

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

November 18, 2009

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

1. Roll call by the City Clerk:

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

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2. The invocation was offered by Councilwoman Bendekovic.

The Pledge of Allegiance followed.

3. The minutes of the City Council meeting for September 16, 2009 were approved as presented.

4. The minutes of the City Council meeting for September 23, 2009 were approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Armstrong presented Service Awards to the following employees:

Officer Jeffrey Young	Police	20 years
Sergeant Darren Brodsky	Police	15 years
Deputy Chief Michael Deleo	Police	15 years
Pamela Rohr	City Clerk	15 years
Michael Brown	Public Works	5 years

Congratulations were offered.

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Mayor Armstrong read a Proclamation designating November 18th, 2009, as *Bayberry Garden Circle Day* in the City of Plantation.

The Proclamation was accepted by Phyllis Block on behalf of Bayberry Garden Circle.

Ms. Block presented a \$1,000 donation to plant flowering trees in honor of Jeffrey Siegel.

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On behalf of Miller Legg and the Florida Nursery Growers and Landscape Association, an Award of Excellence was presented to the Plantation Preserve.

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Darlene Vlazny presented Quota Care Bears to Police Chief Harrison on behalf of the Quota Club.

Chief Harrison expressed appreciation to the Quota Club.

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Mayor Armstrong made the following announcements:

- The Holiday Parade will be held on November 21, 2009 at 9:00 a.m., starting at Broward Boulevard and State Road 7.
- Interfaith Thanksgiving Service will be held at Our Savior Lutheran Church on November 25, 2009 at 7:00 p.m.

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

- Annual Winter Championship Swim Meet – November 19 to November 22, 2009 at the Aquatic Center.
- Santa’s Visit – December 24, 2009 between 4:00 and 10:00 p.m. (Looking for volunteers)
- Thanksgiving Day Buffet at the Plantation Preserve.
- Fountain will be installed at Central Park on November 19, 2009 at 9:30 a.m.

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Councilwoman Bendekovic introduced Nadia McPherson and Anthony Barrett from South Broward, who are observing the government process.

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5. DISCUSSION CONCERNING SOLID WASTE DISPOSAL.

Dan Keefe, Assistant to the Mayor, indicated this is intended as a Workshop. The City has been a part of the resource recovery district with Wheelabrator and this is for a ten-year term, starting in 2011, to extend the term. He and the City Attorney have reviewed the memorandum and have made a few recommendations for changes. It was recommended that this be considered. Also included is a Resolution for the City Council to review and approve.

Mayor Eric Hersh from the City of Weston, who is a representative of the Resource Recovery Board, was present. He explained that residents are concerned about two things when it comes to garbage; that it gets picked up and that it is cheap. Mayor Hersh gave a brief presentation on the Resource Recovery Board and the Solid Waste Disposal District, which have had a partnership. The contracts are expiring and in 2013 the contracts for this disposal of solid waste expires. Over the last two years the Resource Recovery Board has been working very hard to come up with something that would be worthwhile for all of the cities who are members of the ILA and anyone who wanted to join with them. They have taken a different approach; back in 1986, residents of Broward County assumed the risk of floating bonds for those plants. If enough garbage is not produced to go to those plants we are billed and have to come up with additional funds to generate the revenue necessary to pay back the bonds as well as guarantee a certain revenue stream. This partnership has worked and the waste energy plants have been extremely successful. The waste energy plants produce enough electricity in Broward County to provide electricity for 100,000 homes and that is very important. A mandate is being considered in the State to try to get the 75% recycling. The conversion of waste energy qualifies and that is being pushed.

Key points of the agreement are as follows:

- New service agreement that will go into place in August 2011.
- Have negotiated with Wheelabrator to start these contracts early in order to pass the significant savings on two years earlier.
- We are currently paying about \$98 per ton and will be going down to about \$62 per ton.
- There would be a ten-year contract with a ten-year extension by mutual agreement.
- We would maintain all of the flow control ordinances.
- Have been guaranteed in the contract full capacity of the plants; however, they have the ability to subsidize their capacity if we do not generate enough waste.
- Service fee is the actual tipping fee that goes to Wheelabrator plus an administrative fee. Currently, those two components are approximately \$98 combined of which the tipping fee is around \$62, which is about a 25% reduction.
- There is a service fee escalation based on CPI and there is a maximum of 5%.
- We still have a pass through of any taxes; the same as now. There are some provisions in the contract that if in fact the laws change that force Wheelabrator to make certain improvements or changes to the plant that we might have to provide for some change in the service fee for those issues.
- The rent has been increased. Currently the plants sit on property owned by the solid waste district and they pay \$100,000 per year rent. That will move to \$1,000,000 starting the beginning of the service contract and will escalate under the same CPI that the rate escalates. That rent goes to the district and will help offset that second tier of the administrative and overall special programs.
- The district is owned by all of the member cities.
- The proposal calls for a reduction of what is now almost \$30 per ton of the County portion down to \$12. Because of the way the current agreements read, we have to continuously vote for increases in tipping fees, we do not have a choice. That has created excess amounts of money.

- The first step is a resolution by the member cities supporting 80% of the gross capacity and the next step is the approval of the ILA. If we do not get to the 80% capacity, Wheelabrator is not obligated to continue with this price.
- Wheelabrator has agreed to provide a \$12 million bonus pool, which will be split based upon percentages of usage within the tonnage capacity. The City of Plantation's portion is estimated at about \$620,000. In order to qualify for the bonus, you are required, by December 31, 2010, to approve a resolution approving the MOU and by June 30, 2010 to approve your membership as part of the ILA. Approving the MOU does not obligate you to approve an ILA that you have not yet seen. In order to participate in the bonus pool you need to take both steps.

Chris Kerry, representative of Wheelabrator, was present.

The following are responses to questions:

- You might not get 80% capacity because some of the cities might not want to be part of the ILA and may prefer to do their own thing. It is expected that all of the cities will join and there will be 100% capacity. The tonnage is solid waste only, not recyclables.
- The bonus will be paid in August 2011. The ash generated is non hazardous material; it has been classified and tested. The plant will eventually be full of ash, probably in about 25 years. Another option rather than the local disposal option would be to box the trash, put it on a long haul truck and take it several hundred miles away. When talking 80% we are talking about 80% of the current tonnage that we, as an ILA, deliver to the plants and they need 80% of the member cities.
- The actual capacity or tonnage that goes in during a 12-month period will be used along with each city's tonnage in the same period to calculate their fair share. The time period will be recalculated on a full year; therefore, the number shown on the spreadsheet could vary. The bonus numbers are estimates.

