MEETING OF THE CITY COUNCIL
PLANTATION, FLORIDA

December 8, 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 Lunny

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2. The invocation was offered by Councilman Fadgen.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Armstrong read a Proclamation designating Wednesday, December 8, 2010 as ***Rick Case Bike for Kids Day*** in the City of Plantation.

The Proclamation was accepted by Rick Case.

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Mayor Armstrong read a Proclamation designating Saturday, December 25, 2010 as ***First Baptist Church of Plantation Day*** in the City of Plantation.

The Proclamation was accepted by Reverend Gerald Gallimore.

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Mayor Armstrong read a Proclamation designating Saturday, November 13, 2010 as ***Karen and Taylor Bushman Day*** in the City of Plantation.

The Proclamation was accepted by Karen Bushman.

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Mayor Armstrong recognized two teams from the Plantation Athletic League Wildcats; the 120-pound teams and the unlimited division.

Ms. Ayala explained that the teams play County football; there are 14 different cities. There are 100 teams and only seven of them make it to the Super Bowl. Two out of three of our teams won the Super Bowl this year. The 120-pound team and the 135-pound team were recognized along with the unlimited division coached by Andy Nolan, which was undefeated.

In response to Councilman Tingom, Ms. Ayala advised there are about 250 children playing football and this year a developmental team for five and six year olds was added, which has about 20 children.

In response to Councilwoman Bendekovic, Ms. Ayala indicated there are approximately 175 cheerleaders who also practice during the week and attend the games on Saturdays.

Congratulations were offered.

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

- The Winder Wonderland program at the Plantation Historical Museum opened on November 22, 2010 and will continue until Saturday, January 8, 2011.
- Winter Wonderland Holiday Camp will be held at Central Park between December 20 and December 23 and between December 27 and December 30, 2010. The hours are 7:30 a.m. to 6:00 p.m. with a cost of $185 per child.
- A Winter Break Tennis Camp will also be held at the Frank Veltri Tennis Center for children ages 6 through 16. The hours are 10:00 a.m. to 3:00 p.m. with a cost of $125 per week.
- The Share A Pony program will be at the Equestrian Center for children ages 4 through 12. The hours are 9:00 a.m. to 4:30 p.m. The cost for residents is $250 plus tax.
- The Santa's Visit Program will be on Christmas Eve, December 24, 2010. A lot of volunteers and support are needed.

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Councilman Fadgen recognized the Boy Scouts.

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CONSENT AGENDA

Mr. Lunny read the Consent Agenda by title.

3. Approve Summer Recreation Day Camp 2011 Budget.

4. Approve Granicus Open Platform Solution for the webcasting of City Council meetings.

5. Approve purchase of maintenance contract for the Intergraph (Public Safety CAD 911) software for $113,558.76.

Ordinance No. 2453

6. **ORDINANCE** Second and Final Reading of an ordinanceamending the City of Plantation Comprehensive Plan; revising the Future Land Use Element Policy 1.7.6 regarding residential densities in the residential land use category; providing a savings clause; and providing for an effective date therefor.

Resolution No. 11117

7. **RESOLUTION** assessing a lien on 711 NW 71 Avenue for the cost to the City of Plantation of its mowing and clearing. (Warren)

Resolution No. 11118

8. **RESOLUTION** approving an agreement between Broward County Board of County Commissioners and the City of Plantation for joint funding of buffer wall construction along the east side of New Hiatus Road between Broward Boulevard and Sunrise Boulevard adjacent to the Fountain Spring residential neighborhood; authorizing the execution and delivery of the joint funding agreement for such purpose; giving Administration and the Legal Department the authority to make minor changes as appropriate prior to execution by the authorized City Officers; authorizing the appropriate City Officers to execute the agreement and perform same; and providing an effective date therefor.

Resolution No. 11119

9. **RESOLUTION** approving an agreement between Broward County Board of County Commissioners and the City of Plantation for joint funding of buffer wall construction along the east side of New Hiatus Road between Broward Boulevard and Sunrise Boulevard adjacent to the Fox Run residential neighborhood; authorizing the execution and delivery of the joint funding agreement for such purpose; giving Administration and the Legal Department the authority to make minor changes as appropriate prior to execution by the authorized City Officers; authorizing the appropriate City Officers to execute the agreement and perform same; and providing an effective date therefor.

Resolution No. 11120

10. **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 11090 (the "Assessment Resolutions") on property legally described in this resolution and having and ad valorem folio number of 5041 01 02 0210; 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. (Dalley)

Resolution No. 11121

11. **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 and ad valorem folio number of 5041 01 02 0600; 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. (Grey)

Resolution No. 11122

12. **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 and ad valorem folio number of 5041 01 02 1290; 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. (Grigou)

Resolution No. 11123

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 11090 (the "Assessment Resolutions") on property legally described in this resolution and having and ad valorem folio number of 5041 01 02 0610; 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. (Lewis)

Mr. Lunny indicated that on the Consent Agenda the Council normally approves bills, adopts resolutions that are an expression of administrative intent and also, tonight, has adopted one ordinance, which is local legislation that the Council can adopt having the force of law.

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

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

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Jack Melicoff of Granicus was present. Granicus is a company that represents 800 clients across the country; they specialize in posting webcasting, unlimited amounts of media and public events online. After meeting with Councilwoman Uria and Ms. Slattery, City Clerk, we have been able to put together a solution that will allow the City to post an unlimited amount of content on their website. This will take 30 to 45 days to implement.

Councilwoman Uria thanked Mr. Melicoff. She commented that the backup says the $480 per month will be waived until April 1, 2011 and the start up fee of $125.

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Mayor Armstrong acknowledged Item No. 8 and recognized Eileen Rodriguez with Fountain Springs. Ms. Rodriguez was our advocate on behalf of a neighborhood in the City of Plantation that came to the forefront and set some precedent with Broward County in terms of their willingness and support for placing noise buffer walls along new roadways, of which Hiatus Road is one of those.

Ms. Rodriguez thanked the City Council for their time and effort. We have been working on this for seven years and she is glad that it has come to a finalization. She wished Mayor Armstrong the best of luck.

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Mayor Armstrong recognized a Boy Scout who had a question regarding Item No. 9.

Brett Butler, City Engineer, explained that sometimes when administering a project we find ourselves working with other governments; in this case we will be working with our County government, who has decided that it is appropriate to provide some measure of improvement to help a neighborhood. In this case they want to help the neighborhoods of Fox Run and Fountain Spring, who have been impacted with a negative affect as a result of another project, in this case building a roadway. That affect needed a solution so the City and County governments met and put a solution together agreeing to work together and fund them jointly and then the respective staff of those governments will work together to build the project. The City will now take the approved document and it will be presented by the County representatives to the County Commission and they will vote. If they agree to do so, that agreement will be signed by the County and at that point it will be passed onto staff, the people who work for the City and the County, who will work together to design a wall with a contractor and then construct the wall. It is hoped that the design process will begin after the Christmas holiday, sometime in early January 2011 or maybe early February 2011. The project may take about six months. With regard to any disturbance; there are 15 homes in Fox Run that will have an existing wall that separates them from what will be a new road. That wall will be removed and then a taller wall will be built. For a period of time those 15 properties will be disturbed; however, the project will be done as quietly and quickly as possible. Prior to the project they will request certain permission from each property owner to access their property and to cooperate with us; then we do our best to take care of their interests. There is always the possibility of a problem. The area will be surveyed with spot digs to verify where certain pipes and conduits are and they will do their very best to avoid them.

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As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Item No. 17.

Mr. Lunny read the resolutions.

Resolution No. 11124

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 11 – December 1, 2010 for the Plantation Gateway Development District.

Resolution No. 11125

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 11 – December 1, 2010 for the Plantation Midtown Development District.

Resolution No. 11126

16. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 11 – December 1, 2010.

Resolution No. 11127

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 11 – December 1, 2010 for the City of Plantation's Community Redevelopment Agency.

