

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

November 17, 2010

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

1. Roll call by City Clerk:

Councilmember:	Diane Veltri Bendekovic Jerry Fadgen Robert A. Levy Peter S. Tingom 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 presented Service Awards to the following employees:

*Leslie Del Pinal	Public Works	25 years
*Carolyn Cashman	Police	20 years
*Carol George	Police	20 years
*James Mester	Utilities	20 years
Sgt. Alfred Stanco	Police	20 years
Virginia Davies	Building	15 years
“Buzz” Anctil	Parks & Recreation	10 years
Mark Beck	Public Works	10 years
Patrick Haggerty	Planning	10 years
*Glenn Brandsma	Utilities	5 years
*Kay Stevenson	Police	5 years

* Unable to attend

Congratulations were offered.

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Mayor Armstrong read a Proclamation designating Saturday, November 27, 2010 as *Small Business Saturday* in the City of Plantation.

The Proclamation was accepted by Ann Tragetti (sic) with American Express.

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Mayor Armstrong read a Proclamation designating Thursday, November 18, 2010 as *Let's Move Day* in the City of Plantation.

No one was present to accept the Proclamation. This Proclamation is sponsored by President Obama's wife requesting that all cities take a moment to acknowledge "*Lets Move Day*" on behalf of the movement to encourage the elimination of childhood obesity.

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Mayor Armstrong made the following announcements:

- The Holiday Parade will be held on Saturday, November 20, 2010 at 9:00 a.m.
- The Interfaith Thanksgiving Service will be held at St. Gregory, The Great Catholic Church on November 24, 2010 at 7:00 p.m.
- Winter Wonderland will be at the Plantation Historical Museum. Opening day is Thursday, December 2, 2010 and Open House will be between 6:30 p.m. and 8:30 p.m.
- City Hall will be closed for Thanksgiving and the day after, Thursday and Friday, November 25 and 26, 2010.
- There will not be any City Council meetings on Wednesday, November 24 or December 1, 2010. The next City Council meeting will be on December 8, 2010.

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

- The Annual Winter Championship Swim Meet will start on Friday, November 18, 2010 at 3:30 p.m. and will continue until November 21, 2010 at the Aquatics Complex.
- Santa's visit will be on December 24, 2010 between 4:00 p.m. and 10:00 p.m.; volunteers are needed. Students can earn community service hours by participating in this event. Volunteer registration and waiver forms must be completed by Friday, December 15, 2010.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Item No. 37.

Mr. Lunny read the Consent Agenda by title.

3. Approve permission to erect two canopies in Plantation Community Plaza for a joint holiday event in participation with leasing company and any other tenants interested in participating on December 5, 2010 from 10:00 a.m. – 5:00 p.m.
4. Approve holiday event at Massey Yardley on December 18, 2010 from 2:00 p.m. – 6:30 p.m. to help Raising Hands Foundation.
6. Request for approval of Change Order #1 to Ric-Man International in the amount of \$27,708.86, for the Peters Road 8” water main replacement project. (Budgeted – Utilities CDBG)
7. Request for authorization to continue to purchase hydrofluosilicic acid (fluoride) from Harcross Chemicals Inc, using the Southeast Florida Co-Op bid #403-10368 through February 28, 2012, for \$0.3475/per pound (full truckloads) or \$0.375/per pound (less-than-full truckloads). (Budgeted – Utilities)
8. Request for approval to issue a purchase order to Siemens Industry Inc. for the purchase of gear assembly parts for the #6 aerator at the Regional WWTP in the amount of \$20,110. (Budgeted – Utilities)
9. Request for authorization to “piggyback” the Southeast Florida Co-Operative bid for uniform rental and cleaning service with Cintas Corporation for an annual expenditure of \$18,000. (Budgeted – Utilities)
10. Request for approval of Utilities Department’s emergency purchase order to Jackson Land Development for an emergency sewer force main repair at the southwest corner of University Drive and Sunrise Boulevard for \$19,482.50. (Budgeted – Utilities)

Ordinance No. 2452

11. **ORDINANCE** Second and Final Public Hearing of Ordinance of the City of Plantation, Florida, pertaining to the subject of Comprehensive Planning; adopting the annual amendment to the Capital Improvements Element of the Comprehensive Plan of the City of Plantation; approving transmittal of the amendment to the Department of Community Affairs and the related agencies for the purposes of sufficiency review in accordance with Florida Statutes; providing a savings clause; and providing an effective date therefor.