Mayor Armstrong recommended that the City move forward.

In response to Councilman Fadgen, Mayor Hersh commented that although there is no urgency in this short time frame, there is a little bit of an urgency, which is that he and Commissioner Lieberman are going from City to City in an attempt to get this done. What happens is that no one wants to be first and some of the cities are looking to see what the larger cities are going to do. If the Council is comfortable, he suggested moving forward.

Councilman Fadgen objected to rushing and suggested waiting until the December 2, 2009 meeting.

In response to Councilwoman Uria, Mayor Hersh advised that two steps are required from every City; the first is where we are today and then prior to June 30, 2010, they hope to deliver a finalized ILA form to be considered. If the ILA were not approved there would not be any responsibility.

Mr. Lunny read the Resolution.

Resolution No. 10747

RESOLUTION approving the terms of the memorandum of understanding (MOU) amongst Broward County, the Broward Solid Waste Disposal District, Wheelabrator South Broward, Inc. and Wheelabrator North Broward, Inc. for a term of ten (10) years from August 4, 2011, with a ten (10) year extension by mutual agreement and providing an effective date therefor.

Motion by Councilman Tingom, seconded by Councilwoman Bendekovic, to proceed. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Bendekovic
Nays: Fadgen

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CONSENT AGENDA

Items #15 and #22 were removed from the Consent Agenda for further discussion.

As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Items #26 and #30.

Mr. Lunny read the Consent Agenda by title.

6. Request to sell Christmas trees in front of five Publix locations in the City of Plantation from November 25 – December 24, 2009.
7. Request to sell Christmas trees at St. Gregory Catholic Church from November 27 - December 24, 2009.
8. Request to sell Christmas trees at Plantation High School from November 27 - December 19, 2009.
- 8a. Request to approve the Calvary Chapel Plantation Christmas Around the Lake event to be held nightly from December 1 - December 21, 2009 from 6:30 p.m. to 9:30 p.m.
9. Approve yearly maintenance for Avaya telephone system in the amount of \$35,299.53 (Budgeted – IT).
10. Request for authorization to approve a scope of services to Hazen & Sawyer, P.C. for a fee not to exceed \$25,000 for an engineering evaluation of the two water treatment facilities to determine their ability to achieve 4-log virus treatment. (Budgeted – Utilities).
11. Request to extend the Pinnacle Data Systems utility billing contract for two years until November 15, 2011, with a 22% discount on certain fees. (Budgeted – Utilities).
12. Approve final change order reconciliation for the Lift Station basin #59 Sewer Rehabilitation project to Insituform Technologies in the amount of \$36,892.88. (Budgeted – Utilities).
13. Approve an emergency purchase order to Danella Construction in an amount not to exceed \$58,632.20 to replace a portion of the water main located on SW 16th Street at the bridge crossing between SW 56th Avenue and SW 57th Avenue. (Budgeted – Utilities).
14. Request to piggyback Broward County's existing contract with Ric-Man International to replace the 8" water main on Peters Road between State Road 7 and SW 45th Avenue for a price not to exceed \$132,773.04 and to piggyback Broward County's existing contract with Chen & Associates for a professional fee not to exceed \$8,920 to design, permit and for certification of the main. (Budgeted – Utilities).

16. Approve settlement agreement Tanya Gonzalez vs. City of Plantation.
17. Approve settlement agreement Antonio Loprinzi vs. City of Plantation.
18. **Resolution No. 10748**
RESOLUTION confirming a Plantation City Lien of Utilities Service Charges for 13299 NW 5th Street. (Marrerro).
19. **Resolution No. 10749**
RESOLUTION confirming a Plantation City Lien of Utilities Service Charges for 7450 NW 13th Court. (Manalaysay).
20. **Resolution No. 10750**
RESOLUTION confirming a Plantation City Lien of Utilities Service Charges for 10321 NW 14th Street. (Suarez).
21. **Resolution No. 10751**
RESOLUTION confirming a Plantation City Lien of Utilities Service Charges for 133 SW 96th Avenue. (LaFrance).
23. **Resolution No. 10752**
RESOLUTION approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 29 - November 4, 2009 for the Plantation Gateway Development District.
24. **Resolution No. 10753**
RESOLUTION approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 29 - November 4, 2009 for the Plantation Midtown Development District.
25. **Resolution No. 10754**
RESOLUTION approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 29 - November 4, 2009.
26. **Resolution No. 10755**
RESOLUTION approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 29 - November 4, 2009 for the City of Plantation's Community Redevelopment Agency.
27. **Resolution No. 10756**
RESOLUTION approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 5 – November 10, 2009 for the Plantation Gateway Development District.
28. **Resolution No. 10757**
RESOLUTION approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 5 - November 10, 2009 for the Plantation Midtown Development District.

Resolution No. 10758

29. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 5 - November 10, 2009.

Resolution No. 10759

30. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 5 - November 10, 2009 for the City of Plantation's Community Redevelopment Agency.

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: Tingom, Uria, Fadgen, Bendekovic
Nays: None

NOTE: Mayor Armstrong voted affirmatively on Items #26 and #30.

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Mr. Lunny read Consent Agenda Item #15.

15. Approve purchase order to Chen & Associates for the design and permitting of the existing water main replacement and for sanitary sewer installation in the Plantation Point neighborhood, for a professional fee not to exceed \$59,880. (Budgeted – Utilities).

An amended memorandum dated November 12, 2009 to Mayor Armstrong and City Council Members from Hank Breitenkam, Director of Utilities, follows:

Plantation Point is a small neighborhood located at SW 51st Avenue, south of Peters Road, with 55 single family homes. The homes were built over 50 years ago and are served by cast iron water mains, galvanized water services, and are currently on septic tank systems for sanitary sewage disposal.

In my judgment as your Utilities Director, and for reasons that have recently come to light, it is critically important to design and reconstruct this infrastructure as soon as possible.

Chen and Associates, Broward County's engineer for their Broadview Park improvements, has provided a proposal to complete the design and permitting for this subdivision. This price includes the design and permitting of the existing water main system replacement and the design and permitting of a gravity sewer and pump station installation. Their design proposal is \$59,880.00.

Plantation is authorized by Broward County and Chen to piggyback the existing Broadview Park contract with Chen and Associates and also take advantage of the economy of scale with the Broadview Park project so that it can be constructed in FY 10/11.

