

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

FEBRUARY 25, 2009

The meeting was called to order by Councilman Petrocelli, President of the City Council.

1. Roll call by the City Clerk:

Councilmember:	Diane Veltri Bendekovic Jerry Fadgen Robert A. Levy Rico Petrocelli Sharon Moody Uria
Mayor:	Rae Carole Armstrong
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Mayor Armstrong.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Armstrong read a Proclamation designating March 2, 2009 as *Norma Fink Day* in the City of Plantation.

The Proclamation was accepted by Ms. Fink.

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Mayor Armstrong read a Proclamation designating Saturday, February 28, 2009, as *Arbor Day* in the City of Plantation.

The Proclamation was accepted by Sue Reed, representing the Landscape Department.

Mayor Armstrong also announced P.L.A.N.T. Awards would be presented on Saturday, February 28, 2009 at 10:00 a.m. at Liberty Tree Park.

Ms. Reed noted this is the 25th Anniversary of the P.L.A.N.T. Awards, and she invited Councilmembers, residents and employees to participate in the celebration.

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Mayor Armstrong read a Proclamation designating February 25, 2009 as *Quota International of Plantation Day* in the City of Plantation.

The Proclamation was accepted by Darlene Vlazny.

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Mayor Armstrong presented Service Awards to the following City Employees:

Timothy Cox	Public Works	15 years
Officer Eugene Petrino	Police	15 years
Lynn Braden	Police	10 years
Officer Jason Grace	Police	10 years
Officer Kelley Mason	Police	10 years
Officer Robert Zaragoza	Police	10 years
Wilma Wallisa	Public Works	5 years

Congratulations were offered.

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The Plantation Woman's Club president, Elke Kurtz, presented donations to the following:

\$5,000	Plantation High School TARC Program – accepted by Sue Bruining, Joe Vallone, and Jim Payne, and students Morgan Bell, Tai Van, & Welton Goloub
\$1,400	Easter Egg Hunt – accepted by Jim Romano
\$2,000	Plantation Historical Museum – accepted by Shirley Schuler
\$2,000	Plantation Library – accepted by Monica Knapp

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Mayor Armstrong announced that Green Day Environmental Expo would be held Saturday, February 28, 2009 at Liberty Tree Park from 9:00 a.m. to 3:00 p.m.

She also noted Senator Nan Rich, Representative Franklin Sands and Representative Martin Kiar will host a Town Hall meeting on February 26, 2009 at 7:00 p.m. at Sunrise City Commission Chambers.

Mayor Armstrong indicated a Candidate Forum would be held on March 3, 2009 at Volunteer Park beginning at 7:00 p.m.

Mayor Armstrong acknowledged the outstanding job done by the Public Works Department with regard to managing the hazardous waste pick-up that is done in conjunction with Broward County.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Armstrong had a voting privilege on Items 14 and 15.

Item No. 10 was removed from the Consent Agenda and discussed separately

Mr. Lunny read the Consent Agenda by title.

3. Approve replacement of water treatment membranes for the East and Central Water Treatment Plants from Koch Membrane Systems for \$209,285. (Budgeted – Utilities)
4. Approve purchase of anhydrous ammonia for the water treatment plants from Air Gas Specialty Products through January 31, 2010. (Budgeted – Utilities)
5. Approve purchase of replacement Hydrogritter from Wemco Specialty Pumps for \$49,745. (Budgeted – Utilities)
6. Approve work authorization to Carollo Engineers for construction support services for the Pump Speed Controller Project at the Regional WWTP and Central WTP in an amount not to exceed \$114,790. (Budgeted – Utilities)
7. Approve ongoing maintenance for EMC Storage Area Network through EMC for \$33,218. (Budgeted – IT)
8. Award bid for Liberty Tree Park Expansion Irrigation materials to lowest responsive and responsible bidder, Broward Pump for \$20,565.88. (Budgeted – Designated Capital & FRDAP Grant)

Resolution No. 10493

9. **RESOLUTION** approving issuance of four franchise agreements for private collectors to provide construction and demolition debris services within the City of Plantation, having the appropriate City Officials execute same and authorizing the City Administration or City Attorney to make minor revisions thereto; and providing an effective date.

Resolution No. 10494

11. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 612 Commodore Drive. (Pasternoster)

Resolution No. 10495

12. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 10563 NW 2 Ct. (Zambrano)

Resolution No. 10496

13. **RESOLUTION** approving amending the existing Local Housing Authority Assistance Plan (LHAP) to include the Affordable Housing Advisory Committee (AHAC) incentive strategies; providing findings, providing a savings clause; and providing for an effective date therefore.

Resolution No. 10497

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period February 6, 2009 – February 11, 2009.