Resolution No. 11091

12. **RESOLUTION** assessing a lien on 4764 NW 5 St for the cost to the City of Plantation of its mowing and clearing. (Evans)

Resolution No. 11092

13. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the “Assessment Resolutions”) on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0820; changing the

terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Barthelemy)

Resolution No. 11093

14. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0080; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Coriolan)

Resolution No. 11094

15. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1120; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Deshields)

Resolution No. 11095

16. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0170; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Dunkley)

Resolution No. 11096

17. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0060; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Fuller)

Resolution No. 11097

18. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1110; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Goodwin)

Resolution No. 11098

19. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1270; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Hudak)

Resolution No.11099

20. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0430; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Laun)

Resolution No. 11100

21. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1440; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Milfort)

Resolution No. 11101

22. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1280; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Morgan)

Resolution No. 11102

23. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0910; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Morisset)

Resolution No. 11103

24. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0370 ; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Post)

Resolution No. 11104

25. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0440; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Quintal)

Resolution No. 11105

26. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1060; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Robinson)

Resolution No. 11106

27. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1070; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Saint-Cyr)

Resolution No. 11107

28. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0890; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Thompson)

Resolution No. 11108

29. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1150; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Varnum)

Resolution No. 11109

30. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0160; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Vassell)

Resolution No. 11110

31. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1140; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Watt)

Resolution No. 11111

32. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1400; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Williams)

Resolution No. 11112

33. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 1080; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Wright)

Resolution No. 11113

34. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors Special Assessment as evidenced by and levied pursuant to prior Resolution No.s 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0420; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Zamor)

Resolution No. 11114

35. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 4 – November 10, 2010 for the Plantation Gateway Development District.

Resolution No. 11115

36. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 4 – November 10, 2010.

Resolution No. 11116

37. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 4 – November 10, 2010 for the City of Plantation's Community Redevelopment Agency.

Mr. Lunny advised that Mr. Herriman has prepared a control sheet, which is on the bench tonight, and that some of the summary descriptions as reflected in the agenda have different ad valorem tax folio numbers than the actual resolutions contained in the agenda package. To the extent that either conflict with the master control sheet, those numbers will control.

Motion by Councilwoman Bendekovic, seconded by Councilman Tingom, to approve tonight's consent agenda. Motion carried on the following roll call vote:

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

NOTE: Mayor Armstrong voted affirmatively on Item No. 37.

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Mr. Lunny read Item No. 5.

5. Approve waiving competitive bidding and purchase a Toro Reelmaster 5510 from Wesco Turf, Inc. in the amount of \$43,646.50. (Budgeted – Golf Maintenance Budget)

A memorandum dated November 17, 2010 to Mayor Rae Carole Armstrong and City Council Member from James S. Romano, Director of Parks and Recreation, follows:

Attached for your review is a quotation from Wesco Turf, Inc. (Hector as Delivering Agent) for the purchase of a Toro Reelmaster 5510 (model #03680) to be used for ongoing maintenance of the greens at the Plantation Preserve Golf Course.

Please note that the City of Plantation will piggyback on State of Florida Contract #760-000-10-1. The total purchase price of this equipment is \$43,646.50.

At this time the Parks & Recreation Department is requesting that we waive competitive bid of the item and purchase this equipment from Wesco Turf, Inc.

If you should have any questions or concerns, please call me at 954-452-2514.

Warren Meddoff, resident, questioned the purchase of the lawn mower. After doing due diligence, part of the success of our golf course maintenance is that it needs proper equipment. He believes that the lawn mower should be leased instead of purchased.

In response to Councilwoman Bendekovic, Mr. Romano explained that the lawn mower was originally purchased for the golf course about four or five years ago. It met the need for the golf course during the first four or five years because of the precision and the way this piece of equipment cuts. After that time it does not cut as technically as what is needed to take care of a golf course. In the past, old golf course equipment has been absorbed in the Parks and Recreation Department and instituted into the park system. We have had a seven gang tractor since 1972 and it is now a five gang tractor. We also have a three gang tractor at another facility. They are hoping to add this piece of equipment to cut the baseball, soccer and football fields. He suggested we go ahead with the purchase. Our Public Works Department does a great job keeping the equipment running for many years.