Our existing distribution and collection consulting engineer, Winningham & Fradley, Inc., understands and does not have any objections to this department's reasons for working with Chen & Associates on this project, especially the economy that can be realized as well as the timetable for possibly securing stimulus funding for the installation.

This information is being provided for your review and approval of a purchase order in favor of Chen & Associates, in an amount not to exceed \$59,880.00 for the above-referenced design and permitting work in the Plantation Point neighborhood.

Councilman Fadgen questioned whether there would be a special assessment for the sanitary sewer installation.

Mr. Breitenkam explained that the primary focus is the water main replacement. Currently, the City of Plantation does not have sanitary sewer in the area to accept the sewage. Sewage would have to be installed in the Country Club area; however, this is an excellent time to do the design. If the funding is available in the next couple of years, it would be a great time to do the installation, especially with the prices we are getting. This purchase order is strictly for the design of the sanitary sewer; no installation. Chen is already doing the Broadview Park area. Their sewage goes to Broward County. We are taking the opportunity for the area of Peters Road from State Road 7 to SW 45th Avenue to install sewers, which will go to Broward County. There is a possibility that the sewage from Plantation Point will also go to Broward County.

Motion by Councilman Fadgen, seconded by Councilwoman Bendekovic, to approve Item #15. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Fadgen, Bendekovic

Nays: None

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Mr. Lunny read Consent Agenda Item #22.

Resolution No. 10760

22. **RESOLUTION** in relation to the State Revolving Fund Loan Program and the American Recovery and Reinvestment Act; making findings; expressing support for the Project as being essential to the health, safety and welfare of the City's inhabitants; authorizing the loan application; indicating that the City will repay the loan debt service with a covenant to budget and appropriate non ad valorem revenue; designating authorized representatives; providing that the loan agreement will be approved by future resolution of the City if the application is approved; providing severability, and an effective date.

A memorandum dated November 12, 2009 to Mayor Armstrong and City Council Members from Hank Breitenkam, Director of Utilities, follows:

The Utilities Department's request process for federal stimulus funding through the American Recovery and Reinvestment Act (ARRA) has been extensive and arduous because of Washington's insistence on transparency.

City Council approved a Resolution of the Facilities Plan for Plantation Park Phase E water main replacement on October 28, 2009, which is part of the stimulus funding/SRF. This Resolution presented to you tonight is required by the Florida Department of Environmental Protection (DEP) for your support of the formal application for state revolving funding via a low-interest loan.

This project, as noted in previous discussions, is a continuation of our planned capital improvement program for water main rehabilitation and/or replacement.

As the review and approval process moves forward in Tallahassee, I will return to City Council to request your approval for the selected contractor and for the final loan agreement with the Florida Department of Environmental Protection.

I recommend and kindly request your approval of this Resolution.

Mr. Lunny explained that the request is to approve an application for the State Revolving Fund Loan Program and the purpose of the application is to rehabilitate some of our existing water mains, which will be done in phases. This Resolution is very similar to one that was done in the past for the design and the design contract was for \$189,000 up to \$200,000 for the first loan for the design and then this would be for the actual construction, which is considerably larger.

This item was pulled because it is the Administration's desire to propose to covenant, budget and appropriate from non ad valorem revenue funds to repay these loans. In the first loan agreement, which is being negotiated with the State, the text of the agreement requested a pledge of revenue. That agreement has to be signed by December 1, 2009 and if not signed by then it could impact the favorable funding that we are going to try to obtain for the second loan. He read into the record a second Resolution for the first smaller loan so that if the pledge cannot be negotiated the way the Council approved it the first time, that it will give Mayor Armstrong the authority to execute an agreement that contains a pledge, and since it is only \$200,000 it will not make a material difference as to how Mr. Herriman keeps the books. He would like to have this Resolution adopted in its current form, but because of the timing, he would like to read a second Resolution authorizing the giving of a pledge for the revenue for the smaller loan.

Motion by Councilman Fadgen, seconded by Councilwoman Uria, to approve Resolution No. 10760. Motion carried on the following roll call vote:

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

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Resolution No. 10761

22a. **RESOLUTION** of the City of Plantation, Florida pertaining to the subject of Public Finance; authorizing the Mayor to execute the State of Florida Department of Environmental Protection Clean Water State Revolving Fund Loan Agreement WW737110 after same is in a form approved by the City Attorney; authorizing and ratifying a lien in favor of the Department on the pledged revenues, which lien along with any other Department of State Revolving Fund Lien on the pledged revenues, are of equal priority, and will be prior and superior to any other lien, pledge, or assignment except as provided in the Loan Agreement; further making to the extent the pledged revenues are insufficient to make loan payments when due, a covenant to budget and appropriate legally available non ad valorem which will be sufficient, together with the pledged revenues, to make required loan payments; making other provisions with respect to approving and executing the Loan Agreement and related documents; providing a savings clause, providing an effective date therefor.

***Motion by Councilman Fadgen, seconded by Councilwoman Bendekovic, to approve Resolution No. 10761.
Motion carried on the following roll call vote:***

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

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ADMINISTRATIVE ITEMS

31. UPDATE ON THE PLANTATION WOODS PROJECT AT KENNEDY COMMUNITY CENTER.

A memorandum dated November 3, 2009 to Mayor Armstrong and City Council Members from James Romano, Director of Parks and Recreation, follows:

Both the Parks & Recreation and Landscape Departments will be providing an update on the work and the conceptual plans for this project. At this time we will be reviewing the design, along with the many changes that we have made to the site in preparation for a new water-themed tot lot for the community.

Please review and if you have any questions or concerns, please advise.

Mr. Romano provided a brief presentation of the Plantation Woods Project. With the help of Public Works they were able to demolish the wall, the basketball court, the shuffle board court and two tennis courts. A berm was added in the rear so the park would not impact the residents. The basketball court was relocated to the east side of the building, the tennis wall is being built by the tennis court and there will be a grassy picnic area. The proposal is to have three playground areas for ages two to five, five to ten and ten to 12 years of age, surrounded by a water play area. There will be a nice entranceway feature, similar to Camp Everglades.