Warren Meddoff, resident, advised that in these four items approximately $50,000 was paid to Mr. Lunny's firm with no supporting documentation. Almost $18,700 was stated to be consultant retainers and no one seems to have the ability to produce a copy of those retainer agreements. He requested that these items be set aside until proper documentation is brought forward documenting these expenditures, particularly the contracts regarding retainer agreements and the retaining of Mr. Lunny's services. He referenced allegations in a court document and noted that the City's taxpayers deserve an accountability of where their taxpayer dollars are going. He suggested that these items be held in escrow so that a full accounting can be made and that an independent group be brought in to go over these massive expenses to be sure there is no impropriety.

Councilman Fadgen explained that the City Attorney is the counsel for this City Council and Mayor Armstrong is not the decision maker as to who the City Attorney is; it is the Council that decides the Attorney.

Mr. Meddoff advised that the enabling legislation on an annual basis, he would like to have that available, and a record of who on the Council has approved that. The voting records as to $3 million in the past five years; he would like to see who has been approving the expenses and to ensure that they were properly reviewed.

Councilman Fadgen indicated that there is a resolution that approves the City Attorney's retainer and fees. There is an approval process for every legal bill that comes in and those are public records. A public document request can be made in order to get access to those records.

In response to Mr. Meddoff, Councilman Fadgen advised that the request must be done in writing.

Councilman Levy stated an independent audit firm is hired every three years and an independent audit is done every year. They sample all of the expenditures and do what is appropriate by government accounting standards to review all expenditures. They certainly go over the expenditures of the City Attorney with a fine tooth comb. A report is received on that every year prior to the budget in order to make sure there have not been funds that there have not been funds that were misappropriated or misused. The independent firm not only reports to us, but to the State. Any recommendations or objections made by the firm go to the State and the State oversees whether or not we comply or change our policies because of what was found. Based on that Council then makes their budget decisions.

Mr. Lunny explained that anytime the City seeks to enforce its laws, either through the Police Department, Building Department Fire Department or through the law firm, the City is not going to simply cower or accept allegations of persons or they would never be able to enforce its laws. This is yet another statement and effort on Mr. Meddoff's part to attract attention; therefore, no further response to his statements will be made.

In response to Mr. Meddoff, Mr. Lunny advised that the business of the City cannot be advanced by engaging in frivolous and wild discussion and it must cease.

Motion by Councilman Tingom, seconded by Councilwoman Bendekovic, to approve Resolution No's. 11124, 11125, 11126 and 11127. Motion carried on the following roll call vote:

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

NOTE: Mayor Armstrong voted affirmatively on Item No. 17.

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ADMINISTRATIVE ITEMS

Resolution No. 11128

18. **RESOLUTION** APPROVING AMERICAN TRAFFIC SOLUTIONS TO SERVE AS VENDOR FOR THE RED LIGHT CAMERA PROGRAM AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PLANTATION AND AMERICAN TRAFFIC SOLUTIONS; HAVING THE APPROPRIATE CITY OFFICIALS EXECUTE SAME AND AUTHORIZING THE CITY ADMINISTRATION OR CITY ATTORNEY TO MAKE MINOR REVISIONS THERETO; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Police Chief Harrison explained that they have been looking at the red light camera system since August 2006. It has been a long process. A committee was put together consisting of himself, Dan Keefe, Assistant to the Mayor, and Brett Butler, City Engineer. An RFP went out in October and three companies responded. The committee reviewed the proposals, ranked the three vendors and then interviewed all three. As a result of that process we came up with American Traffic Solutions as the vendor.

Greg Parks, Senior Vice President of American Traffic Solutions presented a brief Power Point presentation.

- Red light cameras are a proven, effective deterrent to reduce in fatalities, crashes and violations.
- This is a civil infraction, similar to Sun Pass or a parking violation; there are no points or insurance ramifications.
- The Plantation Police Department will verify and authorize the violations, not a private vendor.
- The cameras will allow a more effective use of policing.
- There is no taxpayer expense; this is a self funding program.
- American Traffic Solutions operate in about 300 cities throughout the country.
- Approximately 70 out of about 75 programs are operated in Florida.
- The cameras have a long, proven area of success.
- Aventura is the longest running program in South Florida; they have used the cameras about two years.
- Since implementation of the cameras, crashes are about 58% over the two-year period.
- As mandated by State Law, House Bill 325, to have a public education and awareness campaign.
- The camera is small and can be painted to match areas; any appropriate color to keep the streetscape.
- Two still shots are taken of a motorist.
- The light must be 100% red when the motorist enters the intersection.
- The license plate is cropped out of the photo and a 12-second video clip goes with that.
- Photographs are first reviewed by ATS staff at their data center to meet the rules of the City.
- Notices will be sent to the Plantation Police Department via Internet.

- The traffic officer will approve or reject the photographs.
- Approved photographs will go back to ATS data center, a Notice of Violation will be printed and mailed at their expense.
- Motorists will receive the Notice of Violation and have the opportunity to pay or request a date in Court.
- Motorists will be given a PIN number and a Notice number in order to log on and observe the photographs taken.

In response to Councilwoman Bendekovic, Chief Harrison advised that there are 13 intersections that have a high rate of accidents that have been rated. They will reassess the rates to make sure the data is current and accurate. At that point the City will decide which intersections will be used. Parameters can be set as far as right turns. The cameras are not unconstitutional. We have done our due diligence and have waited to see how the cameras have progressed.

In response to Councilwoman Bendekovic, Mr. Parks indicated that the cameras would go up in approximately 45 to 60 days. The cameras are installed a few weeks after the permits are issued.

Chief Harrison stated that American Traffic Solutions have a good working relationship with the Florida Department of Transportation as well as the County and they have been through this process and are a proven commodity. When the cameras are installed there will be a warning process; there will be signs advising that cameras are present. The intent is to reduce accidents in the intersections.

Councilwoman Uria would like to have the crash data for review prior to implementing the cameras and then review it in a year to be sure that the crashes are really decreasing.

In response to Councilwoman Uria, Mr. Parks indicated that the camera structure is vandal and tamper proof. The data has the same security as a Police Department has. If there are any problems ATS will take care of it; they maintain ownership for the equipment and responsibility for all of the maintenance upgrades. All of the legal challenges relate prior to House Bill 325.

Chief Harrison stated that the statistics will constantly be reviewed.

In response to Councilman Tingom, Mr. Parks clarified that we are clear with House Bill 325.

In response to Councilman Levy, Mr. Parks advised that most of their customers have experienced a decrease in rear-end violations.

In response to Councilman Levy, Chief Harrison explained that emergency situations would be up to the Police Department to review and approve or disapprove.

Mr. Parks commented that there is a number of ways to review the photographs. A very common standard is not forwarding emergency situations for police review. Another option is to have the Police Department review the photographs and approve or disapprove. As a fail safe there is an affidavit that can be filed under House Bill 325.

Councilman Levy requested the criteria in selecting American Traffic Solutions.

Chief Harrison indicated that an RFP was sent on October 7, 2010 and the three firms submitted their proposals on November 9, 2010. The evaluation team extensively reviewed the proposals, ranked them based on the

written material received and to get more clarity all three of the vendors were invited to meet with the team, which they did. Each vendor had their strong and weak points. The reason American Traffic Solutions was chosen was because they are an American company; the in-house processing of infractions; their inlets; the direct link; significant work with the Florida Department of Transportation as well as Broward County for the roadways; they have Florida based personnel in Broward County; they have a dedicated account manager based in Florida; and the ability of their system to interface with other Broward County systems was significant. From an investigative standpoint, the description of vehicles can be studied in the intersection. Cities also might be able to tie on to suspicious vehicles when traveling from City to City. No undo influence was provided to select this firm by any of their representatives to any members of the committee.

Councilman Fadgen believes the red light cameras will ultimately reduce accidents as the behavior changes. The enabling legislation was passed in 2010. He expressed concern regarding the financial exposure to the City until the cameras are tested or there is an elapse of some period of time with no challenges. He thought the time frame of six to nine months has been too short; therefore, he will not be able to support the cameras at this time.