Mayor Armstrong stated that as far as leasing, we do lease whenever it is deemed appropriate to do so. Any time that purchases are made that have an availability of a lease, that is a component of the evaluation that is made prior to making a determination as to whether to lease or purchase. With this particular purchase the recommendation from Parks and Recreation was to follow this line because of the fact that if it is fully paid for it can be transferred over.

Councilman Fadgen believed if the cash is available, from an economic standpoint, it is probably better to pay rather than lease.

Councilman Levy commented that this is coming from the golf course budget to keep it as successful as it is. It is also \$12,000 less than the purchase price. This was a bid contract in another community and we are piggybacking on that price; otherwise, we would have had to check for other prices. At this time, this is the best price in the entire State of Florida.

Motion by Councilwoman Bendekovic, seconded by Councilman Fadgen, to approve Item No. 5. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS - None.

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LEGISLATIVE ITEMS - None.

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QUASI-JUDICIAL CONSENT AGENDA

Mr. Lunny read the resolution.

Resolution No. 11117

38. **RESOLUTION** APPROVING THAT CERTAIN RELEASE OF FLOWAGE EASEMENT ATTACHED HERETO AS EXHIBIT "1", PROVIDING FINDINGS; HAVING THE APPROPRIATE CITY OFFICERS EXECUTE SAME AND AUTHORIZING THE CITY ADMINISTRATION OR CITY ATTORNEY TO MAKE MINOR REVISIONS THERETO; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated November 4, 2010 to Mayor Armstrong and Members of City Council from Brett W. Butler, City Engineer, follows:

The Engineering Department received an easement vacation application package from Plantation Residential LLC, for the Alexan Plantation development located at 13500 NW 3 Street. The request is for the vacation of a flowage easement as recorded in Broward County Official Records Book 178, Page 28. City Staff approved the request at the October 26, 2010 DRC meeting. A copy of the application, legal description, sketch of proposed portion of the easement vacation and minutes from the DRC meeting confirming approval are attached for your review.

The City's Legal Department has reviewed the application package and prepared the attached Resolution for Council action. All of the requested information for the application has been satisfactorily provided. Staff recommends execution of the Resolution to vacate a portion of the subject flowage easement. Should you have any questions or require additional information, please do not hesitate to contact me.

Attorney Bill Laystrom was present on behalf of the applicant.

***Motion by Councilwoman Uria, seconded by Councilwoman Bendekovic, to approve Resolution No. 11117.
Motion carried on the following roll call vote:***

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

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QUASI-JUDICIAL ITEMS - None

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COUNCILMEMBERS' COMMENTS

Mayor Armstrong advised that reappointments of Council members need to be done for the General Employee's Retirement Board and the Volunteer Firefighters' Retirement Board. Unless there is a desire to make any changes, her recommendation would be to maintain those appointments for another year.

Motion by Councilman Levy, seconded by Councilman Tingom, to maintain the Council member appointments for the General Employee's Retirement Board and the Volunteer Firefighters' Retirement Board for another year. Motion carried on the following roll call vote:

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

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Mayor Armstrong and all of the Council members wished everyone a Happy Thanksgiving.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Loretta Kenna, President of Plantation Acres Homeowners' Association, spoke regarding the peacock issue in Plantation Acres. They are requesting assistance and believe that City Code Section #27-128(3)(a) has been misinterpreted and misapplied in regard to the Plantation Acres neighborhood. The ordinance provides that poultry or fowl must be contained within limitations and she requested that Council determine that the provision for poultry does not apply to peacocks. In an effort to be good neighbors and to attempt to deal with the problem, the Summers have stated that they are willing to install a fence in front of their property.

In response to Councilman Fadgen, Mr. Lunny advised that a peacock is a fowl and you do not need to consult with Wikipedia to get that determination. That is irrelevant; the real question is that the ordinance clearly indicates that you can own peacocks in Plantation Acres; however, they have to be in an enclosure, which is not defined. The idea is to keep your peacocks on your own property. Years ago when Plantation Acres was not as

developed and subdivided as today; there was probably more room for these animals to grow. The reality is that peacocks are allowed in Plantation Acres unlike anywhere else in the City; however, they have to be kept on your own property in an enclosure. If the City Council wants to change the law they have the authority and can do it at any time. If the law is changed the Code Enforcement action will be stayed until the public hearings are finished regarding this matter. The question is whether Council wants to change the law that has been in place for many years so as to allow an owner of an animal a sense of entitlement and allow that animal to roam at will over other properties who may not want it.

