

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

**July 24, 2013**

The meeting was called to order by Councilman Robert A. Levy, President of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Jerry Fadgen Ron Jacobs Robert A. Levy Lynn Stoner Chris P. Zimmerman
Mayor:	Diane Veltri Bendekovic
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

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**ITEMS SUBMITTED BY THE MAYOR**

3. **Resolution No. 11716**

**RESOLUTION** of Appreciation to Captain Brian Hager for 27 years of dedicated service to the City of Plantation.

*Motion by Councilman Jacobs, seconded by Councilman Fadgen, to approve Resolution No. 11716. Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy  
Nays: None

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Mayor Bendekovic presented Service Awards to the following Employees:

*Jo Kokofsky	Police	35 years
*Michael Kosters	Public Works	25 years
Frederick Murray	Public Works	25 years
*Captain Joseph Gerwens, III	Police	25 years

*Officer James Hamilton	Police	20 years
*Derek Humes	Public Works	20 years
*Sharon Nelson	Parks and Recreation	15 years
*Officer William Edwards, Sr.	Police	15 years
*Officer Jay Kowalewski	Police	10 years
*Paul Fung Chung	Utilities	10 years
*Vickie Hammett	Police	5 years
Joseph Ramirez	Public Works	5 years
Joel Rosen	Utilities	5 years

\*Unable to attend.

Congratulations were offered.

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

- The Mother and Son Hoe Down will be at Volunteer Park on August 2, 2013.
- Kids Camp Program will be begin on Monday August 5, 2013 through Friday, August 16, 2013 at Plantation Central Park.
- The Senior Zone Championship Swim Meet will be at the Plantation Aquatic Complex from Monday through Friday, July 29, 2013 through August 2, 2013

Councilman Jacobs advised that he received a petition about continuing the Senior Aerobic Training Program at the Jim Ward Community Center.

Mr. Romano indicated that they get a CDBG Grant through that program and it always runs out this time of year. From what he understands from Mr. Leeds, it was reapproved and the program will continue again next year. It is a free aerobic program offered to seniors Monday through Thursday for two hours.

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Mayor Bendekovic introduced Colleen Bodd (sic) with the Plantation Booster Club.

Ms. Bodd stated that parents believed that a new scoreboard was needed and over the last three years they promised \$25,000 to the City of Plantation to help with that. The donation was actually \$28,950 towards the budget a little less than \$100,000 which includes the starting blocks for the pool and the scoreboard.

Mr. Romano thanked Ms. Bodd for the donation. He noted that this donation works in conjunction with Consent Agenda Item No. 5.

Councilman Levy commented that the amount requested in Item No. 5 is reduced by \$28,000.

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Mayor Bendekovic made the following announcements:

- The Florida League of Cities annual conference is from August 15, 2013 to August 17, 2013 at the World Center Marriott Orlando.

Councilman Levy advised that he would not be attending this year.

Councilman Fadgen stated that he would be unable to attend.

Mayor Bendekovic requested that everyone look at their calendars and get back with her.

- The Plantation Farmer's Market is at Volunteer Park every Saturday from 8:00 a.m. to 2:00 p.m.
- The Mother Son Hoe Down will be on Friday, August 2, 2013 between 7:00 p.m. and 9:00 p.m. at Volunteer Park.
- The Broward County Property Appraisers Community Outreach event is every Wednesday in August from 12:00 p.m. to 2:00 p.m. at One University Drive.

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Mayor Bendekovic introduced State Representative Jared Moskowitz.

Representative Moskowitz provided the following Legislative update:

Plantation has four or five different State Representatives; three County Commissioners and two Senators.