Mayor Armstrong explained that this has been looked at for four or five years before getting to the point of being able to say, "Now is the right time." We have an excellent vendor who has been through the process and she encouraged Council to move forward.

Councilwoman Uria referenced the 90-day termination clause and questioned whether $1 million worth of insurance coverage is enough. She would feel more comfortable with additional research at this and some other Cities to see what they have.

Mayor Armstrong commented usually when these are put in place John McCarthy, Risk Manager, reviews to be sure we have the appropriate amount of coverage.

Mr. Parks advised these were the denominations put forth by the City. We are very financially sound and are open to whatever is fair and appropriate. He believes this is a typical number.

Chief Harrison noted that all three vendors agreed that in the event of a tropical event or due to an unforeseen construction in the area there has been a detour in the area, that all things would be considered as far as the fees are concerned.

In response to Councilman Fadgen, Mr. Parks could not definitively answer who would repay fees if the law was ultimately declared as unconstitutional. They would be operating under Florida law.

In response to Rico Petrocelli, resident, Mr. Parks advised that violators would have between a week and 14 days to mail their violations.

Dennis Conklin, resident, urged Council not to approve this item at this time. He believes it is unconstitutional.

In response to Robert Mulvaney, resident, Mr. Parks stated that the financial aspects are privy to the City; they are public record but they are not for him to disclose. The contract does guarantee that the City will break even from the safety program. He did not know how much money would be generated from the cameras.

In response to Mulvaney, Chief Harrison advised that the law was recently changed with regard to signing tickets. Prior to the change, a person would be subject to arrest for not signing a citation. With regard to an

officer appearing in court relating to the traffic camera infraction; Chief Harrison would recommend that the officer be the same one who decided to approve the violation.

Motion by Councilwoman Bendekovic, seconded by Councilwoman Uria, to approve Resolution No. 11128. Motion carried on the following roll call vote:

Ayes: Levy, Bendekovic, Uria, Tingom
Nays: Fadgen

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Councilman Fadgen introduced our State Representative, Hazelle Rogers was present.

Ms. Rogers indicated that the Legislature is not currently in session; committee meetings begin on January 10, 2011. She looks forward to working with the City of Plantation.

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Mr. Lunny read the resolutions by title.

Resolution No. 11129

19. **RESOLUTION** PERTAINING TO THE ACQUISITION OF THE UTILITIES PLANT EXPANSION PROPERTY; MAKING A FINAL DECISION TO AUTHORIZE THE ADMINISTRATION TO CLOSE A CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY BY AND BETWEEN FEDERATION HOLDINGS II, LLC, A FLORIDA LIMITED LIABILITY COMPANY AND THE CITY OF PLANTATION, FLORIDA FOR A PURCHASE PRICE OF $2,475,000 (EXCLUDING THE CUSTOMARY CLOSING ALLOCATIONS AND EXPENSES) IN FORM ATTACHED TO THIS RESOLUTION AS COMPOSITE EXHIBIT "1" AND ON FILE WITH THE CITY CLERK; AUTHORIZING A NEGOTIATED LOAN TO FINANCE THE ACQUISITION OF THE PROPERTY; GENERALLY AUTHORIZING THE ADMINISTRATION TO TAKE ALL ACTIONS AND DO ALL THINGS NECESSARY TO PERFORM THE TRANSACTIONS AUTHORIZED BY THIS RESOLUTION (INCLUDING MODIFYING THE TERMS THEREOF AND EXECUTING SUCH DOCUMENTS AS MAY BE APPROPRIATE IN CONNECTION THEREWITH); PROVIDING OTHER MISCELLANEOUS AUTHORIZATIONS IN CONNECTION WITH THESE TRANSACTIONS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFORE.

-AND-

Resolution No. 11130

RESOLUTION OF THE CITY OF PLANTATION, FLORIDA PERTAINING TO THE ACQUISITION OF LAND FOR PUBLIC PURPOSES IN PLANTATION; APPROVING A LOAN FROM SUNTRUST SOUTH FLORIDA BANK IN AN AMOUNT NOT EXCEEDING $2,500,000 TO FINANCE THE COST OF THE LAND ACQUISITION PROJECT TO BE REPAID FROM LEGALLY AVAILABLE NON-AD VALOREM REVENUES; AUTHORIZING EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND A NOTE, AND OTHER ACTION IN CONNECTION WITH THE DELIVERY OF SUCH DOCUMENTS; AUTHORIZING THE MAYOR OR ASSISTANT MAYOR TO MAKE SUCH CHANGES TO THE LOAN DOCUMENTS AS ARE DEEMED APPROPRIATE;

AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO CLOSE THE LOAN; MAKING OTHER PROVISIONS WITH RESPECT TO THE LOAN; AND PROVIDING AN EFFECTIVE DATE.

A memorandum dated December 3, 2010 to Mayor Armstrong and Members of the City Council from Dan Keefe, Assistant to Mayor, Hank Breitenkam, Director of Utilities, Herbert Herriman, Director of Financial Services and Donald J. Lunny, Jr., City Attorney, follows:

Background

This item is sponsored by the Administration and the Utilities Departments.

At the December 8, 2010 City Council Meeting, the City's governing body will be making a final decision whether to authorize a closing of the contract to purchase an approximate 6.6 +/- acre parcel of property adjacent to the Regional Wastewater Treatment Plant for $2,475,000, before customary closing expenses and credits.

City Resolution No. 11088 initially approved the Contract for Sale and Purchase between the City and Federated Holdings II, LLC, a Florida Limited Liability Company on November 10, 2010.[1] The Contract requires that the Property be sold "as is"; however, the purchase is subject to the City governing body making the final decision to authorize a closing of the contract at an advertised public hearing. In the event the City does not decide to acquire the Property, the City will receive a return of its deposit, and both parties will be released of any further obligations.

This Memorandum is intended to summarize the Staff's due diligence investigation and request final approval to authorize this transaction.

Need

It is intended that the property be used for wastewater-related operations. Given that the Regional Wastewater Treatment Plant Site is fully utilized and cannot accommodate any material additional improvements, the Utilities Department has been evaluating for some time finding additional land area within Plantation for wastewater operations. If this parcel can be obtained, the City's long-standing objective of maintaining only one area in the City for wastewater treatment operations can continue to be met, and economies of capital investment and operation can continue to be realized.

[1] The Contract is attached to Resolution 11088 as Exhibit "1"

The acquisition of this site is necessary and prudent at this time. The elected officials are aware that South Florida Water Management District has determined that wastewater reuse in the form of alternate water supply projects are needed as a conservation requirement because the traditional water supply from and use of the Biscayne Aquifer is not sufficient to provide for the future population of South Florida. Additionally, regulations requiring higher levels of disinfection for reuse purposes are anticipated. Finally, un-sewered areas of Plantation will continue to become sewered because of the application of public health regulation. These are but a few of the upcoming reasons why plant, machinery, land area, and operational needs of Plantation's Wastewater Treatment System will increase.

The acquisition of the available +/- 6.6 acre property just west of the existing plant site and north of NW 11 Place is the best site available to meet foreseeable needs.

Survey

At this time, a Survey has not been delivered. When it is delivered, it will need to be reviewed and approved by the Administration, Legal and Utilities Departments. The closing will be contingent upon the receipt and approval of a Survey.

A Sketch and Legal Description has been prepared and is on file with the City Clerk. There are a few miscellaneous easements (that run in favor of the City, FPL, and Platted easements in favor of the public) that cross the Property, but the Administration and Utilities Departments would note that there is no reason why these cannot be relocated to accommodate future construction, and typically, such easements are relocateable. Given the Sketch and Legal Description's review, the Survey should be acceptable when it is received.

