MEETING OF THE CITY COUNCIL
PLANTATION, FLORIDA

December 15, 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 Councilwoman Bendekovic.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Resolution No.11133

3. **RESOLUTION** of Appreciation to James Mester for 20 years of dedicated service to the City of Plantation.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Resolution No. 11133. Motion carried on the following roll call vote:

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

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Mayor Armstrong presented Service Awards to the following employees:

Officer Joseph Quaregna	Police	30 years
Robert Hazard	Public Works	25 years
Tanya Field	Library	20 years
Wilmer Moya	Information Technology	10 years
Hemsley Shand	Parks and Recreation	10 years

Congratulations were offered.

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Mayor Armstrong read a Proclamation designating Tuesday, March 8, 2011 as ***General Election Day*** in the City of Plantation.

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Mayor Armstrong read a Proclamation designating Tuesday, March 8, 2011 as ***Call of Special Municipal Election Day*** in the City of Plantation.

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Mayor Armstrong wished everyone a Happy Holiday and made the following comments:

- Winter Wonderland at the Plantation Historical Museum is open and is having Open House on Thursday, December 16, 2010 at 6:30 p.m. and on Saturday, December 18, 2010 between 10:00 a.m. and 3:00 p.m.
- The next City Council meeting will be on Wednesday, January 5, 2011.

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Representative Franklin Sands wished everyone a Happy Holiday and a Happy New Year.

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In response to Councilman Levy, Representative Sands advised that they were successful in having the septic tank legislation postponed. It was supposed to take affect January 1, 2011 through July 1, 2011, which will allow more time during the regular session to discuss the entire issue and hopefully put this matter to rest. There are a lot of technical issues involved and it requires a great deal of discussion.

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CONSENT AGENDA

Item No. 9 was pulled from the Consent Agenda prior to the meeting.

As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Item No. 13.

Mr. Lunny read the Consent Agenda by title.

4. Approve purchase of eighteen 2011 Dodge Charger cruisers from Maroone Dodge for a total of $406,062. (Federal Forfeiture Funds – Police)

5. Approve purchase of two 2011 Ford Rangers, XLT, 4 x 2 pickup trucks from Plantation Ford for a total of $25,524.10. (Federal Forfeiture Funds – Police)

Resolution No.11134

6. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors special assessment as evidenced by and levied pursuant to prior Resolution No's. 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0650; 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. (Asturrizaga)

Resolution No.11135

7. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors special assessment as evidenced by and levied pursuant to prior Resolution No's. 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0590; 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. (Cadeau)

Resolution No.11136

8. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors special assessment as evidenced by and levied pursuant to prior Resolution No's. 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an ad valorem folio number of 5041 01 02 0130; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement; making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Williams)

Resolution No.11137

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period December 2 – December 8, 2010 for the Plantation Gateway Development District.

Resolution No.11138

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period December 2 – December 8, 2010 for the Plantation Midtown Development District.

Resolution No.11139

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period December 2 – December 8, 2010.

Resolution No.11140

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period December 2 – December 8, 2010 for the City of Plantation's Community Redevelopment Agency.

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

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

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ADMINISTRATIVE ITEMS

Mr. Lunny read the resolution by title.

Resolution No. 11141

14. **RESOLUTION** IN THE CITY OF PLANTATION, BROWARD COUNTY, FLORIDA, AUTHORIZING AN AMNESTY PROGRAM TO ADDRESS CURRENT CODE ENFORCEMENT FINES INCLUDING THOSE CREATING A LIEN UPON REAL PROPERTY; PROVIDING FOR CONDITIONS; PROVIDING FOR A REDUCTION AMOUNT; PROVIDING FOR A TERMINATION DATE; PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

A report and recommendation dated December 15, 2010 to Mayor Armstrong and Members of City Council from Daniel W. Keefe, Assistant to the Mayor, and Priscilla Richards, Grant & Resource Development Manager follows:

ANALYSIS:

We recommend that the Mayor and City Council consider a resolution granting permission for staff to implement a Code Lien Amnesty Program for a period of six months, creating a mechanism to effectively deal with chronically non-compliant properties and liens associated with them.

Issue:

As of 9/30/10, there are approximately 229 active outstanding code liens. Of those properties, 148 are chronically non-compliant properties and create a continual negative impact on our neighborhoods and communities.

Background:

Code Compliance, Zoning, Landscape and Building Violation issues in neighborhoods have a direct effect on property values, aesthetic vitality, safety of life and property and quality of life for the residents. The mission of the Code Compliance Division, Landscape Architecture, the Building Department and Planning, Zoning and Economic Development is first and foremost to ensure that properties found in violation come into compliance.