In response to Councilman Levy, Mr. Lunny stated that if the one remaining part of the property were fenced the question would be whether the peacocks could escape from the property and go off site. The law says that the enclosure cannot be closer than 50 feet of your property line and the word "enclosure" means enclose so as not to allow escape. In Mr. Lunny's judgment, if the fence meets the height and requirements otherwise stated in the Zoning Code and the birds cannot fly over the fence at will so as to traverse upon other property, then there is an enclosure. If the birds are able to fly over the fence and proceed at will on other properties that is not an enclosure. If the owner chooses to make the peacocks flight free the fence would suffice.

Councilman Levy agreed that the peacocks should not be allowed on another person's property if those people do not want them. Peacocks have been known to create a lot of problems but we should be able to find a way that these people are not cited in any way and if we need to recodify our ordinance in such a way that it is more definable so that it does not leave a gray area, let's do that. If an enclosure is created that is the first step towards a compromise. Any neighbor who then feels impinged upon can also move forward and say they are violating their property rights. Council can allow the peacocks to stay in an enclosure and meet the law.

In response to Councilman Levy, Mr. Lunny indicated that he will not agree that putting a fence along the front, so as to create a boundary, is an enclosure under these circumstances. If the peacocks can get over the fence it is not an enclosure. An enclosure means an enclosure; it is a clear term. The simple way to work this out would be to constrain the animals so they cannot get out on other people's land. If the owner does not want to make the birds flight free then put a top on the enclosure. They can meet with the Building official and he will advise how to make an enclosure. A fence would do the trick if the birds were made flight free or flight impaired.

Councilman Levy requested that we find a way to compromise so that this issue can be solved without any other fines or Code processes.

Mr. Lunny stated that the owner was given a certain amount of time to comply and the compliance is totally within their power. Depending on what option they would like, staff would be willing to say that is acceptable or it is not.

Ms. Kenna advised that she is not an expert in peacocks; she does not know enough to know if the only protection mechanism a peacock may have from natural predators might be from flying away. She was a little concerned about making the birds flight free because that may be denying the animal the right to protect themselves when getting away from harm.

In response to Councilman Tingom, Ms. Kenna indicated that everyone in Plantation Acres wants the peacocks to roam free.

In response to Mayor Armstrong, Ms. Kenna believes the acre lot is considered to be an appropriate size to accommodate the interest of peacocks.

In response to Mayor Armstrong, Michelle Sumner, owner of the peacocks, stated that the peacocks walk out the front of the property. If the front were fenced the peacocks would still fly.

Mayor Armstrong is of the opinion that the peacocks could be contained as long as they were in an area that was completely fenced with a reasonable height fence. In her experience, she has never seen the peacocks hop over the fence. Within the context of this discussion and because there is a 90-day time period to come up with a solution prior to any fines starting, there should be a solution for the peacocks regardless whether they are fowl. Mayor Armstrong's concern is the safety of the peacocks because if they are in the road they are going to get hit.

Ms. Kenna noted that in listening to Mr. Lunny's opinion she has some concerns because in her reading of the ordinance it requires that an enclosure be constructed and that it is 50 feet from each property line; therefore, just putting a fence in front would not meet with the letter of the Code.

Councilman Levy questioned whether this could be interpreted and amended in order to allow this if this were sufficient to contain the peacocks.

Mr. Lunny advised that the owner would have to apply for a variance and if they went to the Board of Adjustment and demonstrated that there was some hardship, not self imposed, they would be entitled to receive the variance. For many years the City has not challenged any of the Board of Adjustment determinations. The Council cannot grant the variance; they can amend the City's Code if desired. Plantation Acres is a special area within the City and since it is not Planned Residential it is not an issue of waivers of site plans.

In response to Councilman Levy, Ms. Kenna did not believe that P.A.I.D. has taken a stand on this. She believes that Council does have the authority to grant the variance and disagrees with Mr. Lunny.