Diana Berchielli, Landscape Director, explained that Plantation Woods was initiated through a grant, which brings together a forest theme. It was meant to broaden public participation to outdoor recreation and increase the public understanding of the value and importance of Florida's natural and cultural resources. The conceptual plan was designed by Jeffrey Siegel, Former Landscape Architect, many years ago. Patrice Sonneliter, Associate Landscape Architect, along with the Parks and Recreation Department, Public Works, Engineering and the Design and Construction team have been working diligently to bring this serene forest among our urban setting. The square shaped 1.5-acre park is located in Central Plantation within a residential community. It is within walking distance to the Historical Museum, the Arboratorium and the Helen B. Hoffman Library. The site is approximately 1.7 miles west of State Road 7 and a half a mile north of West Broward Boulevard. The project lies just outside the boundary of our recreational trail, which connects the site to the City's multi-use recreational trail. This presently connects City Hall to Sunrise Boulevard and University Drive. The site has several existing large shade trees such as African Mahoganies, Gumbo Limbos, Sabal Palms, etc. Ms. Sonneliter has incorporated a landscape pallet, which has native plants. These plants are environmentally friendly and require less irrigation; they love our climate and soil and attract and provide food for native wildlife. This park is designed to grant the City and its residents an outdoor recreational use area replicating a mature Florida woodland hammock. Large trees, small trees and conifers will be used in this park to help create this effect. This will allow a unique setting to Plantation with an atmosphere allowing exploration, peace and serenity as well as allowing numerous educational activities. Mr. Siegel's biggest hope for this park was a fun filled adventure for kids of all ages and their parents.

Mayor Armstrong spoke about the proposal and Mr. Siegel's legacy. We are under some time constraints and deadlines in relation to the grant and will continue to work on this with some special elements, such as the flowering trees brought forward by the Bayberry Garden Circle donated this evening. Nature Explore type programs will also be offered. Hopefully we will be able to get some additional sponsorships for some of the additional elements beyond our grants.

Councilwoman Uria advised that we are receiving two FRDAP grants and the other 50% is from our 2003 bond fund; therefore, no monies have been expended from this or next years' budget.

Councilman Fadgen clarified that the amount available for the project is \$671,000 of which \$335,000 is grants from FRDAP. He commented that he was slightly disappointed that the age group topped off at five to 12.

In response to Councilwoman Bendekovic, Mr. Romano indicated that the water park at the Jim Ward Community Center runs off and irrigates the surrounding landscaping. The water park at the Central Park Aquatic Complex is a recirculating pump. This water park is proposed to be a recirculating one. Standards frequently change for the water play area and what has to happen is that two filtration systems are required; one is a sand and gravel and the other is a UD; therefore, it kills all the germs to be certain that when the water comes out it is germ free. Mr. Romano stated that squirrels will be placed at the entry of the park, as Mr. Siegel loved squirrels. Wind chimes may be added in the future. There will be distance between the playground equipment and the water play area, which will be conducive for this type of activity. Water shoes will be recommended so there will be traction on the feet when running in the water area and then going on the playground equipment while wet.

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NON AGENDA ITEMS

31a. AWARD BID FOR PLANTATION WOODS PROJECT AT KENNEDY COMMUNITY CENTER, TO WEST CONSTRUCTION IN THE AMOUNT OF \$466,545.

A memorandum dated November 16, 2009 to Mayor Armstrong and City Council Members from James Romano, Director of Parks and Recreation, follows:

As you are aware, the Parks & Recreation Department went out to bid for the new Plantation Woods playground and water spray area that will be located at the Kennedy Community Center site. Revenues for this project include two Florida Recreation Development Assistance Program (FRDAP) grants that were received in the amounts of \$200,000 and \$135,611, with the City providing a 50% match. The City's 50% match comes from the 2003 Bond Fund. The total amount available for this project is \$671,220.00.

Bidder	Bid	Over/Under Budget
West Construction, Inc.	\$466,545.00	\$ 677.00 – under budget
BDG	\$571,940.33	\$104,718.33 – over budget
Lanier Plans (Korkat)	\$615,971.80	\$148,749.80 – over budget
Village Pools	\$619,360.00	\$152,138.00 – over budget
MBR	\$711,745.00	\$244,523.00 – over budget

At this time, the committee is recommending that West Construction, Inc. be awarded the bid as their bid of \$466,545.00 is \$677.00 under the projected budget. As you will note, this budget includes three tot lots that will accommodate ages 2-5, ages 5-10, and ages 10-12 as well as a water splash pad area for the same age groups, along with two 20' x 20' shelters.

RFP 157-09 had only one bidder, BDG, and they removed themselves from the bidding process.

Mr. Romano commented that the entrance wall feature, which was budgeted in the amount of \$43,000, was a separate bid and also needs to be approved.

Motion by Councilman Tingom, seconded by Councilman Fadgen, to approve the bid for Plantation Woods at Kennedy Community Center. Motion carried on the following roll call vote:

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

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LEGISLATIVE ITEMS – None.

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

32. REQUEST FOR SITE PLAN MODIFICATION APPROVAL FOR DICK’S SPORTING GOODS LOCATED AT 801 SOUTH UNIVERSITY DRIVE.

Planning and Zoning staff comments follow:

REQUEST: Consideration of a request for site plan, elevation and landscape plan modification approval for Retail A, B and J (Dick’s Sporting Goods) at the Fountains Shopping Center.

WAIVER REQUESTS: The applicant has not requested any waivers.

Staff has identified the following areas within the proposed site plan that do not meet code requirements. The applicant has not submitted a written request for waivers.

- 1) From Section 13-4(c)(3), which requires terminal islands to have a minimum width of 10’ inside curb to inside curb; to reduce the terminal island width from 10 feet to 8 feet on the west side of Retail “A” and “B”.
- 2) From Section 13-40(c)(5)(c), which requires one landscape island for every 7 spaces; to allow 9 spaces instead of 7 spaces without a landscape island on the west side of Retail “B”.

- 3) From Section 13-41(a)(b), which requires a landscape pedestrian zone of 14.5 feet (based on ½ the height of the building); to reduce the landscape pedestrian zone on the west side of Retail J (Dick's Sporting Goods) from 14.5 feet to 12.1 feet.
- 4) From Section 13-41(a)(b), which requires a landscape pedestrian zone of 14 feet (based on ½ the height of the building); to reduce the landscape pedestrian zone on the west of Retail "B" from 14' to 10'.

EXHIBITS: Planning and Zoning Division report (including Exhibit A – two pages); subject site map; site plan application; Advisory Board for the Disabled Meeting minutes of August 24, 2009; Landscape Planning Review Board Meeting minutes of August 24, 2009; Review Committee Meeting minutes of July 28, 2009 and Planning and Zoning Board Meeting minutes of September 1, 2009. Application and plans attached.