The 229 properties in Code equate to approximately $8.3 million dollars in uncollected liens. In an effort to effectively bring these properties into compliance and address these liens, City Administration will implement a temporary Code Lien Amnesty Program that would ultimately require compliance as a prerequisite for participation in the program.

Analysis:

The proposed Lien Amnesty program would deal with open Code, Landscape, Zoning and Building Liens by releasing them based on the payment of a greatly reduced amount of the face value of the lien. The compliance aspect is addressed by only allowing participation to those properties that have been up to an approved compliance standard. While the program will undoubtedly result in some unclaimed revenue, it is more specifically intended to deal with those properties that continue to negatively impact the appearance of our community and the safety of our citizens. This will be ensured by a strict adherence to the program's condition for participation.

Those conditions are as follows:

1. Liens will be reduced by 80%.
2. Current staff and legal costs would be waived by the City. (Average waived fees would be approximately $800).
3. Any property admitted into the program must be in compliance (verified by staff) with all cited code violations.
4. Only the owner of the property or their legal representative can apply for the program (as verified by a recorded Certificate of Title or other official document.)
5. The program is only available for those liens recorded prior to January 1, 2011.
6. The program would only last for a period of six months from its adoption. (Program would anticipate to begin on February 1, 2011 and conclude on July 28, 2011.)
7. Reduced lien payment would be required within ninety (90) days; a payment plan agreement may be executed by the property owner for twelve (12) monthly payments.
8. If a reduced fine is paid but the property is not brought into compliance, fine will be refunded and original fine will be reinstated.
9. If the reduced fine is not paid the fine shall be reinstated.
10. The fee for an application to be included in the program is $100.
11. Liens that are the result of nuisance abatement and contracted services are not eligible for the program.

Fiscal Impact:

It is difficult to estimate the fiscal impact of the proposed program. We expect those owners of homestead properties who are already in compliance will be most likely to take advantage of the amnesty program. Staff anticipates approximately $300,000 to be generated as a result of this program. The program itself will be

managed by Administration. Due to current staffing levels and responsibilities, the day to day tasks of operating the program will require the services of will call employees. Staff anticipates a net positive impact on the general fund.

Attached is a spreadsheet that lists various examples of properties that have active code liens and the effect of different discount percentages if the Council would like to consider a different percentage discount than that recommended by staff.

Please contact me or Priscilla if you have any questions.

RECOMMENDATION:

Approve Resolution to allow a Code Lien Amnesty Program to be implemented beginning February 1, 2011 and ending on July 28, 2011.

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Mr. Keefe explained that several months ago a Code Amnesty Lien program was workshopped and a few meetings ago City Council requested that it be brought back for discussion. The following recommendations were made:

- Liens be reduced by 80% and current staff and legal costs would be waived, which on average is about $800.
- Any property admitted into the program must be in compliance with all cited Code violations. The purpose of the program is to try to gain compliance with the Code.
- Only the owner or their legal representative of the property can apply for the program. The program would only be available for liens recorded prior to January 1, 2011.
- The program will last for six months. If Council should approve, it is estimated that the program could be up and running with notifications to the property owners by February 1, 2011 and the six months would end on July 28, 2011.
- A reduced lien payment will be required within 90 days; if it is a large amount a payment plan agreement could be developed with 12 payments. Payments would have to be made or the lien amount would go back to the original amount. If a reduced fine is paid but the property is not brought into compliance the fine will be refunded and the original fine will be reinstated and if the reduced fine is not paid the fine shall be reinstated.
- An application fee of $100.
- Liens that are a result of nuisance abatement or contracted services will not be eligible for the program.

A spreadsheet was provided with a few examples. Should Council want the lien amount to vary from 70% to 90% those are basically the ranges that are seen with other agencies who have done this type of program. Six months seems to be the amount of time that is being used. The application fee ranges anywhere from $50 to $150.

Mayor Armstrong indicated that when this was workshopped there was a lot of information about comparisons with other Cities and that information was consolidated into this recommendation. There was some discussion about the appropriateness of this and mixed feelings. Within the context of the current semi kind of Amnesty Program, it is being done effectively within the parameters of the 25% that has been set by Council as far as authorizations, in order to settle Code liens. That is 25% including all costs associated with it. The costs vary

and the average was noted as $800. Some of the costs are higher as a result of banks closing out foreclosures. She would like Council to think carefully about the costs and whether we should include the requirement to re-establish the payment to the City for the costs that were incurred.