- Pensions – The speaker of the House and the Republicans had an idea of getting rid of the State Pension Program, which is ranked third in the Country for being one of the best pension programs. They wanted to do a more corporate 401k. That passed the House and died in the Senate.
- Parent Trigger – For the third year this passed in the House and died in the Senate. Parent Trigger was an idea that parents could, through petition, take over a public school. This has only happened in three schools in the entire country yet this Bill would have allowed that to happen in 15 schools in Miami Dade.
- Education Funding – Millions of dollars have been cut in education year after year. This year Broward County will receive \$404 more per student; a billion dollars statewide back into education.
- Pay Increases – Teachers will receive an increase in pay of \$2,500.
- State Employees – They will receive \$1,000 to \$1,400 increased pay; they have not received an increase in six years.
- He voted for the budget this year as did a lot of people in the Democratic Party because of all of these new dollars going to things that we have been fighting for for years.
- Fracking Bill – Fracking is permissible in the State of Florida although it is not happening. A Bill was going to tell the companies that they had to put on a website what chemicals they would pump into the ground if they would frack in the State. This Bill was sponsored by the majority and it passed. The next Bill proposed by the same Representative would have given the companies a waiver from having to post those chemicals and the amounts of chemicals on the website. Those actually read the Bills exposed that and it was pulled from the floor. The only thing that passed from the House was that they would have to disclose it. Both Bills ended up dying and nothing was done. This will probably come up again next year.

- Medicaid Expansion – This is dead; there is nothing to report. The minority party, the Senate, the Governor and the business community wanted to take Federal funds and the only people who did not want to take Federal funds were the Republican majority in the House and that is why it is dead.
- CST Tax – All cities get revenue from the CST tax, which is the Communication Sales Tax. There was talk that this was something they were looking to do away with. It did not get a lot of traction this year. They are looking at trying to phase it out at the State level but maybe not at the local level.
- Small Business Fairness Act – This is known as the Mainstream Fairness Act or the Internet Sales Tax. The fact that our local businesses have to compete with internet businesses yet our local businesses who are headquartered have to pay the tax where the internet companies do not have to pay the tax. It is a competitive disadvantage. His Bill did not get heard but the Chairman of the Finance and Tax Committee took his bill and made a Committee Bill out of it; it passed at a Committee and never made it to the floor. A Senate Bill came about and it passed. That issue did not go anywhere but it was as far as it has ever come. Washington D.C. is talking about dealing with this issue on the Federal level. This is something to follow over the next couple of years.
- Animal Cruelty – This was brought to him by State Prosecutors and Sheriffs. As the law stood, if you abused an animal or multiple animals multiple ways it was only one count of animal cruelty. This was a major problem. The Bill proposed that passed unanimously in the House and the Senate and the Governor signed and it became law would separate the counts and it is now multiple counts. People are looking at much harsher penalties and hopefully it will act as a deterrent. Dog fighting can be prosecuted under the RICO Statute.
- The Governor signed a Bill and one of the implications of that bill was that it reversed the 47 year old ban on dying of baby animals. Everyone realized this was a mistake and unanimously in the House, the Senate passed that in the Bill and the Governor signed it.
- Memorial for Bob Levinson – Mr. Levinson was kidnapped and held captive in Iran for over six years. In the next couple of months he will be the longest held captive of anyone in American history. A memorial is something sent to Washington asking them to do more. That passed the House and the Senate unanimously.
- Flag Etiquette – This came from the Police and Firefighters which would give the Governor authority to lower the State flag when a firefighter or police officer is killed in their line of work.

Next year the big issue is gambling. This is a regional issue and everyone is paying attention to this. The debate seems to be on who is going to get what and how much. The thought process is either everyone is going to come to the table and agree or everyone will walk away with nothing.

An issue that does not affect the City was the Miami Dolphins issue. They were supposed to get money and they did not get it. This was a good lesson on Tallahassee and how politics work. The Miami Dolphins, the Jacksonville Jaguars, the Daytona Speedway and Emales Soccer all applied to get dollars for different reasons. They started as different issues and they all migrated into one Bill. In the Senate the Bill was moving forward but for some reason the Senate decided to strip the Miami Dolphins out of the Bill. They took out the referendum that would have allowed the voters to decide whether the Dolphins would get some dollars. That Bill came to the House without the Miami Dolphins issue it split the Miami-Dade caucus. Some of the Miami-Dade members were furious and asked how they could be taken out of the Bill. Other members were happy because they did not want any money to go to the Dolphins. The speaker of the House saw this issue and never brought the Bill up. No one got any money.