PLANNING AND ZONING BOARD RECOMMENDATION: Recommendation of **APPROVAL** as noted in minutes (7/0, September 1, 2009)

LANDSCAPE PLANNING REVIEW BOARD: Recommendation of **DENIAL** with recommendations (3/2, August 24, 2009)

ADVISORY BOARD FOR THE DISABLED: Recommendation of **APPROVAL** subject to comments (no quorum/no vote, August 24, 2009)

REVIEW COMMITTEE RECOMMENDATION: Recommendation of **DENIAL** as noted in minutes (8/1, July 28, 2009)

ANALYSIS:

City Council approved a master plan for the Fountains Shoppes of Distinction on May 7, 2008, proposing demolition of 153,134 square feet of the existing center which included the movie theater together with the north and central east/west wings (A and B) and reconstruction of approximately 172,209 square feet of retail space including a 109,060-square-foot, two-story Kohl's Department store. The original site plan included a new east/west roadway connecting University Drive to SW 79th Avenue. The roadway was flanked by a 20,000-square-foot, 250-foot long building on each side of the roadway, creating a pedestrian oriented main street, with a new park lying just east of the Residences at the Fountains. The south wing of the center and retail area just south of the proposed park (previously occupied by Village Marketplace) was to remain intact.

The applicant proposes a revision to the master plan to include:

- (1) Demolition of approximately 43,000 square feet of retail area just south of the proposed park (previously occupied by three small tenants and the Village Marketplace) to accommodate a 50,600-square-foot Dick's Sporting Goods Store,
- (2) A reduction in the size and length of proposed Retail A and B flanking the new east/west main street to increase parking and visibility for the new Dick's store and future Retail G.

The proposed plan demolishes the Village Marketplace wing and three small retail stores to construct the Dick's Sporting Goods in a substantially larger footprint. Dick's include some façade elements from the original architectural design plus new elements not found within the center. The applicant has declined PZED and Landscape Architectures initial request to maintain a small "pedestrian-oriented" retail space (coffee or ice

cream shop) abutting the south side of the park to encourage pedestrian activity within the park and connectivity to other parts of the shopping center. Dick's provides no direct access to the park. The Dick's façade will (1) include the sloped cement tile roof and brick articulated towers found throughout the center, (2) introduce brick on the façade above the covered walkway, and (3) include brand new elements (green metal entry feature and sign backdrop) not currently existing in the shopping center.

The approved plan includes a 20,000-square-foot retail building, 250 feet in length, on each side of Main Street leading directly to the park. The applicant proposes to reduce Retail A to 10,320 square feet in area and 125 feet in length and Retail B to 12,880 square feet and 165 feet in length. The Retail A and B facades will closely resemble other storefronts found throughout the center and provide pedestrian plazas on the east side of the buildings fronting the University Drive entrance. The revised plan separates the two buildings from the shopping center which breaks down the main street concept; however, the applicant has proposed a covered walkway on the west side of Retail B that will provide a shaded path leading to the park and north/south center storefronts.

To date, the movie theater and north wing have been demolished and approximately 130,000 square feet of retail space, including the two-story Kohl's, has been completed or is under construction. This proposal will allow approximately 47,000 additional square feet of demolition and approximately 35,500 square feet of new construction for an overall reduction of approximately 13,500 square feet when compared to the currently approved master plan.

STAFF COMMENTS:

ZONING:

1. In General:
 - a) No waivers have been requested. If a site plan is approved that does not meet zoning or landscape code requirements, building permits cannot be issued until waivers are granted by the Council. Please see landscape comments.
 - b) The proposed Retail J footprint encroaches into the deed restricted park area on the north side of the park. An amendment to the developer's agreement is required to include the new legal description prior to issuance of a building permit.
 - c) Utility easements must be vacated to support development of Retail A, B and J.
 - d) Paragraph 2 (c) of the DDR/Plantation development agreement provides that the demolition of the "B" wing will not commence until building permits are issued for the two new retail building that will replace same.
 - e) The design professional is responsible for preparing matching and consistent civil and architectural site plans and landscape plans. Plan inconsistencies on the building permit site plans (civil, architectural, or landscape) shall be interpreted in favor of the City.
2. Retail J: Dick's Sporting Goods
 - (a) Floor plans:
 1. The west elevation shown on A102 is inconsistent (green screen and passage door) with the floor plan on A101 and roof plan on A101.1. Review the west elevation to match the floor plan and roof plan. Move the center south green screen location slightly north to avoid a conflict with the passage door.
 - (b) Elevations:
 1. Label the proposed concrete masonry unit column base and the water table as 8" Demaco split faced masonry unit, in "glacier" color Review A102 accordingly.
 2. Label roofing material "cement tile to match existing center" on the east elevation. Revise A102 and Detail 1 on A102.2 accordingly.

3. Label the benches on the north elevation shown on A102 and Detail 3 shown on A102.2 as “Upbeat Site Furnishings Balance Series”.
- (c) Loading zones:
 1. Correct the screen wall material labels and south elevation on A102 to indicate brick on the exterior face and stucco on the interior face and columns. Change the stucco colors shown on Detail 3 and 4 of A103 from “Palais White” to “Diverse Beige”.
3. Main Street Store (New Retail A and B):
 - (a) Elevations:
 1. Provide stucco on the insets (A.5 – C.5) on the south elevation of Retail A shown on A104 and the north elevation of Retail B shown on A105.1. The remainder of this façade shall be brick to match the existing center.
 2. Label the proposed concrete masonry unit column base and water table as 8” Demaco split faced masonry unit in “glacier” (color). Review all elevations shown on A104 and A105.1 accordingly.
 3. Change the window frame (2) colors on the center of the east and west elevations for Retail A shown on A104 and Retail B shown on A105.1 from white to Hartford green. Change the opaque glazing from white to black.
 4. Indicate the proposed perforated metal awnings on the north elevation of Retail A shown on A104 and the south elevation of Retail B shown on A105.1 to be a grouping of individual awnings approximately 6’ in width in lieu of one large linear awning.
 - b) Sidewalks and hardscape:
 1. The center parking lot island (directly south of Retail A) is shown as a paved island on the site and civil plan. This same island is shown as landscaped on the landscape plan. Revise site and civil plan to be consistent with the landscape plan.
4. Miscellaneous:
 - a) Detail information on Sheet SP-1 is incomplete. Revise the plan accordingly.
 1. Label 1 & 2 light fixture color as black.
 2. Label 4 & 5 Benches (all with backs), trash receptacles, ash urns and bike racks from Upbeat Site Furnishings Balance Series with Black slotted seat, black octagon insert, black armrest and coffee bean stone color.
 3. Provide fountain detail and indicate specifications on 7. Indicate brick exterior finish.
 4. Label 14 Gazebo specifications as Polygon Carnival 20 MR, 2 tier clerestory, “evergreen” metal seam roof, custom columns (12”-14” square with painted stucco (pailis white) top 60% and brick column wrap bottom 40% with precast cap, “San Jose” ornamental brow on both tiers.
 5. Label 22 Loading zone wall with brick exterior. See A102 for heights.
 - b. Detail information on Sheet SP-2 is incomplete. Verify labels in the area east of Retail A and B, north and west of Retail J.
 - c. Thirty-one benches are shown in the open space/pedestrian plaza areas on Sheet SP-2 but lack consistency of design in their placement. Please provide benches (Balance series) in the locations shown on the attached sketch as Exhibit “A”.
 - d. Delete the language stating “Drawing is intended for planning review only...” Architectural details (materials, colors, size, etc) shall be shown on plan to eliminate any lack of clarity during building permit review and zoning inspections of improvements.
 - e. Detail information on Sheet SP-4 is incomplete. Clearly indicate the following shown on SP-4:
 1. The materials and colors on the covered walkway detail. Provide a solid brick column.
5. Signage is not part of this review.