Councilwoman Bendekovic has had a concern regarding the dollar amount for several years. She does not believe that individuals who do not comply be held accountable on a dollar amount along with any staff and legal costs incurred. She strongly feels that the legal fees and staff costs should be included and the reason is that those cases seem to have an excessive amount of hours dedicated and it is counterproductive when staff could be working on other issues. She supports an Amnesty program for one time only; however, she would prefer to include the staff time and legal costs.

Councilman Fadgen stated that there are 229 active Code liens in place and 148 not in compliance. Not having costs might be easier to avoid legal costs and staff time and just make it plain and simple but the incentive will be there. He will probably be on the opposite side relative to legal costs and staff time.

Councilwoman Uria advised that the goal is compliance. We may want to consider having chronic violators pay staff time and legal fees. To have an Amnesty program and to make violators pay a $100 application fee along with staff and legal costs would not make this an Amnesty program. Somehow we need to consider that there are truly people out there who are in a hardship. She did not feel that there should be an across the board charge. She would prefer going with a $50 application fee and perhaps the hours could be reviewed.

Councilman Tingom commented that he is not in favor of the Amnesty program. The chronic abusers are the ones who are helped and he believes that staff time and legal costs should be recouped.

Mr. Lunny noted that an extensive discussion was held in the past regarding fines and enforcement of Codes. The City has many different options to enforce its Codes. It can issue a Notice to Appear; prosecute somebody in County Court and seek a fine or imprisonment; or seek injunctive relief, which is very expensive. The least expensive and the most taxpayer friendly method of enforcing the Codes is using the Code Enforcement process. The City has two venues for Code Enforcement; one is the Code Enforcement Board, which consists of volunteers who hear mostly neighborhood type cases and secondly, the Special Magistrate. The idea behind the Special Magistrate was more sophisticated cases and if the staff elected, they could request the Legal Department to prosecute the case for them in front of the Special Magistrate. Staff has been trained very well in order to avoid the Firm having to appear and prosecute the cases. When the Code Enforcement labor is done the fines accrue or they come into compliance. When they get to a certain number, $40,000, they go on a list and at some point the Administration or supervising department refers the case to the Legal Department for enforcement. Any case that the City is not in litigation with, collecting the lien or forcing the owner into compliance, those cases are the ones where you have established the Code Enforcement Fine Reduction process where they can come into compliance and get Administration to authorize up to 25% and if they are not happy with that they can go to the Special Magistrate or Code Enforcement Board and they have the discretion to reduce the fine further. Another thing that incurs legal fees is foreclosures. There are a tremendous amount of foreclosure cases and banks are suing the City of Plantation in an effort to eliminate City liens on properties. Some liens can be eliminated and others cannot be eliminated. A screening process was established with Administration so that they do not have to appear on certain cases. As he understands it, this process would only be available for cases which are not turned over to the Legal Department for an affirmative enforcement action. He understands that this process would not apply to cases where the City has told the Legal Department to pursue those cases and those cases would still be resolved pursuant to the Mayor's charter authority as she deems fit subject to the policies of the City. Council may want to have a different Amnesty program for repeat violators and suggested looking at Homesteaded properties. Code Enforcement liens do not attach to Homestead property. His thought

was if Council were going to adopt this program, do not adopt it to those cases that have been affirmatively assigned to the Legal Department and you may want to consider not allowing repeaters to take advantage. Most of the difficult cases are residential.

Mayor Armstrong commented that approximately 150 of the cases on the list are not Homesteaded properties and approximately 82 are Homesteaded.

In response to Councilman Fadgen, Mr. Lunny advised that a repeat violator is a person who has been adjudicated guilty by the Code Enforcement Board or Special Magistrate of committing a violation and then they are charged again for the same violation and again determined guilty by the Code Enforcement Board or Special Magistrate. Under our Codes we are able to fine someone up to $250 per day for the first violation and up to $500 per day for a repeat.

Councilman Fadgen clarified that the Amnesty Program would allow everyone to voluntarily get involved; however, if they are not in compliance they would be allowed to comply and then voluntarily get involved in the program. With regard to staff time and costs, perhaps they could be made subject to the same discount percent.

Mr. Lunny stated that there should never be any kind of amnesty without full and complete releases. The program submitted is not conclusive of the cases that have been sent to litigation. He wants to be sure that the program presented by Administration is not inclusive of the cases that have been sent to litigation. If the Council wants to have Administration consider doing that they can. For those who are thinking of legal fees as an issue, there are not a lot for the kinds of things that are now presented; there are some but they are not the kinds that result when cases are sent for active enforcement. There are reasons for active enforcement.

Councilwoman Bendekovic commented that the chronic ones are usually the ones that have the highest amount owed.