Councilman Fadgen encouraged Representative Moskowitz to be vigilant on the unfunded mandates on cities.

Larry Ebbert, resident, was present. He questioned which section of Plantation Representative Moskowitz represents and which district he was voted in from.

Representative Moskowitz stated that it is District 97. He represents west of Flamingo Road; he only has about four neighborhoods in Plantation.

In response to Councilman Levy, Representative Moskowitz indicated that he also represents Coral Springs, Tamarac and a small part of Sunrise.

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Councilman Levy advised that the agenda is scheduled to have a Workshop; however, FP&L indicated that they were not informed prior to yesterday and since it affects a lot of what they do they are requesting that this item be deferred.

Mayor Bendekovic stated that she would allow Legal Counsel to explain what can be done. She has also received calls from AT&T and Rick Case.

Mr. Lunny explained that the Workshops have been time for staff to show a work product to Council and get direction to advertise an ordinance, which is the beginning of the Legislative process. That is the intent tonight; however, under the new Right to Speak Law people have the right to speak on Workshop items because they are a proposition we are requesting be advertised. It was staff's intent that if the Council likes the structure to then meet with the Industry and start the process in front of the Planning and Zoning Board and report back to Council as the Legislative process continues. The City does have a moratorium that expires on July 31, 2013 and we are requesting Zoning in Progress so this ordinance requirements can apply during the consideration period. Currently, on private property, our Legislative scheme in the City is a suspect because of State preemptive law and it is staff's desire and his recommendation to give Zoning in Progress and allow the Legislative curative provisions of this ordinance to start in effect and let those people comment at the appropriate time as they always have in the past during that Legislative process. We do recognize and the memo states that there was not time to go to the Industry within the moratorium period. We do have pending matters where people want to put towers on private property that is in the initial stages that are not perceived as consistent with the City's aesthetic expression, as that expression has recently been formulated as he understands. He encouraged Council to advertise the ordinance and hear from staff a couple of clarifications. If you arrest the ordinance and do not move forward, the City is fairly wide open because the moratorium was only on rights-of-way and we have a larger issue as explained last time with private property. This is the beginning of the process and there will be plenty of time for study and opportunity and we will talk to the Industry and send it to our Special Communications Counsel for his review and report back to Council as we go along.

There was a consensus to hear whether to advertise at the Workshop section of this meeting.

Attorney Melissa Anderson, on behalf of Crown Castle, was present. She questioned what is being done at the Workshop. She understands that during the Workshop tonight Council would be considering whether to impose Zoning in Progress. That is what she thinks the Industry has an issue with because even though you are just discussing this ordinance informally. It is her understanding from the City Attorney's memo that the Zoning in Progress, which she has no problem with, is intended to have the attached ordinance act as the regulations in place going forward.

Mr. Lunny stated that for the enactment period and what happens is as this Legislative process evolves they report back to Council and ask if they want to make any changes. It is his advice to the client to apply the in process requirements. The other alternative is to impose a citywide moratorium, which he thinks would be more harmful to the Industry than the regulations in place, and he thinks once they study the regulations if there are issues they can be worked out.

Ms. Anderson indicated that she wants the Council to be aware that the Industry is concerned about that the City Attorney is asking that the Council take action tonight in a Workshop to institute a Zoning in Progress, to institute regulations that will be in effect in the City until such time new regulations are passed. She thinks that is an important distinction. She requested a deferral and perhaps an extension of the moratorium.

Councilman Levy advised that this will be discussed during the Workshop.

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## **CONSENT AGENDA**

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No.15.

Item No.'s 5, 7, 8, and 14 were pulled from the Consent Agenda to be discussed separately.

Mr. Lunny read the Consent Agenda by title.

4. Award contract to Nortrax for replacement of brush chipper in the amount of \$29,959.80. (Budgeted – Public Works)
6. Approve renewal of yearly maintenance for the Hansen (Assets) application in the amount of \$45,554. (Budgeted – IT).