ENGINEERING DEPARTMENT:

1. The Engineering Department met with the applicant's civil engineer on 11/06/09 and agreed that the comments below will be addressed prior to the permit submittal.
 - a) Sheet numbers have all changed from previous submittal so they are not always referenced here. Gate operations are still not shown. Please include.
 - b) Please dimension loading area. Dimensions are not complete. Please include drive aisle and truck bay dimensions.
 - c) Review the Signing and Marking plan per instruction given in the 11/6/09 meeting. Be certain to address dimensioning and the fire lane.
 - d) On sheet C-7, there is a ramp shown leading into a parking space. That is a safety hazard, please revise and/or remove.
 - e) Also on Sheet C-7, pollution controls are shown, yet it is a paving plan sheet. Please keep the erosion plans together.
 - f) Please have civil plans representative call Engineering.
2. Permit Comments
 - a) An erosion and sedimentation control plan will be required. Please meet with Engineering to discuss. The response states: "We have requested a meeting with Engineering Department staff to discuss this comment." Engineering staff have no knowledge of a meeting request. Please contact Lisa S. Bernstein, PE at 954-797-2636 directly to coordinate the requested meeting. This will need to be addressed prior to permit approval since it is not being addressed now.
 - b) A demo plan will be required with a building permit.
 - c) A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss. The response states: "We have requested a meeting with Engineering Department staff to discuss this comment." Engineering staff have no knowledge of a meeting request. Please contact Lisa S. Bernstein, PE at 954-797-2636 directly to coordinate the requested meeting. This will need to be addressed prior to permit approval since it is not being addressed now.
3. Note: A detailed review of the civil drawings has not been performed at this time. If the site plan application is approved by City Council, a thorough engineering review will be performed at the time of application for construction permits. Surface water management permit(s) through Old Plantation Water Control District (OPWCD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review. 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.

LANDSCAPE ARCHITECTURE:

Site Plan:

1. Terminal islands should have a minimum width of 10' inside curb to inside curb; terminal islands to the west of Retail "A" and "B: measure 8' in width. Waiver required – 13-40(c)(3).
2. Landscape islands are required every eight spaces; to the west of Retail "B" 9 spaces are proposed without a landscape island. Waiver required – 13-40(c)(5)(c).
3. The landscape pedestrian zone to the west of Dick's Sporting Goods does not meet code; 12.18' has been proposed, 14.5' is required. Waiver required – 13-41(a)(b).
4. The landscape pedestrian zone to the west of Retail "B" does not meet code; 10' has been proposed, 14' is required. Wavier required – 13-41(a)(b).
5. Staff recommends the width of the proposed sidewalk along the west side of Dick's Sporting Goods to be 4' in lieu of 5' to allow additional planting space.

6. The center parking lot island (directly south of Retail A) is shown as a paved island on the site and civil plan. This same island is shown as landscaped on the landscape plan. Review site and civil plan to be consistent with landscape plan.

Planting Plan:

1. As per City Codes – Tree Relocation permits are required prior to the removal of any tree and/or palm; in addition to permits the developer must post a bond to insure the survival of tree(s) designated for preservation. Determination of the bond amount shall be computed based upon the most current edition of the *Guide for Plant appraisal, published by ISA*.
2. As previously discussed – the trees that did not survive relocation and/or that have died require replacement as per City codes. (Trees relocated to the planting area between Proposed “J” and the “Existing Office Space” that did not survive transplanting must be mitigated for accordingly).
3. Minimum heights of the 6 Sabal Palms in the landscape pedestrian zone on the south side of proposed Retail A should be 14’-18’ overall heights as per codes; please include the overall heights under specifications.
4. A category 1 tree is required in the terminal island on the northwest corner of Retail “B”.
5. The proposed 4 Bulnesia trees to the south of the proposed sidewalk as well as north of the curbing along the entrance off South University Drive are 4’ or less from curbs/sidewalks – please plant trees a minimum of 8’ from paved areas to alleviate damage as the trees mature.
6. Please use Category 1 trees in the entrance islands to the southeast of Retail “A”.
7. The proposed Ligustrum trees along the west side of the loading zone have been eliminated from the west side of the loading zone; please add the Ligustrum to provide screening of the proposed wall between the green screens.
8. Staff does not support the relocation of Sabal palms in the landscape pedestrian zone along the west side of the proposed Dick’s Sporting Goods.
9. In the planting area in the southwest corner of Dick’s Sporting Goods, Sabals are proposed to be planted within 1’ of the sidewalk. Please adjust accordingly.
10. You are proposing the relocation of numerous trees/palms throughout the property – please discuss this matter with staff. The relocation of existing Live Oak trees throughout the parking medians/islands to the east of Dick’s Sporting is not prudent.
11. Please submit plans showing proposed locations for trees to be “relocated”.
12. You are proposing the “removal” of “good” existing trees and or palms; please clarify the reason for removal in lieu of relocation.
13. Please include the full tree number of the trees to the east of Smokey Bones.
14. As discussed and agreed upon on several occasions, please include the Canary Island Date palms in the planting areas on the east side of the park on the northwest corner as well as the southwest corner as previously approved.
15. Remove the container size from proposed shrubs and groundcover list under specifications.
16. As per City Council approved landscape plan and the Developers Agreement “Master Landscape Plan Phase 1 – 3”, the parking field from Kohl’s improvements south to Retail “B” must be planted prior to the CO on Retail “A”, “B” and the proposed Dick’s Sporting Goods.
17. The parking field directly east of the proposed Dick’s Sporting Goods should be brought to code with regards to the missing trees throughout the medians and landscape islands as discussed. Please submit plans to this effect at time of permitting.