Mayor Armstrong noted that it depends on how you define chronic. If chronic is a long time for the case to be outstanding or whether chronic is as a repeat violator on the same violation. Some of the repeat violators get a Notice of Violation, correct and never come before the Board. Then two weeks later they get another Notice of Violation and correct again. The problem ones are usually the ones who come into compliance and repeat the same violation.

Mr. Lunny advised that the score sheet was designed to have a uniform and systematic way of trying to evaluate cases for reduction. His understanding is that all of that will go away for six months if you are in compliance and do the percentages that Mr. Keefe is proposing.

Councilwoman Bendekovic questioned whether residential foreclosures are still Homesteaded.

Mr. Lunny indicated that sometimes the bank tries to foreclose the liens and we do certain things to have the bank drop us as not being a proper party, asserting that our lien is superior to the bank lien, and then the foreclosure is complete. The problem is people come in to buy and say they cannot make the purchase because the property is not Homesteaded. Then they call the Mayor and the case is resolved. Those types of cases are also screened prior to sending to the Legal Department.

Councilwoman Bendekovic stated that she does not mind reducing the application fee if that will be an enticement. She does not like the negative message that eyesores send to investments. She believes that an excessive amount of staff time is required and understands that the legal cost is not that much. She would still like the staff time included. With regard to foreclosures, would the bank or the new homeowner get the consideration?

Mr. Lunny commented that we already adopted a special adjustment for banks. There was a very detailed analysis of how we were going to treat the banks and go through reduction and get to a number. The bottom line is that if we are in active litigation we have agreed to subordinate and the City has been paid for that, we have agreed to a release and recite and the City has agreed to be paid for that, and do that only if we felt we could reposition the property and help get it back to a productive purpose. There really is not a standard result because by the time it gets to the Legal Department it is so problematic and so odd that the usual systems of dealing with the property have failed; therefore, there is no rule as to how they are resolved. There are supervised by Mayor Armstrong, Mr. Keefe and the City Attorney and they do their best to act in an appropriate manner.

Councilman Fadgen recommended the $50 application with a 90% discount, including staff time and legal costs and we include repeaters and Homesteaded property as well as signed releases. He would suggest excluding the ones that are being pursued through the courts.

Mr. Lunny stated that this is being proposed by Mr. Keefe and if Council agrees he will make a few suggestions prior to implementation.

Councilwoman Bendekovic suggested 85%.

Mr. Lunny reminded everyone that Mayor Armstrong's adjustment is after all of the credits got applied. He also reminded Council that it was previously said that if a Building permit was needed that we would be able to eliminate up to 180 days of the fine accrual for that process. When following the fine reduction formula, credit has been given for time of accrual, for Building permits or site plans, a fraction for severity and cooperation, whether or not it is Homesteaded and when getting down to the last adjustment, Mayor Armstrong has the authority to move it a little further. He assumes an 85% discount might be too much after the adjustment.

Mayor Armstrong was of the opinion that the fine as it stands is the fine. With the Amnesty Program we will not be going through the forfeiture recalculation of days, numbers or dollars; therefore, the adjustment would not be part of getting to the number to which you apply the discount.

Mr. Keefe stated that the intent is to be a clean amount.

Councilman Fadgen believes compliance is what we want; therefore, the incentive has to be significant. He suggested staying with the 90%.

Councilwoman Uria questioned whether there are more problems with repeat offenders than chronic offenders. She requested clarification of repeat and chronic offenders. She suggested a $50 application fee, a 90% discount to include staff and legal time, as well as including repeaters and Homesteaded properties. The cases already turned over to the Legal Department would not apply.

Mayor Armstrong explained that many on the small end of the scale are repeat offenders that never get to the point of receiving a fine. The largest number of offenders are the ones that never comply; those are the ones that should reply to this program.

Councilman Tingom commented that we are dealing with less than 1% of the population. He was not in favor of the Amnesty Program.

Councilwoman Uria stated that neighbors begin to feel that their property values are being affected when some of the property owners do not follow the Code.

Councilman Fadgen questioned whether there was a way to have the offender bring the property into compliance and agree to keep the property in compliance on the issues addressed for a certain period of time. There would probably have to be a penalty.

Mayor Armstrong noted there would probably have to be a new penalty because the lien would already be signed off.

Mr. Lunny stated he is trying not to have conditions.

Councilwoman Bendekovic concurred with Councilwoman Uria; eyesores are a problem and we need to make sure that all of the offenders are notified.

In response to Councilwoman Bendekovic, Mr. Keefe advised that two or three attempts are made by certified mail and if nothing is received within 30 days phone calls are made to be sure that everyone is notified of the program.