Mossimo and Felicia Granmosinni are neighbors of the Sumners. They moved to Plantation Acres about one year ago and his parents have lived in Plantation Acres for the past 20 years; therefore, he is very familiar with the way of lifestyle in the area. They love the lifestyle in Plantation Acres and have no intention of trying to change anything about the Acres; there is just one issue that has been blown out of proportion. If you own an animal just keep it on your property. They have come home every day for a year walking into peacock feces. They have three small children; two, four and six. When they first moved in there were about 12 to 15 peacocks and now there are about eight. They used to say, "Look how beautiful the peacocks are." Then the situation came up with the feces and it started to come every day. They spend 30 minutes a day cleaning the feces and it has become a nuisance. They had to make a decision and decided that they care more about the health of their children than having a beautiful animal on their property. They do not want to get rid of the peacocks; they just want them to keep the peacocks on their property. Every night there are eight peacocks on his roof, which is 30 feet high. These animals fly and a fence will not make a difference. His theory is that the peacocks were on this plat of land prior to building the home and according to the peacocks, he invaded them. The owners have to be responsible and have to take initiatives for their animals just like anyone else who has a dog, cat, etc. He is requesting that his property be free of feces and nuisance. The animals need an enclosure with a top where they cannot fly away. The ordinance was put into place to protect the citizens and to have a community with some sense of order. He has contacted the Health Department and was told that this is not only a nuisance; it is a public health hazard.

Councilman Fadgen suggested a structure such as a high roost so the peacocks will go there instead of to your neighbor's property.

Ms. Kenna submitted photographs of the neighbor's property. They show various birds but no peacocks.

In response to Councilwoman Uria, Ms. Sumner advised that she owns eight peacocks that are free. She has two in a cage with the chickens because they are injured. The peacocks are 15 to 18 years old; they originally belonged to her father and she took over the property to take care of them.

In response to Councilwoman Uria, Jim Davis, resident stated that he has peacocks and has a 30-foot tall barn. The peacocks roost on top of his barn. The feathers cannot be trimmed because they have to escape from predators; raccoons are their enemies and he has had several killed by raccoons. Peacocks are territorial; they do wander and they come back. The peacocks cannot be caged; they will die or they will get eaten by the raccoons and other predators. He requested that the peacocks be allowed.

In response to Mayor Armstrong, Mr. Davis advised that peacocks are not trainable.

Councilwoman Uria questioned whether there was a way for a fence to be installed across the property within 90 days, as that may be some kind of solution. She knows other people who have peacocks in a fenced area and they do not leave. She does not believe a peacock is a fowl, she believes it is a pheasant. The applicant has a right to protect his property. She suggested that Ms. Sumner install the fence and plant a hedge in an attempt to keep the peacocks on her property.

Mr. Granmosinni commented that there is an ordinance or a code that says he can actually remove the peacocks from his property but he does not want to do that. He can also call Critter Control and have them removed one by one. He does not feel that a fence is the solution; the peacocks fly. At some point there needs to be a decision between a wild animal's rights and human rights.

In response to Councilwoman Uria, Mr. Granmosinni indicated that he could put something on the roof that would scare the peacocks. His concern is his patio and front door.

Michael Davis, resident, lives immediately behind the Sumner's property. He stated that the peacocks have been there since their house was built. The peacocks have been on his property a number of times and he has not experienced the same problems as the Granmosinnis. When they purchased the property they knew the peacocks were there. They are like any other wild animal in the Acres. He requested that Council work with Ms. Sumner while she tries to provide a good home for the peacocks to live out the rest of their lives, which was a commitment to her father.

Ed Szerlip, resident, commented that P.A.I.D. does not deal with animals; their concern is the flow of water. There are several peacocks in the area; however, the majority of peacocks are behind enclosures. He believes that common sense should be used and there should be a compromise.

Erica Rupp, resident, lived next year to the Hornoff's for many years. She stated that she had a problem with the peacocks but Mrs. Hornoff understood that her children's health and rights were more important than the peacocks roaming free. The bottom line is what is more important, human's rights or the rights of the peacocks.

Rosemary O'Dell, resident, moved to the Acres from Weston and understands everyone's point of view. When it comes to the life of a child she would hate to see something happen caused by the feces. It is contingent upon us, as human beings, to control our animals and contain them anywhere in the United States.

Councilman Fadgen advised that he needs to know more about the peacocks and whether anything else can be done.

Lou Flanagan, resident, requested the Council to work something out that will benefit both parties.