Environmental Report

A Phase 1 Environmental Site Assessment (ESA) has been prepared by Eco Advisors, LLC, and is dated November 17, 2010. It has been reviewed by the Administration and Utilities Departments. A copy of the report is on file with the City clerk. In the Executive Summary, the report states:

> *"The Phase 1 ESA identified no recognized environmental condition, or RECS, as defined by the STM E 1527-05 standard practice in connection with the Site"*

Title

The Property's title has been examined by the Legal Department. Aside from customary title exceptions which have been determined acceptable by the Administration, or which need to be eliminated as part of the closing, there are two restrictive covenants and one easement which affect the Property and which should be noted:

A. The Restrictive Covenants

1. As the elected officials may recall, the southern portion of the Property was formerly a part of the Doctors General Hospital campus. The hospital became part of a hospital/health care portfolio owned at one point by the same company which owned Florida Medical Center (in fact, the Hospital became known as "Florida Medical Center South" after "Doctors General Hospital"). When the hospital campus was sold to Federated Holdings II, LLC, the vesting deed contained the following restrictive covenant:

   "Neither the Land nor any part thereof shall be used for the operation of , or the rendition of services, without the express prior written approval of Grantor, its successors or assigns, which approval may be unreasonably withheld, a : pharmacy; ambulatory surgical center; physical therapy center; reference diagnostic radiology and imaging; cardiac catheterization; outpatient surgery center on a commercial basis; acute care medical surgical hospital; laboratory services; provided that the preceding prohibitions shall not prohibit any such services on the Land incident to the operation of a full service Adult Congregate Living Facility or Assisted Living Facility and for the sole purpose of servicing said facility and its residents and customers."

   The City was aware of this restriction at the time the Contract was approved by the City Council and agreed that this restriction would not be a closing impediment.

2. A review of the Property's title disclosed that the northern half portion of the Property is subject to the following restriction:

   "The land described herein shall not be used as an industrial park in competition with the Grantor's operation of an industrial park located on Grantor's property contiguous to the land being conveyed herein described on Exhibit "B" attached hereto. An industrial park is defined as a structure or cluster of structures in which the primary activities being conducted thereon are manufacturing and/or the wholesale distribution of goods and precuts. This covenant shall run with the land being conveyed herein and shall benefit and be appurtenant to the Grantor's land described on Exhibit "B" attached hereto."

   The Legal Department has prepared a Release of Restrictive Covenant and has requested the Seller's Broker, Mr. Brenner, to tender the Release to the Owner of the Industrial Park to the north of the Property. As of this date, the release has not been signed.

3. Neither of the two covenants would likely be violated by the City during the period of time the City owns the Property because of the Property's intended use for the foreseeable future as a facility for Wastewater Operations.

4. There is a case law precedent to the effect that when a Florida municipal corporation acquires real property by a negotiated purchase, as distinguished from by exercise of eminent domain, the purchase will be free of the restrictive covenants that are in the nature of contractual rights [*See* Ryan v. Town of Manalapan, 414 S. 2d. 193 (Fla. 1982)]. While the Firm cannot guaranty or warranty any outcome, but instead can only express a professional judgment, it is reasonably convinced and confident that, based upon the cited case law and its review of the particular covenants in question, neither of the above restrictions should be enforceable against the Property during the time period in which the Property is owned by Plantation (or another governmental entity) and used for a proper public purpose. The title insurance policy issued by the Firm will state that the restrictions will not be exceptions to the Policy while the Property is owned by Plantation (or another governmental entity) and used for a proper public purpose. The Policy will cover claims related to the attempted enforcement of either covenant during this period.

5. At some point in the future, a portion of the Property or all of the property may be returned to the private sector and used for a purpose that is not a public purpose. Depending upon whether this occurs and the state of the law at such time, the covenants may or may not be enforceable.

B. Easement

The Real Property is currently subject to a Cross-Drainage and Landscape Maintenance Agreement which is recorded in Broward County Official Records book 21839 at Page 0486 (the "Agreement") which by its terms allows the owner of adjacent property to acquire lien rights on the Real Property in certain circumstances. An Acknowledgement and First Amendment to Cross-Drainage and Landscape Maintenance Agreement was prepared by the Firm, signed by the Mayor, signed by the Sellers, and tendered to the Owner of the Industrial Park property to the North of the Property. This document was designed to modify the Agreement so as to secure the Purchaser's performance with a Covenant to budget and Appropriate Non-Ad Valorem revenues in substitution of the lien rights.

The Broker, Mr. Brenner has tendered the document to the adjacent Owner of the Industrial Park, and as of this date, it has not been signed. The attorney representing the Owner has been contacted by the City Attorney, and has indicated that he will likely recommend to his client that it sign the document. Staff anticipates that this issue will be resolved.

Value

The Property's value as of November 22, 2010 has been appraised by Vance Real Estate Services as being $3,444,000. The appraisal is on file with the City Clerk, and is valid if Staff is successful in obtaining a release of the Restrictive Covenants identified in paragraph 4A2 above from the Owner of the adjacent Industrial Park. Even if these restrictions are not released, however, the Appraiser has informed Mr. Keefe that an adjusted appraised value would materially exceed the contracted Property purchase price.

Currently, the Property is exempt form the payment of ad valorem taxes, and it will remain exempt from such taxes under current law during the time period it is owned by Plantation and used for public purposes.

Funding

The Financial Services Department recommends that the City obtain a bank qualified, tax exempt loan so as to minimize debt service expense. In addition, the Department recommends fixed rate financing that would not include a prepayment penalty. Mr. Herriman has evaluated informal loan quotes. Based on the informal quotes obtained, Mr. Herriman requested and received formal quotes form Bank of America and SunTrust Bank. After a review of the formal proposals, he has determined that the SunTrust proposed terms are favorable.

Mr. Herriman expects that a binding loan Commitment will be "in hand" by Monday or Tuesday (the Bank's underwriting committee meets early next week). The loan's projected interest rate is 3.25% over its 15-year period. Based on a borrowing of $2.5 million, each semi-annual payment will be approximately $105,951.88. The Administration and Financial Services Departments believe that closing a loan at this rate would be beneficial to the City, given general expectations concerning long term inflation rates and the current yield on 10 year Treasury Notes.

The Council is requested to authorize the closing upon the receipt of a formal Commitment acceptable to the Administration and Finance Departments. A separate Resolution for the award of the loan is part of tonight's agenda package, and the SunTrust Formal Proposal is attached to the Resolution as Exhibit "A".

Conclusion

The Resolutions approving this transaction are now ready for consideration as Administrative Items. The City's Administration and Utilities Department recommend acquiring the Property. The City's Administration and Financial Services Department recommend the terms of the proposed loan.

Mr. Lunny explained that staff advertised a hearing to report to Council on the due diligence review for the subject transaction. Previously, on November 10, 2010, the City authorized a contract so as to obligate the seller to sell the property to the City for the stated price. The City is free to decide not to purchase the property and if it decides to do so, then it will obtain its deposit back. Since the staff report dated December 3, 2010 was written it is his understanding that those items referenced in 4.2, which is the Industrial Park Restriction, have been resolved. Therefore, the document will be signed and placed into escrow by the seller as well as the easement

modification which is referenced in Part 4 B. It is his understanding that the adjacent owner has agreed to those terms and will be executing a document to be held in escrow pending closing. Similarly, while we do not yet have the field work complete on the survey, the sketch and description looks fine. The environmental report, which is on file with the City Clerk, seemed clear and the appraisal has one outstanding correction and that is that the appraiser assumed that the zoning reflective on one of the maps showed that the property was half zoned B-6P, which is a limited institutional educational district, and the other half was ILP, which is industrial. The map was apparently an error and the Planning Department advised that the entire site is industrial. Mr. Keefe has discussed this with the appraiser and they have indicated that it will not decrease the value shown in this report. In terms of funding, on Monday the ten-year Treasury Note rate was 3.167%. Mr. Herriman was successful locking in a 3.25% rate of return for the SunTrust loan. There are some tax gross ups, which we were not able to negotiate out of that commitment, which are not atypical in terms of being customary. Those are that if Congress changes the tax legislation in a way that adversely affects that rate of return the bank has the right to seek an adjustment under the compensation it earns under the Note. Mr. Lunny believes that staff members who are able to answer questions think the due diligence is coming through pretty well and they would request that Council authorize this closing subject to the final review by Mayor Armstrong and Mr. Keefe.