Mr. Keefe restated the conditions as follows; the liens would be reduced by 90%, staff and legal costs would be reduced by 90%, the Amnesty Program would last for a period of six months and the application fee would be $50, no properties as a result of nuisance abatement or assigned to the Legal Department would be included in the program.

Mr. Lunny indicated that approval of this resolution will allow him and Mr. Keefe to implement and rewrite the resolution along the lines discussed.

In response to Councilman Fadgen, Councilwoman Uria commented that hopefully the offenders would know they need to remain in compliance. As far as the notification, which she believes should be certified; the Sun Sentinel could do an article, as well as the Forum and the City website.

Mr. Lunny mentioned the cost of certified mail. He believed that an indirect method would be better than sending the notice by mail because a lot of times the property turns over and the Ad Valorum Tax Roll is used in an attempt to contact the person where the lien might be and that may no longer be effective. There will always be some residents who say they were not notified and they will be correct.

Mr. Keefe stated they were not planning on doing certified mail to begin with. We will do the same as other communities.

Councilwoman Bendekovic does not have a problem with how it is done just so the property owners get notification.

In response to Councilman Fadgen, Mr. Lunny advised that Item #9 will have to be brought back because the Code Enforcement Chairs suggested some changes that need to be added.

Motion by Councilwoman Uria, seconded by Councilman Fadgen, to approve Resolution No. 11141 with a $50 application fee, a 90% discount to include staff and legal time, as well as including repeaters and Homesteaded properties. Motion carried on the following roll call vote:

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

Larry Ebbert, resident, was present. He commented that he is tired of hearing about the Amnesty Program and noted that if people are in violation they should pay the fines.

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LEGISLATIVE ITEMS - None.

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QUASI-JUDICIAL CONSENT AGENDA - None.

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QUASI-JUDICIAL ITEMS - None.

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COUNCILMEMBERS' COMMENTS

Mayor Armstrong reminded everyone of Santa's visit on Christmas Eve.

Mayor Armstrong and Councilman Levy wished everyone a Merry Christmas and a Happy Hanukah to those who have celebrated it.

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Councilwoman Uria wished everyone a Happy New Year.

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Councilman Tingom and Councilwoman Bendekovic wished everyone a healthy and prosperous New Year.

In response to Councilwoman Bendekovic, Mr. Lunny stated that Mayor Armstrong requested that he pass out Resolution No. 7374 to reacquaint the Council members with its terms.

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Councilman Fadgen wished everyone a Happy Holiday and a Happy New Year.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Attorney Bill Laystrom was present on behalf of the Stiles Corporation for One Plantation Place. They have filed an application to move forward on the project. With the economic situation as it is today, the project has been altered. They are proposing to build an apartment building on the furthest south portion of the property, redevelop the shopping center and get McDonalds moved so that ultimately their final phase would be putting the mixed use project in the center of the property. They have run into what he calls threshold issues and he has been told that they cannot move forward to the Planning and Zoning Board. They filed for the Planning and Zoning Board timely in early November for the December meeting. He and Mr. Leeds agreed that because this is a very large project that they would do an additional development review meeting, which they have. They are now prepared to resubmit and were told that because there were no items on the Planning and Zoning Board agenda that the meeting has been cancelled. He has two requests; the first is to allow them to proceed forward with those threshold issues. He agrees that he has to have the plans in order on the technical issues and the second, is that since there was no meeting that they would allow Administration to poll the Planning and Zoning Board members to see if they would mind scheduling a special meeting since there was no meeting in the latter part of January so the matter could move forward. The financial market present today has a window of opportunity to get this project moving forward and any lost time is difficult. The threshold issues might prevent them from attending the February Planning and Zoning Board meeting as well. Those issues include how many units they should have, how the building looks and some other issues. He is just requesting to move forward through the process, not that Council commit or agree that the project is good or bad. They have met with staff on numerous occasions and have made tremendous progress on other issues. This is a $60 to $70 million project counting both the apartment building and the rehab to the shopping center.

Doug Egan (sic), with Stiles Corporation, seconded Mr. Laystrom's request to move forward. He indicated that the current market is not accommodating and dictates if you do not move with some kind of urgency that you probably will not get the project done. This project is in excess of $50 million that will go on the tax rolls.

Mayor Armstrong explained that these types of items and requests need to have a Council sponsor and staff has to be able to prepare something so that Council can make a clear decision. This project is extremely strong and there is major change; therefore, this request is not appropriate at this time. She assured that staff does not take a position on not moving a project forward when everything is complete, submitted and the issues have been dealt with to a point that there is a strong comfort level so that they can put together a recommendation. She guaranteed that they will continue to work with the developer in order to resolve the issues.