Luisa Granmanzinni believed that what Mr. Granmanzinni said previously about the peacocks being territorial could be the problem. The solution would be to install a very high fence. After Hurricane Wilma the peacocks were all over her property and after she installed a high fence they were no longer on her property.

Nicole Shanna, resident, suggested installing a 36-stall barn. She does not own any peacocks but has rescued many animals that have come her way.

Councilman Fadgen indicated that this is a non-agenda item; therefore, no action will be taken at this meeting other than looking into this further in an attempt to find a solution.

Police Chief Harrison explained that this has been going on since August 31, 2010. He is attempting to get compliance and needs someone to come up with a solution to keep the peacocks off of the Granmansinni's property.

Mayor Armstrong advised if a fence is the solution of choice the permit application could be expedited.

Councilwoman Bendekovic questioned why Ms. Sumner would go through the expense of having a fence installed if everyone believes it will not help? Perhaps an expert may be needed to help with this, as the peacocks have to be contained in a humane way.

In response to Councilman Levy, Councilwoman Bendekovic would not have a problem with halting Code Enforcement for 90 days.

Ms. Kenna advised that she would do her best to contact an expert.

Mr. Lunny commented that the test will be whether the peacocks are constrained or whether they continue to walk across other properties. He is going to focus less on how it is done and the proof will be whether the animals continue to get out. If the animals get out, they are not suitably enclosed. To have the City pay for an expert to solve this problem might not be something we have the budget for. Instead we should say to the owner of the animals, "You have been ordered by the Code Enforcement Board to contain these animals in an enclosure, you need to do it. If you need additional time report your progress to the Board and they can choose to allow it or not." In his opinion, there are no further reports to bring before Council.

Councilman Levy stated we can change policy and they have the right to hire an expert get the information if they choose to do so.

In response to Councilwoman Uria, Ms. Sumner advised that the life span of a peacock is about 25 years.

Councilman Tingom believes the owner of the peacocks and the people being affected should attempt to find some solutions and come back before Council. The children are the most important and their health is primary. There is a solution out there and in his opinion, it is incumbent on the owner to search for it.

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Attorney Bill Laystrom was present on behalf of Rick Case. He requested of administration direction on the property located at the corner of State Road 7 and Sunrise Boulevard. These issues have been discussed with staff; however, they have reached a point where they are not going to get to go before the Planning and Zoning Board. There are three issues that need to be clarified:

- There are Plantation Tropical guidelines for State Road 7 and they are requesting a waiver for the type of material on the front of the dealership.
- Staff has indicated the type of landscaping they want in front of the dealership is not what the applicant has requested; they have requested Royal Palms and staff wants canopy trees.
- There is an encroachment issue. When doing the design for the service area the building encroaches six feet for one pillar to hold up the service canopy. They have offered to trade the equal amount of square footage and put it up at the front of the property on State Road 7. Staff does not believe that is a fair compromise because that property in the front has fewer trees than would be in the back.

Mayor Armstrong advised that this is not the appropriate way to bring this application forward. As far as the general processes are concerned, the Council defines the Codes, the Council puts the regulations in place and the staff is charged to meet those expectations on your behalf as the plans are going through the process. Where there are a significant number of exceptions on the plans the process and the direction is to sit with the applicant and try to find some resolution or tradeoffs in the discussion. The only reason the projects do not get moved forward is if there has not been enough time for the resolution discussion to take place or if there is an unwillingness on the part of the applicant to even have this type of a compromise discussion. As far as the façade, it is her understanding that is being processed for the Council to make a decision.

Mr. Laystrom indicated that they have been told they can not go before the Planning and Zoning Board and they need to move forward. He has been told that these are threshold issues that need to be resolved. There are other issues they are working on; they are trying to relocate the trees within the easement; staff has requested that the sign be moved up and the difficulty with that is when the sign is moved closer to State Road 7 it blocks the view of vehicles traveling southbound as they come to the site.

In response to Councilman Fadgen, Mayor Armstrong commented that the entry sign is four-foot.

Mr. Laystrom stated that the sign for the City is 4'x 16' and it is believed it is on a small berm probably two feet.

In response to Councilman Fadgen, Mr. Laystrom commented regarding a tradeoff relative to the portion encroaching on the building, they would give an equal amount of square footage or more at the front location on State Road 7.