FIRE DEPARTMENT:

The applicant has met all the requirements previously noted by the Fire Department for this review.

POLICE DEPARTMENT: This project will not impact police services.

Handicapped parking must conform to City ordinances.

PUBLIC WORKS: No comments.

RECREATION DEPARTMENT: No comments.

UTILITIES: No objection subject to the following site plan conditions.

1. Water and Sewer Utility Plans were not provided with this submission.
2. Prior to a Building permit being issued, the following must be provided:
 - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
 - BCHD and CB EPD Permits must be approved.
 - Utilities Agreement must be executed.
 - Utilities Performance Bond must be posted.
 - Utility easements must be executed.
 - Utility inspection fees must be paid.
 - Capacity charges must be paid in FULL.
 - Contact Danny Pollio if you have any questions; 954-797-2159.

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.
2. Acceptance of as-built drawings and Certified Stormwater Inspection Report will be required prior to issuance of a Certificate of Occupancy.

WASTE MANAGEMENT:

Curbing must be removed in order to provide adequate space when servicing the compactor unit.

Mr. Lunny explained that in order to accommodate Dick's on the site, the City previously required a private park dedication for the middle of the property and that dedication will be slightly impacted to construct this building. Rather than bringing that back before Council, if approved tonight, he will take that as the authority to Administration to proceed with executing an amendment to the private dedication. To the extent there are any other legal documents that need to be signed or executed in order to implement this approval, if voted on, the Administration would like to have the authority to go ahead and execute what is necessary to help the project. Secondly, approval will be subject to all staff comments.

Councilwoman Bendekovic made a Jennings disclosure that she met with Attorney Paul D'Arelli about six to eight months ago but that it would not impact her vote.

Mayor Armstrong advised that she met with Charles Wirsham, Tom Hendrix, and Attorney Paul D'Arelli, along with staff and other representatives of this project in an attempt to facilitate some of the issues in order for this to come before Council. As a result of the discussions there have been some significant changes made on the plans,

which basically have moved in a direction to try to accommodate and to bring this into a position that more appropriately reflects what she believes was the original intent. The meeting will not influence her decision.

Councilwoman Uria disclosed that she had a conversation with Attorney Paul D'Arelli quite a while ago, and it will not influence her decision.

Councilman Fadgen met with Attorney Paul D'Arelli and his client relative to changes about a month ago relating to the project and that meeting will not influence his decision.

Paul D'Arelli, Attorney, was present on behalf of the applicant. He commented that the Residences are coming to fruition on the first phase in the rear of the property and scheduled to open in March 2010 as a luxury rental community. The first phase of the development was the Kohl's shopping center and renovations at the north end of the center. He referenced Phase 3, which addresses the center and south components of the shopping center. This phase will largely revolve around the need to accommodate Dick's Sporting Goods. He requested that staff and Administration be prepared to modify the covenant for the park encroachment, as there is going to be an eight-inch encroachment of the Dick's building into the previous park space. There should also be some minor corrections that need to be made to the Development Agreement relative to the phasing. Because of the fact that the new A and B buildings are going to be built with the Dick's Sporting Goods, that is the operative enforcement to be sure those buildings get constructed. They would like to modify the condition in the Development Agreement that says you cannot have a demo permit for the center B wing until you have the new A and B buildings to be revised. That will allow them to expedite the timing on the permit.

Mr. Lunny did not have any objection.

Mike Davis, of DDR, provided a brief Power Point presentation with regard to Phase 3. He noted that Kohl's is open and meeting their goals and expectations. Quite a lot was done in landscaping on all sides of the Kohl's. During Phase 1 the north half of the park was completed. The south side of the park has not been done because to go ahead and finish it would put lots of major improvements, including living trees, at jeopardy during the construction period of Dick's. Phase 2 dealt with the Marshall's façade, building D. Phase 3 includes the balance of the park, Dick's Sporting Goods, Buildings A and B. Building A is in the southeast and is 10,000 square feet and Building B is 13,200 square feet. A sidewalk will be included all the way to University Drive. There is a great deal of connectivity from the Residences to public transportation and shopping, a covered walkway throughout the center, a covered trellis between Building B and the park, a south landscaped area and improvements to 6th Street.

The following comments were made with regard to Phase 3:

- Sidewalk on the south side of the entrance is a new feature.
- Crosswalk across drive going to the north directly across from Building B.
- Series of fountains at Building A.
- Covered canopies.
- Variety of palms and other vegetation.
- Sidewalk on north side of street is integrally colored.
- Canopy trees, benches and decorative trash cans.
- Architectural features added on the north.
- The park has over 90 feet of green and park on either side of the road.
- Parallel parking past the intersection between Buildings A and B and there is 60 feet on either side.

- Brick columns, green screens and a lot of palms in the rear of Dick's.
- The rooftop is not visible from the ground due to the raised parapet around the building.

Mr. Leeds summarized staff comments and noted that most of the items could easily be remedied. Staff would like to encourage walking opposed to driving from location to location. He would like to see the plan approved with all comments addressed and would like Mr. Davis to describe the construction activity where the traffic will originate.

In response to Councilwoman Bendekovic, Mr. Leeds advised that no written waivers were requested; however, comments #1, #2, #3 and #4 will be requested as waivers.

Mr. Lunny commented that inconsistencies should not be troubling to the Council; the issue is whether there is any material concern. It sounds like the only material question is whether the air conditioning units are wrapped and how the demolition will work.

Mr. Leeds concurred.

Mr. Davis indicated that with regard to the air conditioning units, the Code calls for HVAC to be obscured from sight line, it does not specify from the ground. Industry standards are from the ground. The units are obscured from the ground by parapets and he believes they have met the level of the law.

Adolfo Gonzalez, project manager, was present. He referenced the civil drawings and the opaque construction fence. He noted that the debris would be disposed of off site.