Councilwoman Bendekovic stated that she had a conversation with Mr. Laystrom approximately six months ago and it will not affect any decision should one be made tonight.

Mr. Laystrom was not disagreeing as far as issues that have to be decided; he does not believe there was ever a philosophy that says when someone wants more units and the other wants less that they cannot move forward to the Planning and Zoning Board. Those are what he calls threshold issues. Even under the schedule he is proposing, they are going to continue talking with staff and he may not get to Council until March or April. There is plenty of time to continue discussing the threshold issues as well as any new technical issues that come up. He reiterated that he does not think there is anything in the Code that prevents a project from going forward if its plans meet the Code as far as technical requirements go or you request a waiver.

Mayor Armstrong commented that the project has never been stopped in the process; it is in the process and is very much being processed in terms of dialogue, getting information and getting questions answered. Once all

of the things are in place they offered to call a Special Planning and Zoning meeting in order to make the accommodation.

Mr. Laystrom indicated that they are not planning on making changes until they have an opportunity to show the entire package. Staff has identified the issues and they disagree.

Mr. Leeds advised that when the project was originally submitted there were at least 20 pages of comments, most of them relating to technical items that were either missing or unclear. Their first recommendation was to defer this to the next Review Committee meeting until the plan was made complete or more complete. As a courtesy to Mr. Laystrom, Mr. Leeds did not defer the plan and stated that they would have a special informal Review Committee meeting, which they had on December 10, 2010 for four hours. In addition, prior to that, they would have a special meeting just with the Zoning Department, which was on December 3, 2010. Mr. Laystrom has indicated that they are ready to submit a plan for re-review next week and they will look at that plan. They never said that they would not take it to the Planning and Zoning Board. Mr. Leeds stated that until they see the plan they do not know whether they will get to the Planning and Zoning Board. If the issues are addressed the soonest they can get there is the beginning of February. Again, they have to see the revised plans. In addition to a site plan they have extraordinary advertising requirements for a flex unit allocation, which is part of this project. The comments also have to be given to the Planning and Zoning Board at least one week before the meeting. This building will have a useful life of approximately 40 years. The City wants to make sure the building is viable in five, ten or 20 years from now; however, this building will last twice as long. It will be located at University Drive and I-595 and will be the first building people see coming from downtown or the airport and heading on I-595 west into Plantation. The current design, without making comments on the quality, is below the design standards of both Veranda and the Residences at the Fountains. Currently the plans do not meet the same articulation and the same material treatment as the American Land Ventures project. If the design process continues and this building remains as is, this building will set the bar for every single residential building in Midtown to come. At some point in the future Phase 2 of Veranda will be developed and The Residences will be revisited. Whatever is done here will be the bar; it is a permanent location, it is a large project and the City wants the project; however, there are concerns regarding the design, landscaping or absence of it and whether there is sufficient parking to sustain this and make it a quality rental project ten years down the road. The plans will be reviewed next week when they are submitted and if the threshold and non-threshold issues are corrected, the plan will move forward.

Mayor Armstrong would like to assure that the project will continue to move forward as expediently as possible.

In response to Councilwoman Bendekovic, Mr. Laystrom indicated that they are going from 500+ flex units which were originally proposed to 300+. They have a building that is stand alone because the shopping center next to it is not going to be developed at the same time; therefore, they have been told that they can only have 40 units or 90 units and their position is that they are already vested for 534 units. That is not going to change.

Councilman Tingom stated that the request will be considered.

Councilman Fadgen likes the fact that the Stiles Corporation is continuing to have faith in the City. Quality is going to be an issue. Time is money and he believes we need to try to accommodate. The time frame is short and the types of changes are significant but from his standpoint he believes that we should allow a special Planning and Zoning meeting in January 2011.

In response to Councilwoman Uria, Mr. Laystrom commented that if he is not allowed to appeal disagreements he has with staff he will not be on the February meeting and he was hoping for two weeks. Once he goes to the Planning and Zoning Board that will give him two weeks to get ready for Council. He will pay for the cost of publication so we could publish now and cancel the meeting if, at the end of Mr. Leeds' review of the plans, the technical part did not meet the agreements they had in the last meeting.

Mr. Lunny indicated that the concern is that there is a process to make informed decisions and no one knows all of the issues that are being debated. To say this will move forward at such a pace might impact the quality of decision making. He is concerned about the resolution in front of Council and that they do not know what the differences are. Perhaps there should be a special meeting to have them written and documented. To do this without knowing and having the plan presented in a thoughtful way is a concern for precedent.