Resolution No. 10498

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period February 13, 2009 – February 18, 2009.

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

Ayes: Bendekovic, Fadgen, Levy, Uria, Petrocelli
Nays: None

Note: Mayor Armstrong voted affirmatively on Items #14 and 15.

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Resolution No.10499

10. **RESOLUTION** approving the form and content of the Second Amendment to the City of Plantation Police Officers' Deferred Retirement Option Plan (DROP); providing a savings clause; and otherwise providing an effective date therefore.

A memorandum dated February 18, 2009 to Michael Hanlon, President of the FOP, from Mayor Rae Carole Armstrong, follows:

As you are aware, the current provision of the City's Police Pension's DROP Program requires a mandatory exit after five (5) years of DROP participation. Due to current circumstances, it is the City of Plantation's desire to temporarily extend the mandatory exit provision until December 31, 2009 for those DROP participants mandated to leave employment during the remainder of 2009. This temporary extension is valid until December 31, 2009 or until an amendment is bargained for and subsequently ratified by the City Council, whichever comes first. A waiver of collective bargaining for this temporary extension is requested of the FOP.

Your consideration is appreciated.

It was noted that Mr. Hanlon agreed in writing to this proposed amendment.

A letter dated February 19, 2009 to Beth Haines, Pension Administrator, from J. Stephen Palmquist, Actuary, follows:

We have reviewed the proposed ordinance for the City of Plantation Police Officers' Retirement System. This amendment would change the Plan as follows:

- Allow Police Officers participating in the DROP, whose DROP period ends between February 2009 and December 31, 2009 the option to extend their DROP period through December 31, 2009.

In our opinion, this amendment will have no actuarial impact on the plan.

Because the changes do not result in a financial impact on the funding requirements, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to the Bureau of Local Retirement Systems in Tallahassee, Florida.

We welcome your questions and comments.

Councilwoman Uria offered her perception of the amendment.

Mayor Armstrong explained it is a request that was presented by the Plantation Police Pension Board and has been supported by the Police and City Administration. It involves employees that would have exited the DROP between now and December 31, 2009. The request was put forward in order to afford an opportunity to maintain and retain some talent in a very critical time frame because of the economy and some of the programs that are being worked administratively within the Police Department. It was also done because it is a very difficult time for those who are now exiting the DROP to enter the marketplace. More importantly, the primary reason behind this was to retain some extremely skilled employees, in whom the City has significant investment, in order to meet some of the current challenges.

Councilwoman Uria observed the people in the DROP have signed to be in the program for five years. The City has known that these people were planning to retire and it has had five years to train those who will replace these positions.

In response to Councilwoman Uria, Mayor Armstrong indicated to the best of her knowledge, the City has never extended the DROP for a group of people before. This matter is being presented under extenuating circumstances.

Councilwoman Uria felt that the City has a DROP program so they know when the people will be exiting and that is what the program was set up to do. It was her view that this would stagnate movement of the less senior people in the Police Department. She also felt this would set a precedent and that other police officers and general employees will want to take advantage of the same offer.

Police Chief Massey was not aware of the DROP ever being extended before. Although he could not speak for the FOP and the Police Union, he noted when someone separates from service and the FOP negotiates for future benefits, those people are forever excluded. This is a contract year and it was his understanding the FOP intends to come forward and approach the elected officers, and negotiate another contract. Within the four corners of the contract, they may be asking for an extension to the DROP program, and Council will have to deal with that in the future if it is presented to them. He noted they have five employees who are due to separate between now and the time that contract ratifies. They are trying to extend to those employees the benefits that are being offered to every other person within the organization.

Chief Massey commented on the economic conditions as well as the human factor. These five individuals have spent almost all of their entire adult lives in uniform of the Plantation Police Department. These people have served this City proudly for almost 30 years and they are individuals with whom Chief Massey would like to continue working. They have performed admirably over this period of time and he felt they deserve some consideration. In this difficult budget year, he advised he is trying to come in under budget in order to make it easier to transition into the next budget year. He has a pool of talented people and if he can retain them, it will save money throughout the remainder of the year. When an employee separates from service and he has to backfill the vacancy, it takes about one year to train an employee before he is of any value to the community. Therefore, they created the *Just in Time Program* which enables them to have someone up and trained just in time for the other employee to leave. Because the employees are in the DROP program, the City does not contribute to the pension and that is a huge cost. By holding on to these employees, the City will spend about \$4,600 a year more in salary but he will be saving \$34,000 a position by not having to put a rookie through the Police Academy.

Councilwoman Uria reiterated her concern about stagnation in the department and advised she did not feel it was the intention of the DROP. It was her view this was doing an injustice to those who have chosen a police career.