In response to Councilman Fadgen, Mr. Lunny advised that the neighboring property on the easement agreement is 6741 Industrial, Inc. and the gentleman is Ed Ulyate (sic), based in Orange Park and represented by local counsel, George Moridis (sic) in Fort Lauderdale. If there were a prepayment penalty the rate would be 3.15%. Mr. Herriman's recommendation is that we have no prepayment penalty and the reason is because next year the City is evaluating a larger Utility and City related financing and depending on the rates then, they might wish to take this loan out. For one basis point you will pick up the ability to undo this and given what has happened lately on the ten-year Note, it seemed to Mr. Herriman that it would be worth the extra service expense.

In response to Councilwoman Bendekovic, Mr. Lunny clarified that he read the report for purposes of consistency. Mr. Keefe and an environmental person in the Utilities Department also read it. The summary is that there are no recognized environmental conditions that are disclosed by the consultant's research.

Mr. Keefe reiterated that the report says, "The Phase I environmental site assessment identified no recognized environmental conditions as to find in their standard in connection with this site." The property appraisal is $3.5 million and we are getting it for $2.475 million.

Motion by Councilman Tingom, seconded by Councilwoman Bendekovic, to approve Resolution No's. 11129 and 11130. Motion carried on the following roll call vote:

Ayes: Levy, Bendekovic, Uria, Tingom, Fadgen
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

Mr. Lunny read the resolution by title.

Resolution No. 11131

20. **RESOLUTION** APPROVING A 2,735-SQUARE-FOOT DAY CARE CENTER AS A CONDITIONAL USE TO BE LOCATED IN THE SPI-2 ZONING DISTRICT (ARTISAN COMMERCE) ON PROPERTY LYING IN SECTION 12, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND DESCRIBED AS THE NORTH 142 FEET OF THE SOUTH 177 FEET OF THE WEST 111.28 FEET FOR THE EAST 286.58 FEET FOR THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ LESS THE SOUTH 35 FEET FOR ROADWAY PURPOSES, SITUATE LYING AND BEING IN BROWARD COUNTY, FLORIDA; PROVIDING FOR CONDITIONS AND LIMITATION ON THE ALLOWED USE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

-AND-

SITE PLAN, ELEVATIONS AND LANDSCAPE PLAN FOR LA GREEN STARS PRESCHOOL AND ENRICHMENT CENTER LOCATED AT 4021 PETERS ROAD.

A Staff Report dated December 8, 2010 to the City Council from Planning, Zoning and Economic Development follows:

Request #1: Consideration of request for site plan, elevation, and landscape plan approval to bring the property in compliance with Gateway 7.

Request #2: Consideration of a request for a conditional use approval to allow a 2,735-square-foot day care facility in an SPI-2 zoning district.

Waiver Requests: From Section 13-40(4), 13-40(4) medians with a minimum of 10' in green area not including curbing shall be provided between double parking bays and shall be curbed.

Exhibits to Be Included: Review Committee report; subject site map; Conditional use/site plan application; and Review Meeting minutes of October 26, 2010.

Review Committee Recommendation: Approval subject to staff comments and additional revisions and comments. (9/0; October 26, 2010).

Analysis

The subject property is zoned SPI-2 (Artisan Commerce), 0.4 acres in the area, and developed with a 2,735-square-foot commercial/office building. The site is bound by vacant commercial property to the north and west and developed commercial properties to the south and east.

The City Council adopted Ordinance No. 2244 on April 10, 2000. This Ordinance provided for (a) reduced development standards in consideration of the existing site conditions along State Road 7, and (2) and expedited review process if the plan meets or exceeds the redevelopment standards. Because the site plan requires a waiver, City Council review is required.

The applicant is requesting parking lot and landscape improvements to meet the requirements of Ordinance No. 2244 and conditional use approval for a four-classroom 2,735-square-foot day care center. Interior and exterior renovations to the building are also proposed.

Staff Comments

Planning and Zoning:

Planning: No objection.

Zoning:

1. In General:
   a) Prior to issuance of the interior alteration-building permit, please provide a copy of Broward County Child Care Pre-Licensing Report.
2. Site Plan:
   a) The applicant has verbally indicated some proposed fence material indicated on the site plan may not be installed. Please provide an updated fencing plan prior to issuance of the parking lot improvement engineering permit.
3. Elevations:
   a) The existing south building elevation is painted (red) concrete block. Plantation Tropical Design requires a real brick façade, or at the very least, a stucco finish consistent with Plantation Tropical Guidelines. The applicant's most recent plan shows a painted multi-color rainbow and sun against a painted white background on the existing block.
      i) The painted block is not an allowable Plantation Tropical Façade material. Please infill the block area with an approved Plantation Tropical material such as brick (not veneer) or stucco with material color to be approved by staff prior to submittal of the exterior alteration-building permit.
      ii) The rainbow mural is defined as a super graphic (Section 22-4 of the Sign Code, "Definitions"). Super graphics are prohibited as per Section 22-50 (5) of the Sign Code. Please remove from building permit plans.
   b) Prior to submittal of exterior alteration building permits, obtain paint color approval (consistent with Plantation Tropical Design criteria) form the Zoning Department.
4. Signage:
   a) Signage is not part of this review. The applicant has been notified that separate sign permits are required.

Traffic Consultant: See Engineering

Engineering Department:

1. The traffic study submitted is acceptable. Please provide a signed and sealed copy of the traffic study.
2. Please provide detail for ADA ramp. *Will require at time of permitting.*
3. The gate located at end of the disabled crossing may not swing out, it must open in, please revise. All gates must provide at least three (3) feet of clearance when opening. *Gates have been modified. Any other conflicts will be addressed at time of permitting.*
4. All curbs must have rounded end, square ends are not permitted, please revise. *Most of the curb ends have been revised. The remaining ones to be revised at time of permitting.*

Permit Comments

1. An erosion and sedimentation control plan will be required and reviewed at time of permitting.
2. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.

3. Drainage calculations will need to be submitted, signed and sealed by a professional engineer registered in the State of Florida. *The calculations submitted need to be revised per the site plan, as the swales have changed. Also, under Design Criteria Quality, the analysis must be for dry retention, not wet, please revise.*

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 the Environmental Protection Department (EPD) 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:

Please Note:

If you would like the comments forwarded to you via e-mail, please call our administrative secretary Sue Reed @ 954-797-2246 or e-mail her at Sreed@plantation.org.

Site Plan:

1. As per City codes 13-40(4) medians with a minimum of 10' in green area not including curbing shall be provided between double parking bays and shall be curbed. Waiver required.

Planting Plan

1. Screen above ground utilities on the planting plan. This includes FPL boxes, etc. Please make a note to this effect on plans submitted.
2. Please note multi-trunk or standard with regards to the proposed Crape Myrtle trees.
3. The Live Oak tree to be removed must be mitigated for as per codes; mitigation is above and beyond code required trees.

Building Department:

1. ADA accessible route required from the public right-of-way to the building.
2. Complete Structural and MEP drawing required for permitting.

Fire Department:

1. This occupancy shall be protected by a "UL" listed commercial fire alarm system.
2. This occupancy shall be protected by an automatic fire sprinkler system. Not all portions of the facility are located within 150' from fire department access road as measured by an approved route.

Police Department: This project will have little or no impact on police services.

Public Works: No comments.

Recreation Department: No comments.

Utilities: No objection.

1. Prior to a Building Permit or Business License being issued, the following must be provided:
    a. Capacity Charges must be paid in FULL.
    b. Contact: Danny Pollio if you have any questions, 954-797-2159.
    c. No structures allowed in Utilities easement. Fence posts must be dug by hand due to close proximity to exiting vacuum line.

O.P.W.C.D.: No comments.

Waste Management: No comments.