Mayor Armstrong stated that without a qualitative review it would be very difficult for Council to recognize what we have had in place today that set the standards for us.

In response to Councilwoman Uria, Mr. Laystrom advised that the process was completely approved the last time. Currently they have fewer units than proposed. He would consider a different Planning and Zoning Board meeting date; perhaps January 18 or 25, 2011.

In response to Councilwoman Uria, Mr. Leeds indicated that they are very happy to see the Stiles Corporation come to Plantation and make such a substantial investment. He thinks a lot has been achieved but they have not reached a consensus on certain issues. He believes it is premature to have this discussion prior to receiving the plans. Even if the plans are in and they address threshold and non-threshold issues, he still needs to route them to all of the departments, which will be done the day before Christmas. He will have to get their comments back, complete the review, require up to two weeks advertised notice for the flex allocation, and fit in the Landscape Planning and Review Board. If you require us to put this on in January, and this assumes that the plan works, we do not have enough time to do a proper review. That is why he is saying the soonest this could happen is the first Tuesday in February. It forces staff to do a less than satisfactory review. The review is mostly based on Code and most of the threshold issues are things that are part of the Midtown Code, which was adopted by Council. He believes January is a time compression issue. He suggested waiting until the plan is submitted next week and then he will revisit the issue with Administration. To come to a solution tonight is premature.

Councilman Fadgen believed that Council should authorize a special Planning and Zoning Board meeting on January 18 or 25, 2011 if all of the items are submitted. If the documentation is not sufficient the item would be tabled until the February meeting.

Councilwoman Uria did not have a problem with a special Planning and Zoning Board some time in January.

Councilman Levy believed this discussion was out of order because Council does not have any information. Major items are being discussed. This is a precedent setting development because it is a gateway area of our community; it is too important to rush through. He does not want to be asked to make a decision prior to staff doing a thorough review and knowing that it fits the standard for the Midtown development area. He would like to see what the Plantation Midtown Development District Advisory Board thinks as well as the Planning and Zoning Board. He does not want to direct a time frame when he does not know the issues that are causing a concern with the time frame. Staff is saying they will work with you and do this as fast as possible.

In response to Councilman Levy, Mr. Laystrom advised that they will go before the Planning and Zoning Board on January 18 or February 1, 2011 and it will not come before Council until March or April 2011.

Councilman Tingom concurred with Councilman Levy.

Councilman Fadgen believed that we should proceed as rapidly as possible and strive to get a meeting with the Planning and Zoning Board in January 2011.

Mayor Armstrong assured that they will stay on top of the issue and be sure that it gets moved expediently.

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Warren Meddoff, resident, expressed serious concerns regarding legal activities. At the suggestion of Council, he placed a public records request. Certain items came up in the answer to that request such as the City Attorney is an at-will vendor, not a contractual agent of the City. His request to examine legal billings from the City Attorney and his firm from the past fiscal year to date was being held in advance for an undetermined time so that they may be redacted. These are public records and public billings of over $600,000 and he feels that the City has an obligation to allow its bills from a vendor to be examined. He then made an inquiry to the Bar Association in Tallahassee, to attorneys with the Department of Justice who he is in correspondence with and to the Attorney General's Office. He requested Council to make a statement that there is nothing hidden in those legal billings that they wish to keep from the public. He also requested that Council send a message that it endorses proper ethics and transparency and ask the client to waive that privilege and allow the examination of those legal billings to this City that were made without a contract and without written memorandum that anyone could recollect.

Councilman Fadgen commented that in the view of our City Attorney, if redactation is required, he supports him. The billings are public records and he believes they will be supplied, as a request has been made.

Mr. Lunny explained that the City indicated that it would be happy to furnish the statements, redacted if appropriate and in accordance with law, upon the payment of a lawful deposit. The deposit has not been received and until it is received there will be no effort in this regard unless the client authorizes him to do so. The records are not being withheld and if anyone has an issue with what is being done, he would be happy to talk to them. His suggestion is that the comment be noted and the meeting moves on. The response has been clear and is in accordance with law.

In response to Councilman Fadgen, Mr. Lunny stated that a deposit is customary in all large public records requests.

Mr. Meddoff reiterated that this is a matter of ethics and transparency. In an effort to move this along he will be happy to give a deposit and he is requesting that the Council waive the privilege and allow examination of those documents.

Councilman Fadgen advised that he is not going to waive any privilege. The normal procedures are in place and he recommended that they be adhered to, as the City will adhere to them.