Mr. D'Arelli stated that they are prepared to stipulate to all staff comments other than a few in the planting plan and requested clarification on those comments.

Charles Wirsham, principle, was present. In response to Councilman Tingom, Mr. Wirsham advised that the 43 feet is the entry element, the building itself is not overall 43 feet tall. The empty space was so that occupants would not feel cramped while inside. The gate in the loading zone and trash compactor zones is 50 feet; it is a rolling gate the same color as Kohl's. There could be a potential conflict if a delivery were being made at the same time trash was being picked up. Dick's takes one delivery per day. They prefer not to spend the extra costs to shield the air conditioning units from the ground level, as the parapet screens the units.

Councilman Tingom commented that he would like to see something more concrete. He wants to approve the project but believes that staff's comments and conditions should be upheld.

Mr. Wirsham advised there has been a fluid issue over the past few months; however, this has been resolved over the last three or four weeks. There is nothing else that can be done. They are constrained by parking created to the north and tenants to the south. There is only one way the east/west road can go.

Councilwoman Uria stated that since there will be some increased density in the Midtown area and higher buildings we might want to consider lowering the buildings and having rooftop gardens in the future. She questioned who made the decision to redirect demolition traffic to exit by the offices.

Mr. Wirsham indicated that the traffic will be going out behind Marshalls.

Councilman Fadgen did not believe it was unreasonable to request additional screening of the air conditioning units. He questioned the slope on Dick's from front to back.

John Baer, CBH Construction, was present. He explained that the slope of the roof is from the east to the west. There will be a four-foot drop. The parapet line was just under 29 feet along the majority of the building and the entry element is 43 feet. The distance from the east to the west is 200 feet.

In response to Councilwoman Bendekovic, Mr. Baer advised that once everything is completed Dick's should be open by October 2011. Buildings A and B and the park area will also be complete at the same time. Toojays is scheduled to move on January 6, 2010 and Kikos is moving to the north side in February 2010.

Michael Pierce and Rhett Roy were present. They discussed landscaping comments as follows:

Planting Plan:

- #1: A waiver would be requested, as they do not believe there are any ten-foot islands on the inside curb. Mr. Pierce noted that the rest of the waivers being requested are all right. Ms. Berchielli noted that the islands to the east on the landscape plan are measuring ten feet.
- #2: All trees west of Dick's are proposed to be relocated; they will work with Ms. Berchielli.
- #6: Clarification was requested. Category 1 trees are Code required canopy trees. There will be two 12-foot canopy trees.
- #7: This comment is all right.
- #8: The easement has been adjusted so that some of the existing Sabal palms can remain; however, some will have to be slightly adjusted to accommodate the new utilities going in. Ms. Berchielli was all right with this.
- #10: All of the trees will have a home. Ms. Berchielli requested the parking medians be reconfigured to preserve the two Live Oak trees, as they will not survive a transplant. Mr. Pierce stated that they will make an accommodation so that those two trees can remain in place.
- #13: This is a housecleaning comment.
- #14: Ms. Berchielli will further review this comment.
- #17: Would like to address this comment at a later time, as the site must be brought up to Code.

Mr. Davis advised that comment #17 would be addressed when the next phase is completed, as that is when the entire site will be addressed.

Mayor Armstrong commented that since tenants are already being placed in Building C that this project move forward with the expectation that the aforementioned issues will be resolved, as the plans and application for permits need to be done quickly.

In response to Mr. Wirsham, Mr. Lunny indicated there is an issue of Code compliance, which is different then development approval.

Motion by Councilwoman Uria, seconded by Councilwoman Bendekovic, to approve the site plan modifications for DICK'S SPORTING GOODS, located at 801 South University Drive, including the waivers and subject to staff comments. Motion carried on the following roll call vote:

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

Mayor Armstrong referenced the north side of the park and the retail spaces, noting that an area with smaller businesses needs to be activated in order to draw some activity. There is a possibility for additional features in the area on the south side.

In response to Councilman Fadgen, Councilwoman Uria stated that the motion did not include additional screening to the air conditioning units.

Mr. Lunny stated that we briefly discussed the park dedication, changes to the Development Agreement and the fountain on the south side of the park, as the City received a commitment for Midtown improvements, such as lights and improvements, which he believed was \$15,000. He requested the Council's permission to amend the agreement so that the \$15,000 collected for those improvements might go towards paying for a portion of the fountain.

Councilwoman Bendekovic opened discussion to the public.

Dr. Cary Waldy, owner at the Fountains Professional Center, was present. He is supportive of the project and requested that he be kept in the loop with regard to demolition.

Discussion to the public was closed.

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COUNCILMEMBERS' COMMENTS

Mayor Armstrong reminded everyone of the holiday parade on Saturday, November 21, 2009. She wished everyone a Happy Thanksgiving.

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Councilwoman Uria congratulated Councilman Fadgen and his wife on the marriage of their son. She wished everyone a Happy Thanksgiving.

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Councilman Fadgen wished everyone a Happy Thanksgiving.

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Councilwoman Bendekovic thanked everyone who donated money for the new Police dog.

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Councilwoman Bendekovic questioned whether the classifications for the Complete Count Committee be divided between the Council members.

Mayor Armstrong advised that it will entail several meetings in a months' period in order to be able to get a program of some form so that the community can be reached, particularly in January, February and March.

Mr. Leeds explained that the purpose of the committee is to appoint people who are interested in carrying the message in their particular neighborhood of the importance in filling out the short form Census. He suggested contacting people who are in a position to speak to the largest amount of people.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Pat McQuaid, resident, requested a partial waiver of a 20-foot setback in his backyard for a variance for an existing gazebo that was put on his deck area. According to the architect, the structure is up to Code.

Mr. Lunny states that he is willing to give Mr. Leeds the authority under the Resolution previously passed to allow waivers. The other option is to go before the Board of Adjustment because they are the ones with jurisdiction to approve or disapprove this item. If this is a development that requires site plan approval, only then, would the Council be able to approve a waiver, which would apply to every single house similarly situated. He advised that he and Mr. Leeds would review this issue. Mr. McQuaid was given a 30-day extension. It was noted that Mr. Leeds does not have to the authority to do what is needed, so if all else fails, if the Council is willing to give Mr. Leeds the authority, this issue could likely be addressed.

Councilman Fadgen commented that there may be a hardship.

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WORKSHOPS – None.

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Meeting adjourned at 11:19 p.m.

Diane Veltri Bendekovic, 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 _____, 2010.

Susan Slattery, City Clerk