Where applicable, the review of a conditional Use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code. The applicant is required to indentify the following:

1. A binding and buildable site plan that allows the Council to determine the architectural features and buffering needed to protect the surrounding property.
   Sealed licensed architectural plans are submitted.
   The applicant has submitted the required binding and buildable site plans showing exterior improvements.

2. The proposed conditional use will be consistent with the general plan for the physical development of the district including any master plan or portion thereof adopted by the Council.
   Yes, child care facility.
   The proposed day care center is a permitted conditional use within the commercial district.

3. The proposed conditional use will be in harmony with the general character of the neighborhood, considering population density, scale and bulk of any proposed structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. A present need for the conditional use must be demonstrated.
   Yes, all conditions will be met.
   Presently no other day care center is located in close proximity to the applicant's location. Retail, office, restaurants, and commercial establishment's are in close proximity of the proposed child care center.

4. The proposed conditional use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood, and will cause no objectionable noise, vibration, fumes, odor, and dust glare of physical activity.
   No, City codes will be violated by proposed usage.
   Throughout the City, child care centers are located within commercial districts and may abut residential districts.

5. The proposed conditional use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood.
   No, City Codes will be violated by the proposed usage.
   The proposed use should not be detrimental to the health, security, morals or general welfare of City residents or visitors.

6. The proposed conditional use will not, in conjunction with existing development in the area and permitted development under existing zoning, overburden existing public services and facilities.
   None, normal usage only.
   The proposed use should not have a detrimental effect on levels of services provided by the City.

7. The proposed conditional use shall meet all other specific standards that may be set forth elsewhere in the Code of Ordinances.
   Yes, all City Code will be met.

The applicant has agreed to meet all other specific standards that may be set forth elsewhere in the Code of Ordinances.

8. <u>The proposed conditional use shall disclose the square feet of use sought for approval so that an adequate evaluation may be made.</u>
   Yes, see licensed architectural plans. Building is 2,735 square feet.
   The proposed 2,735-square-foot facility will have approximately 33 students and operate five days a week. The hours of operation will be 6:30 a.m. to 6:00 p.m. Monday through Friday.

Mr. Lunny advised that one waiver is requested and that is concerning the landscape medians. The Code requires a minimum of ten feet in green area not including the curbing that has to be provided between double parking bays and this green area shall be curbed.

In response to Councilwoman Uria, Mr. Lunny indicated that the conditional use could be considered first and then the site plan.

Councilwoman Bendekovic made a Jennings Disclosure; she spoke with Mr. Green but it will not impact her decision. She has visited the property and they have renovated a blighted building.

Mr. Leeds stated that this is an existing building that appears to have previously been used for offices. The present applicant wishes to open a preschool and is renovating the inside and outside of the building. They are also installing a new parking area, an enclosure and landscaping to bring it up to Gateway Code requirements. The property is blighted and when this work is complete not only will there be an improved piece of property, there will be activity. There are minimal Zoning comments primarily relating to the color and stucco treatment of the buildings. Landscape comments are also very minimal and he has no objection to the one waiver requested.

Ms. Berchielli did not have any concerns with the waiver request.

Kenny Green, applicant, was present. He understands everything that is expected and concurred with staff comments.

Motion by Councilwoman Bendekovic, seconded by Councilman Levy, to approve the conditional use for Resolution No. 11131. Motion carried on the following roll call vote:

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

Motion by Councilwoman Bendekovic, seconded by Councilman Tingom, to approve the site plan, including the waiver. Motion carried on the following roll call vote:

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

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Mr. Lunny read the title and waiver requests.

21. REQUEST FOR SITE PLAN, ELEVATION & LANDSCAPE PLAN FOR CHASE BANK AT PLANTATION PROMENADE LOCATED AT 10199 CLEARY BOULEVARD.

A staff report dated December 8, 2010 to the City Council from the Planning, Zoning and Economic Development Department follows:

Request #1: Master site plan modification approval for Plantation Promenade

Request #2: Site plan, elevation and landscape plan approval to construct a 4,391-square-foot bank with drive thru facilities.

Waiver Requests:

1. Section 13-40(c)(2)(b): Landscape islands shall be a minimum of eight feet wide inside curb to inside curb. *Applicant proposes six feet wide islands in the eastern parking area.*
2. Section-40(c) (3): Terminal islands shall be a minimum of 10' wide inside curb to inside curb. *Applicant proposes 8'4" wide terminal islands in the eastern parking area.*
3. Section 13-41(a) (b) (c):
    a. The landscape pedestrian zone (minimum width of 10 feet, 50% of which shall be paved) shall extend the full width of each building façade that abuts a parking or vehicular use area. *No landscape pedestrian zone is provided adjacent to the north building elevation.*
    b. Thee trees are required in the south building elevation landscape pedestrian zone. Only *two trees are proposed in this area.*
    c. Four trees are required in the east and west building elevation landscape pedestrian zones. *Only three trees are proposed in these areas.*

Exhibits to be Included: Planning and Zoning Division report; subject site map; site plan application; Planning and Zoning Board Meeting minutes of October 5, 2010; Landscape Planning Review board Meeting minutes September 27, 2010; Advisory Board for the Disabled Meeting minutes of September 27, 2010; and Review Committee Meeting minutes of July 27, 2010.

Planning and Zoning Board Recommendation: Approval subject to staff comments and additional revisions and comments. (7/0; October 5, 2010).

Landscape Planning Review Board: Approval subject to staff comments and additional revisions and comments. (7/0; September 27, 2010).

Advisory Board for the Disabled: Approval subject to staff comments. (7/0; September 27, 2010).

Review Committee Recommendation: Approval subject to staff comments and additional revisions and comments. (9/0; July 27, 2010).

Analysis:

The subject site is located at the northeast corner of Nob Hill Road and Cleary Boulevard within the Plantation Promenade Shopping Center. The original master site plan was approved by City Council in 1986 and developed with approximately 184,000 square feet of retail, office, day care, restaurant, and personal service uses. Uses adjacent to the proposed bank site include:

	Existing Use	**Current Zoning**	**Future Land Use**
North	Credit Union	B2-P	Commercial
South	Residential	PRD-15Q	Single-family residential
East	Retail	B-2P	Commercial
West	Shopping Center	B-3P	Commercial

The applicant is requesting site plan approval to demolish approximately 8,256 square feet of the existing +/- 14,520-square-foot restaurant/retail building and construct a freestanding 4,391-square-foot Chase Bank. The proposed building is one-story in height with "Latte" colored stucco, beige and gray tone accents, and a barrel tile roof. A four-lane drive-thru is being proposed along the north side of the building and a by-pass lane. An ATM machine will be located within the vestibule located at the front of the building. For the entire shopping center and retail/office outparcels 955 parking spaces are required and 969 parking spaces are provided.

Staff Comments:

Planning and Zoning:

Planning:

1. As required in Section 20-61 of the City Code, the applicant must submit the required concurrency review form for parks, water, sewer, streets, drainage and solid waste prior to City Council consideration. The standard single-page form is available in the Planned and Zoning Department. The applicant must present the form to the appropriate City departments for approval and returned to the Planning and Zoning Department prior to City Council consideration.

Zoning:
Signage:

1. Signage is not part of this review. In addition, proposed signage does not meet code. Please remove all signs from building permit plans. Separate permits required.
    a. Please note: only two wall signs are permitted for this building. The front sign may be a maximum of 60 square feet in area and a side OR rear sign may be a maximum of 30 square feet in area. Logos are limited to a maximum of 10% of the allowable sign area and count towards the overall sign square footage. Permitted colors for this center are Arroyo red, Publix green, black, and red with matching returns and trim caps. Two signs and 4 logos are shown of which only 1 sign meets the code requirement.

Traffic Consultant: See Engineering comments.

Engineering Department: All comments have been addressed. Please forward a copy of the signed and sealed queuing study to Engineering.

Permit Comments – Submitted permit will not be reviewed again until Site Plan approval.