In response to Mr. Meddoff, Mr. Lunny indicated that this is not about transparency and ethics. The City is allowed to do what is occurring; the City has the perogative of trying to ensure that appropriate confidential or privileged information is withheld. This discussion is an attempt to cause embarrassment and it should end.

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Dennis Conklin, resident, reminded everyone that on this date in 1791 the Bill of Rights was ratified.

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Larry and Ann Ebbert, residents, advised that Code Enforcement was contacted regarding Code infractions that can be viewed from Ron Brown's residence; however, no one showed up. During the previous City Council meeting they were told that there is a map that shows ownership of all of the canals, but in speaking with Mr. DeCelles, Public Works Director, he advised that there is no map.

Mayor Armstrong indicated that plats were put onto a map; she will work on getting the map. The issue is not related to who owns the canals, it is related to trying to make a determination of the problem and then to find a solution. Then we need to know if a special assessment will be attempted. Currently the problem is not as obvious due to the cold weather, but it will come back up.

Mr. DeCelles advised that he personally went to Planning and Zoning and pulled the plats for every one of the properties for the Isles and the Harbor and read the dedications on the plats and made comments and notes to go back. Arial views were recorded of those areas and copies of the plat dedications. That information was forwarded to Administration as per their request. There is no map that Mr. Ebbert's was talking about. Mr. DeCelles indicated that a map could probably be made once all of the decisions were made about what kind of discussion is needed. Some of the dedications on those plats say that the landowner owns into the canal and others in Harbor do not distinctly say that they own into the canal. There is no confusion; the comment was that there needs to be consistency the tidal waterways; the majority of the plats said the homeowners own out to the middle of the canals and there are plats that do not distinctly say those words. They say the canals are offered to the public for their use. He told Mr. Ebbert where to go if he wanted to know exactly what the plats say and suggested that he pull the plats and look at the dedications. He also noted that copies would be available.

In response to Mayor Armstrong, Mr. Ebbert noted that he emailed pictures to Mayor Armstrong, Dan Keefe, and to the Council members. Mayor Armstrong adamantly denied receiving any pictures.

Councilwoman Bendekovic received something that was forwarded from Mr. Keefe. She did not receive any pictures. She noted that she would like a letter from All State.

Councilwoman Uria received a letter from South Florida Water Management District; however, she did not receive any pictures.

In response to Councilwoman Uria, Mayor Armstrong stated that Mr. Butler, City Engineer, has been in contact with FDOT and that the companies have an impact plan. FDOT is monitoring the project.

Mr. Butler advised that he has requested that FDOT present information regarding the breach. As of this date he is still waiting for better direction from the Department of Agriculture on the use of certain products. He is very interested in speaking with a representative from All State. He stated that they have been doing a genuine effort to gather information within a time frame. He assured that this information will be obtained.

In response to Councilwoman Uria, Mr. Butler suggested that it is not necessary to reach out to every single contractor that FDOT may have under their direction. It would be easier by simply asking FDOT directly to produce information that may be relevant to understand as to whether or not the breach was an issue and to give us some assurance as to how they manage environmental control during the course of construction. He will take personal responsibility and take care of that.

Mr. Ebbert commented that he had a conversation with Paul Lampley (sic), who said their impact statement was online; however, it does not say anything about the vegetation they were going to strip and what that might do to various canals.

Mr. Butler did not believe FDOT would have been performing maintenance work in the canal because he would presume the South Florida Water Management District would be doing that. He will do his best to find out who is performing those activities.

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In response to Mr. Ebbert, Mayor Armstrong advised that all of the parks are off limits to pets by Council ordinance.

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Mr. Ebbert commented that he called Planning and Zoning and received a voicemail; however, no one had the courtesy to return his call. They are trying to set up a candidate's night for the Homeowners' Association on January 25, 2011; he has gone to the Community Center three times in an attempt to schedule and was told twice that staff has no authority to set a reservation, that he had to speak with Greg Pollins, as he was the only one who could make reservations. In speaking with Mr. Pollins, he stated that he had to contact Survivors of Cancer to see if they would share the main hall and that he would get back with him. As of the date of this meeting, there has not been any contact.

In response to Councilwoman Bendekovic, Mr. Romano advised that he would check on the date for the candidate's meeting. Typically, depending on how many are attending the meeting and the size of the room, determines where the group will be directed. It was noted that they would like Deicke Auditorium instead of the Community Center.

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Meeting adjourned at 10:26 p.m.

_____
Jerry Fadgen, President
City Council

ATTEST:

_____
Susan Slattery
City Clerk

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Minutes was received by the Office of the City Clerk and entered into the Public Record this _____ day of _____, 2011.

_____
Susan Slattery, City Clerk