this ordinance.

In response to Councilperson Stoner, Mr. Lunny commented that luggage racks on automobiles are allowed. The definition of commercial vehicles would have to be amended if racks were allowed. He read the definition of commercial vehicles and stated that it is clearly within this meaning. This particular code section has been in place for quite some time with amendments in 1985, 1995 and 2000. This has been the subject of many hearings.

Councilman Tingom advised that he attended the last three Special Magistrate meetings and he would say that a significant percentage of the violations are of this type; racks, signage on trucks and trucks that are too large. Every time he attends Homeowner's meetings they say they do not want this in the neighborhood.

Councilman Jacobs believed it would be a terrible mistake to loosen up the code.

Mayor Bendekovic concurred with Councilman Jacobs. She would be reluctant to alter the ordinance at all.

Mr. Lunny stated that when the ILP District was done there was some liberalization of the zoning code to allow parking of this kind of vehicle. Mr. Taylor might want to get in touch with one of the property owners.

Mr. Taylor reiterated that he would be willing to remove the ladders and magnetic signs; he is only requesting to leave the ladder racks.

Councilman Tingom, Councilman Jacobs and Councilperson Stoner cannot support the request.

Jerrod Mundle, resident, was present. He stated that he cannot park his vehicle at his house when he comes home for lunch.

Mayor Bendekovic indicated that Code Enforcement does not constantly canvas an area; perhaps the neighbors are complaining.

Councilwoman Uria did not believe that a Code Enforcement Officer would give a violation if they were aware that you were only home for lunch; eight hours a day would be different.

Mr. Lunny stated that either the City should say they are willing to legislate on this topic and direct staff to propose some ideas or this is not the year because we are not able to do that under our current constraints.

Councilwoman Uria advised that this is something that Council cannot change at this time.

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WORKSHOPS - None

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Meeting adjourned at 9:40 p.m.

Sharon Uria, President
City Council

ATTEST:

Susan Slattery
City Clerk

RECORD ENTRY:

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

Susan Slattery, City Clerk