Councilman Fadgen advised that they need to go through the process and come back to a hearing at some time in the future.

Larry Leeds, Planning Director, commented that it is premature to come before the Planning and Zoning Board. At this time the applicant has no right to build these encroachments in this MURT trail easement. The plan submitted would require approximately 15 waivers, a lot of waivers for a small site. Mr. Leeds was directed by Mayor Armstrong to meet with Mr. Laystrom and Mr. Case and choose some common ground to see if there is a mid point. Staff has given up most of the landscape waivers; however, they need to have some willingness to comply with a few of them. He understands that automobile dealership buildings are their symbol. For that reason he told them if they could meet some of the landscape requirements they would consider allowing the

building in the proposed location and they are considering waiving the Plantation Tropical. There needs to be landscaping on this site because that is the basis for everything done in this City, residential and commercial. Shade trees are a Code requirement. The City has agreed to give up about 75% to 80% of the requirements. Mr. Leeds believes that four shade trees in front of the dealership will not obscure this location.

In response to Councilwoman Uria, Mr. Case advised that so far they have spent approximately \$1,400,000 so far. The total costs for building the building will be about \$3.5 million.

Councilwoman Uria believes that the item should be put on the December Planning and Zoning Board agenda.

Mayor Armstrong recommended that staff and Mr. Laystrom or Mr. Case get together and work out some of the issues in order to allow this to move forward.

Mr. Lunny stated that at some point if a person feels they are being delayed there is a remedy, which is difficult, it is a court action. In tradeoffs and in evaluating property, staff tries to do that. If it is your desire to move this through the staff's ability to manage those issues will be removed. He would rather have a more full report of all tradeoffs so you are not just looking at these four in isolation.

In response to Councilwoman Uria, Mr. Lunny indicated that if there is a project that meets all the requirements it can be moved through and if there is another one that is problematic more time can be spent working on that. It is not an issue of being "frozen", the issue is that it is not immediately being put on the agenda. If you want to hear about these sooner and acting on them, it will impact staff's ability to do what they normally do. He cautioned Council on their decision because if they choose to allow this tonight it may become an issue in the future.

Mayor Armstrong recommended giving this a chance to be worked through administratively rather than putting staff in a position of having this as an open door for anyone to push something through to Council.

Councilman Levy commented that very few issues seem to be holding this up and he questioned whether they could be worked out. Every day costs dollars. He questioned whether staff could give this priority and place it on the Planning and Zoning Board agenda in December.

Mr. Leeds advised there was a meeting last week and they seemed to be making headway. Mr. Laystrom indicated that he would come back with answers this week. All of the items and waivers were reviewed and Mr. Leeds was expecting a letter saying, "We agree to this and that". A letter has not been received. Some of the things we think he might have agreed to his client may still have an issue with.

In response to Councilman Levy, Mr. Leeds indicated that they have been working very hard and he understands the significance of getting this project developed. He reiterated that he has not received a letter regarding what has been discussed.

Mayor Armstrong suggested that if the letter is received in a timely fashion then the Planning and Zoning Board is the next process.

Councilwoman Bendekovic questioned whether the project could still move forward with the letter because the encroachment is not negotiable.

Councilman Levy believed the other issues could be taken care of and if necessary, the encroachment issue can be taken care of separately.

In response to Councilman Tingom, Mr. Lunny advised that the issue was where staff brought part of the development questions to the Council early because they were preconditions of later approvals. There are times when staff will bring issues to Council early in order to get them resolved. He believes if this is pushed forward it will impact their ability to negotiate.

Councilman Levy emphasized that they can go forward with this issue not being resolved. This needs to be done timely and cost effectively.

Councilman Tingom concurred with Councilman Levy.

Mr. Laystrom indicated that he has submitted the package to move forward to the Planning and Zoning Board; however, he will submit the requested letter to Mr. Leeds tomorrow.

In response to Councilman Fadgen, Mr. Case indicated there will be approximately 50 new employees once the project is complete; there will be over 200 employees in total.

Motion by Councilwoman Uria, seconded by Councilman Fadgen, to place the item on the December 7, 2010 Planning and Zoning Board agenda. Motion carried on the following roll call vote:

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

* * * * *

Meeting adjourned at 10:45 p.m.

Jerry Fadgen, 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 _____, 2011.

Susan Slattery, City Clerk