Chief Massey advised it would not create the stagnation that she believes because he has decided to step down. In his leaving, he believes it will create the promotions within the hierarchy of the organization that would have existed if this extension to the DROP did not exist. He noted in an organization of 360 employees, two might be impacted by a delay of approximately six to eight months if they were chosen for that slot. He observed that he can train people but it is the experience that those individuals bring to the agency that he cannot quantify. The City has invested so much in those individuals and in the last few years, they have brought in over \$3 million in drug money.

Councilwoman Uria argued that it sets a precedent and she is not comfortable with it.

Councilwoman Bendekovic requested the views of Officer Hanlon, as a representative of the FOP, as well as the views of the Chairperson of the Police Pension Board.

Officer Hanlon advised that he fully agreed with everything Chief Massey discussed. He noted they have had discussion with representatives of the City with regard to this matter, and went through the by-law process when it was presented to them. It was his firm belief that this situation benefits both sides. He did not see a downside. Although he understood Councilwoman Uria's concerns, he disagreed with her opinion and was in full accord with Chief Massey. He speculated that the membership would instruct him to explore the idea of extending the DROP Plan. It was his view this would have a minimal impact.

In response to Councilman Fadgen, Officer Hanlon advised the proposal was presented to the FOP in the form of a resolution that would require their signatures because of the potential collective bargaining impact. Mutual discussions took place and they vetted through the attorneys as did the City.

Mayor Armstrong noted the employees would maintain exactly the same salary they are currently earning. There would be no benefit to them in terms of actual dollars. There would be no cost to the City or the Pension Plan by deferring the training in this fiscal year.

John Mastrianni, Pension Board Chairman, and Stu Kaufman, Pension Board Attorney, were present.

Mr. Kaufman advised that when the DROP was first enacted in 1995, there was provision that said that any changes to the DROP Plan need to be done by Resolution. Therefore, a Resolution was drafted by Mr. Kaufman and it was put forward to the City for consideration. At the last meeting of the Board, the Actuary, Mr. Palmquist, verified there was no actuarial impact or cost to the pension fund. If there was, he would be required to prepare an Actuarial Impact Statement which would have to go before Council before the benefit could be passed. He noted this does not create any legal precedent because it is subject to collective bargaining. So far, it is a one-time resolution that is not subject to extension, unless they come back through the bargaining process or subsequent resolution asking for it to be extended.

Motion by Councilman Fadgen, seconded by Councilwoman Bendekovic, that Resolution No. 10499 be approved and adopted. Motion carried on the following roll call vote:

Ayes: Bendekovic, Fadgen, Levy, Petrocelli

Nays: Uria

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ADMINISTRATIVE ITEMS - None

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LEGISLATIVE ITEMS - None

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Councilman Petrocelli referred to the guidelines for those addressing the Council as witnesses having been sworn in.

All witnesses intending to testify on quasi-judicial items during tonight's meeting were sworn in by Susan Slattery, City Clerk.

QUASI-JUDICIAL CONSENT AGENDA

Resolution No. 10500

16. **RESOLUTION VACATING, RELEASING AND ABANDONING A PORTION OF 60' X 300' INGRESS/EGRESS EASEMENT AS SHOWN ON THE PLAT OF A PORTION OF PARCEL A, BF-10, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 178, PAGE 52 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; SUCH VACATED AND RELEASED PORTION BEING MORE PARTICULARLY DESCRIBED AND DEPICTED ON THAT CERTAIN "SKETCH AND DESCRIPTION TO ACCOMPANY VACATION A PORTION OF 60' X 300' INGRESS/EGRESS EASEMENT TO BE VACATED" PREPARED BY CRAVEN THOMPSON & ASSOCIATES INC., LB#271, AND FURTHER ABANDONING ANY PUBLIC IMPROVEMENTS WITHIN SAID EASEMENT LANDS; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

Mr. Lunny read Resolution No. 10500 by title.

Ed Ploski, with Craven Thompson & Associates, testified he was previously sworn in and understood the rules governing the hearing.

Motion by Councilwoman Uria, seconded by Councilman Fadgen, that Resolution No. 10500 be approved and adopted. Motion carried on the following roll call vote:

Ayes: Bendekovic, Fadgen, Levy, Uria, Petrocelli
Nays: None

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QUASI-JUDICIAL ITEMS - None

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CONSIDERATION OF COUNCILMEMBERS' COMMENTS

Councilwoman Bendekovic advised she was sorry to hear the Police Chief Massey would be leaving the Department.

Councilman Levy agreed and requested Mayor Armstrong see what she could do to change his mind.

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Councilman Fadgen appointed Bruce Anchell to the City of Plantation Affordable Housing Committee.