1. An erosion and sedimentation control plan will be required. Please meet with Engineering to discuss.
2. A separate Engineering permit will be required for the proposed new turn lanes and will include erosion and control plans as well as a Maintenance of Traffic (MOT) plan.
3. A demo plan and permit will be required with a building permit.
4. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
5. Please provide drainage calculations, signed and sealed by a professional engineer, registered in the State of Florida, as well as approval from OPWCD.

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. Landscape islands must be a minimum of 8' wide inside curb to inside curb – 6' proposed in the island in the eastern parking area. *Waiver requested.*
2. Terminal islands are to be a minimum of 10' wide inside curb to inside curb. The new proposed terminal islands in the eastern parking area where you are proposing the planting of Crape myrtle trees are only 8.4' in width. *Waiver requested.*
3. Landscape pedestrian zone to be a minimum width of 10'; 0' is provided on the north side of the building. *Waiver requested.*

Planting Plan:
General:

1. A pre-planting meeting with the Department of Landscape Architecture is required before any planting commences on the project; please add a separate note on plans as COP notes are often over looked.
2. Irrigation plans shall be submitted at time of permitting.
3. Include tree protection barriers for any/all trees or palms in the vicinity of construction; please use 2' x 4' post, 4' height, with 3 2' x 4' rails spaced equally for your tree protection barriers as per City codes. Please use, in lieu of those submitted, as the orange mesh with rebar in is not effective during construction.
4. Trees or palms to be removed or relocated will be verified by the City (prior to permitting).
5. Tree removal and or relocation permits must be obtained prior to the removal or relocation of any tree or palm; permits are issued directly through the Department of Landscape Architecture. Please note on plans.
6. As per City codes trees to be relocated shall be bonded to assure survivability (To be done at time of permitting).
7. Trees or palms removed must be mitigated for as per City codes; tree mitigation for trees removed will be above and beyond tree canopy for code required trees. Please submit proposals for mitigation for tree canopy to be removed.

Sheet LA-1:

1. One tree per each 30 lineal feet, or fraction thereof, is required in the landscape pedestrian zone along the north, east, south and west sides of the new bank building. You must also meet code requirements around the existing building. Trees in planting islands do not count towards required trees in the landscape pedestrian zones. Three palms is equivalent to one tree. Staff does not support waivers with regards to required trees in the landscape pedestrian zones. Four trees are required along the east and west landscape pedestrian zones – you are only proposing the equivalency of three trees. Three trees are required along the south landscape pedestrian zones – you are only proposing the equivalency of two trees.
2. A waiver has been requested to reduce the required landscape pedestrian width form 10' to 0' along the northern façade; three trees are required within this area; please provide a proposal for mitigation of these trees prior.
3. Please label all sod areas.

Building Department: No objections to site plan, elevation and landscape approval.

Fire Department:

1. Signed/sealed fire sprinkler plans and necessary permit will be required for removal of existing retail, showing demolition portion and remaining portion recalculated.
2. Necessary permit will be required for removal of fire alarm system in space #1.
3. As site plan stands, fie sprinkler protection will be required.

Police Department: No objections.

Recreation Department: No objections.

Utilities: No objection.

1. Prior to a Building Permit or Occupational License being issued, the following must be provided:
    a. Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
    b. BCHD and BC EPD Permits must be approved.
    c. Utilities Agreement must be executed.
    d. Utilities Performance Bond must be posted.
    e. Utility Easements must be executed.
    f. Utility Inspection fees must be paid.
    g. Capacity Charges must be paid in FULL.
    h. Contact Danny Pollio if you have any questions, 954-797-2159.
2. Must provide receipt or check copy for $2,000 deposit marked for Utilities Expenses to project cost recovery account.
3. Provide plan for vacating easements as necessary.
4. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.

Maintain all utilities and utilities easements for water and wastewater system access.

Public Works: No comments.

O.P.W.C.D.:

1. Old Plantation Water Control District requires an acceptable drainage plan with retention and runoff calculations and a construction drawing prior to issuance of a building permit.
2. Acceptance as-built drawings and a Certified Stormwater Inspection Report will be required prior to issuance of a certificate of Occupancy.

Waste Management: No objection; does not affect service.

Attorney Jon Voight and Cary Winningham, civil engineer, were present on behalf of the applicant.

Mr. Voight explained that part of the building is being knocked down and refitting something on there, which brings about the waiver requests. There will be two new access points. There is plenty of parking as a bank with a drive-thru does not require as much parking. He submitted color samples. Mr. Voight believed that there was nothing in the staff report that would be an issue. With regard to Fire Department requests; his understanding is that they have discussed the sprinkler system and they are widening the access so that a fire sprinkler system would no longer be required. He believes two of the three waivers are the cause of pre-existing conditions on the east side of what is remaining.

In response to Councilman Fadgen, Mr. Voight advised that the building the bank is in will be completely new and the building that is being demolished is only partially demolished. Customers will use the existing exit at the shopping center.

Councilman Tingom mentioned the drive-thru lane nearest the building and questioned what kind of sight there is when coming out.

Mr. Winningham indicated that upon exiting the drive-thru there is a stop bar allowing a clear line of site, at which time customers will be able to make a left turn to get out of the center.

Councilwoman Uria concurred with Councilman Tingom and wants to be sure that the landscaping in the green area does not hinder the line of sight when coming out of the drive-thru.

In response to Councilwoman Uria, Mr. Voight stated that the applicant is familiar with the staff comments.

Ms. Berchielli advised that due to the dynamics of the property it does not allow some of the Code to be met; therefore, staff has no concern in granting the waivers.

Fire Chief Harris was not aware if the access was resolved but they can work together on that.

Motion by Councilwoman Uria, seconded by Councilman Levy, to approve a request for site plan, elevation and landscape plan approval for CHASE BANK AT PLANTATION PROMENADE, property located at 10199 Cleary Boulevard, subject to staff comments including the waivers. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Mayor Armstrong reminded everyone that there will be a Council meeting next week.

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Councilman Levy was privileged to meet Elizabeth Edwards during one of her husband's campaign stops in the area. He wants to remember her for living life to the fullest right to her last day.

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Councilwoman Uria made the following comments:

- She announced that our two Plantation High Schools were upgraded; South Plantation High School from a D to an A and Plantation High School from a C to a B. She is proud that the schools have risen in the grades and congratulated both schools.
- A few weeks ago Dennis Conklin, resident, questioned what looked like a $26 million expenditure on the Bill List, which was researched by Mr. Herriman. Apparently there were over 400 accumulated transactions. It was suggested that in the future, if there is a major movement of money, perhaps an asterisk could be placed in order to identify those transactions properly.

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Councilman Tingom made the following comments:

- He concurred with Councilwoman Uria regarding the upgrading of the Plantation High Schools.
- He was very pleased that the Parks and Recreation Department will be in charge of the summer program next year.
- Judge Shutter is retiring.

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Councilwoman Bendekovic made the following comments:

- She attended a Plantation Isles Homeowners' Association meeting a few weeks ago regarding the canal problem. They had a very informative presentation by Allstate Resources and it was believed that the majority of the problem was created by the I-595 construction. The residents are not asking for any money, they are requesting that the City speak up and be more adamant about the role of the I-595 construction project. There is also a concern of what is going to happen when the buoys are removed from the canal; now they are having a dead fish problem. She questioned whether Council could meet with Allstate Resources.

Mayor Armstrong concurred that we can do more as a group than the residents can do individually. We have spoken with people from the I-595 construction and their response was that they disclaim any responsibility. That is why we are in a position of conflict in terms of the information that is being provided. There is no one that has an answer; everyone has a different position. We cannot say to FDOT, "You are the problem" but we certainly can bring them to the table and have them answer the questions while each of express our concerns.

Mayor Armstrong believes if there was clearly defined documentation that they were responsible for whatever it is, that they would take the responsibility to take care of it; however, no one has been able to say that the I-595 project is creating this specific problem. I-595 has meetings with representatives along the corridor and this is the place where that message can be carried and some kind of response can be brought back.