Resolution No. 10501

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA, APPOINTING BRUCE ANCHELL TO THE CITY OF PLANTATION AFFORDABLE HOUSING COMMITTEE PURSUANT TO ORDINANCE NUMBER 2410.

Motion by Councilwoman Bendekovic, seconded by Councilwoman Uria, that Resolution No. 10501 be approved and adopted. Motion carried on the following roll call vote:

Ayes: Bendekovic, Fadgen, Levy, Uria, Petrocelli
Nays: None

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Councilman Fadgen commented on the field lights remaining on all night at Central Park on Sunday.

Mr. Romano advised he would look into the matter.

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Councilman Petrocelli commented on the retirement announcement by Police Chief Massey.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident of Park East, commented on the national budget and offered tea bags to Council to join in *National Tea Party* on Friday, February 27, 2009 from 12:00 to 1:00 p.m.

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WORKSHOP

17. DISCUSSION CONCERNING PROPOSED ORDINANCE PERTAINING TO CODE ENFORCEMENT PROCEDURES.

A memorandum dated January 23, 2009 to Mayor and Members of City Council from Quentin E. Morgan, Assistant City Attorney, follows:

As the elected officers may recall, a workshop was held regarding the code enforcement process. The draft Ordinance incorporates the discussion at the workshop.

In sum, the draft Ordinance provides for the following amendments to the code enforcement process:

1. Codification of the Boards or Magistrates right to hear motions for extensions of time and case status conferences prior to the issuance of the Supplemental Order Claim of Lien.
2. Provision of suspension of fines for six (6) months for all violations that require a development order upon the tendering of a complete application to the City.
3. Provision for the Mayor and Assistant to Mayor to suspend fines upon proper application.
4. Codification of the City's use fine reduction fine guidelines score sheet.
5. Provision of criteria for City Council review of fine reduction cases.
6. Codification of the waiver of appeal right for requests for fine reduction. Fine reductions are not statutorily required, thus the internet has been that these discretionary reviews should only be considered following a waiver of appellate rights.

This Ordinance is now ready for consideration at Workshop.

Mr. Lunny reviewed the amendments to the proposed Ordinance.

In response to Councilman Petrocelli, Mr. Lunny clarified Amendment No. 6.

Councilwoman Bendekovic recommended advertising.

In response to Councilman Fadgen, Mr. Lunny advised that if they request to settle the claim, and Council decides it is not interested in doing so, that decision is not something for which the City can be sued.

Councilman Fadgen referenced the item regarding status conferences, and requested it be defined.

Mr. Lunny explained that basically it is a status conference with the Magistrate or Board as to where the respondent is with the case. The City practice is that when it is requested or when it is felt to be appropriate, a motion is filed to get before the Magistrate. There is no limitation on when that occurs. It should occur before the second order when the Special Magistrate finally disposes the case.

Councilman Fadgen noted it has been troublesome for him in trying to be fair and trying to compel compliance. If he were outside the door when the violator was coming before the Council, he would advise the respondent to be sure they do not impose a fine. He would recommend telling the Magistrate what they are going to do and when it will be done. He also suggested repeat visits to the Magistrate and the Board, pleading the case to prevent it from starting. Depending on professional architects, engineers, and construction workers to get things done can be difficult. Money is always a factor. He emphasized that the individual should be honestly convincing with the hearing officer that he is doing the best he can to accomplish compliance.

Councilman Fadgen also questioned whether a fee of \$500 for an appeal to consider a fine reduction was the right amount.

Mr. Lunny explained it takes time for staff to review the case. He observed the City got rid of the cost recovery system for many things and it now only available for a few extraordinary things. The City is trying not to incur further expenses without having a concomitant revenue source. He noted the vast majority of people comply timely. It was his view the City has been more than forgiving in its approach.

Councilman Fadgen noted in the same paragraph, they indicate that if the item is not approved in 30 days, it is deemed denied. He would like to see that if it is not approved, it has to be denied and it cannot by a function of time be denied. The fee is not refundable in that case.

Mr. Lunny explained if they do not act upon it within 30 days, it will not be granted, and the fee could then be refunded. The form will be revised.

Although Councilman Fadgen felt uncomfortable with the proposal, he felt it should be advertised. He emphasized the City wants compliance. He wanted to make sure the response measured is not outrageous and that the fine assessed is a reasonable amount.

Direction was given to advertise.

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Meeting adjourned at 8:57 p.m.

Rico Petrocelli, President
City Council

ATTEST:

Susan Slattery
City Clerk

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed document was received by the Office of the City Clerk and entered into the Public Record this _____ day of _____, 2009.

Susan Slattery, City Clerk