Mr. Butler indicated that staff is not certain whether or not an accusation that the source of the problem is an I-595 construction activity or whether it is another agencies mismanagement of their practices. There was a very large group meeting not to long ago; residents were in attendance and he thought it was a productive meeting. It promulgated a number of questions that need to be answered. He would not suggest that he would agree or disagree, in fact he was not even privy to the presentation or the company itself who apparently went on record to say that I-595 was the culprit; he would be very interested to hear that if that could be arranged. Perhaps it would be good for I-595 and FDOT to have a discussion with this company. He believed it was premature at this point to trust in the judgment of a company or in the defense of I-595. Staff has been exercising due diligence and has verified through the State that there is a permit process. It is a permittable activity to treat aquatics in tidal waterways; however, that is a subject to the review and approval of a choice of product through the Department of Agriculture.

Mayor Armstrong stated that she found some 1963 minutes regarding Plantation Isles documenting the same type of problem we are having in the canals. It was addressed at that time by the City of Plantation and Old Plantation Water Control District and the solution was assessed to the residents. Her concern is that the chemicals they used created a fish kill and the fish kill was worse than what was on the surface of the water. The information needs to be provided to Frank DeCelles, Public Works Director, and to staff; we cannot act on it unless we have in the information and recommendations.

Councilman Fadgen commented that during the aforementioned meeting it was learned that tests were done that indicated that there was too much fresh water in the canal, causing the plant life to grow.

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Councilwoman Bendekovic commented that a refresher course in the decorum of City Council meetings may be needed. Everyone should be reminded that there is a way to present themselves while in Chambers.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Rod Born, resident, submitted photographs of the Plantation Isles canals. He took video of the machine that goes into the canals and cuts the grass. The machine is not 100% efficient, as a lot of grass does not get picked up and it floats in. Around June 2010 one morning the canal was clear and the next day it was covered; it did not come up gradually. His argument is that this is cut material and the only place that grass comes from is along I-595/State Road 84. He rakes the grass out of the canal several times a week. He believes the solution is simple; some sort of a swinging boom could be put up at the entrance from the New River Canal into the canals. It could be removed and swung back in place then all of the debris would go out to sea and Fort Lauderdale would have the problem. He also noted that canals do not need to be dredged at this point. He would like to see the City of Plantation be more proactive instead of reactive; don't wait for things to happen.

Ann and Larry Ebbert, residents, indicated that there was a meeting on October 18, 2010, at which time action items were assigned and due back November 1, 2010. They have requested the results of the action items twice and are still waiting for a reply. They have had tests done by Allstate Resource and from Broward County for the last ten years. They have requested someone from the University of Florida interpret the documents emailed that cannot be interpreted. It has been said that Plantation residents own the canals; there are six different subdivisions. They believe the City needs to find out who owns all of the canals. This is a voluntary Homeowners' Association; therefore, they cannot make anyone do anything. They need help from the City and Code Enforcement. He feels the City should be more willing to help residents deal with other government agencies.

In response to Ms. Ebbert, Councilman Fadgen commented that making a special District might be an option so that all of the property owners would be considered as one unit and you would have an organization within yourselves to be an official voice of that grouping.

Mayor Armstrong advised that we know who owns every inch of those canals. It is on a list that will be made available. The problem is not who owns the canals; it is the condition of the canals and what should be done in order to find some mediation for those conditions. She will get a status of everything reported back to Council into a consolidated report.

Ann Ebbert questioned whether Old Plantation Water Control District could help with the cost.

Councilman Fadgen suggested researching options in forming a District.

Councilwoman Uria indicated that once the problem is identified, she would not have a problem having our attorney writing a letter to these entities; they have to have an impact plan.

Mr. Lunny clarified that the direction he is getting is that Council wishes to review this first and come to some conclusion prior to requesting him to do anything.

Councilman Levy suggested that Mr. Born get photographs of mowing done by the I-595 personnel. Then we need to get FDOT to look at this.

Councilman Tingom commented that the report from Allstate Resources does not state that the problem in the canals is caused by the construction at I-595. If it were in writing it would give us more leverage.

In response to Councilman Tingom, Mr. Ebbert stated that it was a verbal statement.

Robert Mulvaney, resident, commended Mr. Butler and believes he is doing the wise thing for the City. He is trying to make sure that the blame goes where it needs to go. The majority of things pulled out of the canal are the weeds and overgrowth, not the bottles, coconuts and bottle caps. He referenced case law Santana and believes that is the approach we should take. DNA can be taken and we could prove from a shadow of a doubt where the weeds are coming from. He noted that they were charged for dredging about seven years ago and he does not own the canal. Perhaps everyone should give the canals back to the City so that the City will own them and have to control them.

Hunter Thomas, resident, questioned the ownership of the canals.

Mayor Armstrong stated that there are multiple different ownerships throughout Plantation Isles as it relates to who owns all of canals and all of the bottom land. She will have it put onto a map for review. The information was gathered from the plat.

In response to Mr. Thomas, Mr. Lunny advised that the City does not plat properties. When developers subdivide their land in order to permit single family home sites there are certain regulations that were in existence then and upon complying with those regulations the City would be obligated to approve the plat and the same with the County. Platting is an administrative function and you are not required to dedicate to the public waterways such as these. As property was developed in this area, it was developed in stages; some of the plats were replatted. It is a rather large area of Plantation and he believes it is a little more than a section of land, but there are several different plats. The majority of the canals are owned by the citizens and the City has certain easements or the public has certain rights to use the water for navigation. Mayor Armstrong is correct. There is a portion of one canal that is derived from two plats that come together in the canal and his recollection is that half of the canal is dedicated to the public and the other half is not. There is some disparity of what happened and there is not a uniform answer but we can very easily develop a map and demonstrate who owns the land and then whether the public has any right to it. Everyone has user rights to the waterway. There is some confusion in the community as to legal fee simple ownership, who has easements and who has user rights by way of legal principles.

Mr. Thomas commented that perhaps the history of this development needs to be reexamined, fully explained and better delineated.

Mr. Lunny indicated that it is not a single development; it is numerous subdivisions in the area. He reiterated that the land that is commonly known as the Plantation Isles Community derives from numerous plats and the dedications and title history are not uniform. The majority is owned by the private sector and there are public easements or user rights to those waterways. If Mayor Armstrong would like a map developed to have it available for citizens to examine he is sure that can be done.

Councilman Fadgen stated that the map would clearly illustrate the ownership.

Mayor Armstrong concurred with Mr. Thomas and stated that it is perplexing to her too why it started one way and did not continue with every plat being the same. Every plat was done differently by a different developer who had a different idea as to how they wanted to develop their particular section of the Isles or the Harbor and that was the prevailing factor whenever it went through the County and went through the platting process.

He suggested having an ecological entity establish goals for the condition of the canals. He believes that the goals for the canals need to be described accurately.

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Dennis Conklin, resident, made the following comments:

- He mentioned the pension and noted that Mr. Herriman contacted him the next day. It basically came down to a computer programming issue and the money transfers were registered as manual or physical checks when they were electronic transfers.
- St. Thomas Aquinas will be playing Bradenton Manatee at the Brian Piccolo Stadium this Friday at 7:30 p.m.

- He encouraged that the City adjust the way they are doing pensions and get them into a defined contribution plan as quickly as possible.

Mayor Armstrong commented that there is another position on the other side that is totally different with a different set of facts and expectations. It is important for the public to understand that you are given a significant time at the end of the Council meetings to present one side and one position. At the same time there is another position that is equally as strong and viable that needs to be brought forward. That is why this Council makes decisions on a regular annual basis as to what is best and for the City of Plantation. The dollar amounts of the contributions that manage the fund over a period of time or less than or no greater than if the City had a contribution to make over that same period of time into a defined contribution plan. That is not necessarily the condition we are going to see going forward and that is why we are looking at all these issues.

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WORKSHOP - None.

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Meeting adjourned at 11:27 p.m.

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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