### **Resolution No. 11717**

9. **RESOLUTION** of the City Council of the City of Plantation, Florida, supporting the dedication of funds to acquire, restore, improve and manage conservation lands including wetlands and forests; fish and wildlife habitats; lands protecting water resources and drinking water sources including the Everglades and the water quality of rivers, lakes and streams; beaches and shores; outdoor recreation lands; working farms and ranches; and historic or geologic sites, by dedicating 33 percent of net revenue from the existing tax on documents for 20 years.

### **Resolution No. 11718**

10. **RESOLUTION** of the City Council of the City of Plantation, Florida, adopting the City's Community Development Block Grant (CDBG) FY 2013-2014 Action Plan; providing for severability; and providing for an effective date.

### **Resolution No. 11719**

11. **RESOLUTION** of the City of Plantation, Florida; authorizing an amendment to the estimated expenditures and revenues for Fiscal Year 2013; providing for severability; and providing an effective date.

**Resolution No. 11720**

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 4 – July 17, 2013 for the Plantation Gateway Development District.

**Resolution No. 11721**

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 4 – July 17, 2013 for the Plantation Midtown Development District.

**Resolution No. 11722**

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 4 – July 17, 2013 for the City of Plantation’s Community Redevelopment Agency.

*Motion by Councilman Fadgen, seconded by Councilman Jacobs, to approve tonight’s Consent Agenda as printed. Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy  
Nays: None

**NOTE:** Mayor Bendekovic voted affirmatively on Item No.15.

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Mr. Lunny read Item No. 5.

5. Award bid for Plantation Aquatic Complex Scoreboard replacement to the GDG Inc., in the amount of \$94,150. (Budgeted – Parks & Recreation)

A memo dated July 18, 2013, to Diane Veltri-Bendekovic, Mayor, from Danny Ezzeddine, AIA, Director of Design, Landscape and Construction Management, follows:

Due to the aging of the pool scoreboard system, where repeated maintenance is becoming inefficient, the City decided to replace the scoreboard system with a new one.

On February 21, 2013, the City advertised for an RFP for the above mentioned project. The two (2) proposals submitted on March 19, 2013, exceeded our budget and were not responsive to the specifications (dimensions). On June 4, 2013, the City re-bid the RFP. On June 18, 2013, the City received on (1) response which was over the budgeted amount set by the City.

At a later date, Parks and Recreation Department requested quotes from two (2) suppliers of scoreboards, Colorado Time Systems and GDG Inc.

- Colorado Time Systems quoted \$104,975.00
- GDG Inc. quoted \$94,150.00

After evaluating the quotes and the technical details with aquatic staff, I am recommending to award a contract to GDG Inc. for the amount of \$96,000 subject to approval by Administration and Legal Department.

Funds available from Parks and Recreation capital budget.

Should you have any questions, please contact me.

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Councilman Levy advised that the amount has been reduced by the \$28,950 that was donated from the Plantation Booster Club.

Mr. Lunny indicated that staff is recommending that the GDG Inc. quote of \$94,150.

Councilman Fadgen pulled this item. He stated that he will support this item and thanked the Plantation Booster Club for their generous donation of \$28,950. This triggered a discussion a number of years ago regarding consideration of privatizing the pool operations. There is no question that the City is still in some financial turmoil and we need to not be happy with the status quo and look at everything. He recommended that we do some research as to whether it makes since to privatize these operations. As he understands, there are probably about \$2 million of costs spent in the aquatics operation and if by privatizing it we can end up with less cost we may end up generating some savings. His recommendation is to explore it and see what the options are.

In response to Councilman Levy, Councilman Fadgen stated that this does not affect his support of this item.

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

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy

Nays: None

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Mr. Lunny read Item No. 7.

**Ordinance No. 2485**

7. **ORDINANCE** Second and Final Reading pertaining to the subject of Finance; creating new impact fees for Library, Fire, Police and General Government Services and Facilities; revising impact fees for Park and Recreation Services and Facilities; identifying the most recent and localized data on which such impact fees are based and the study conducted by the City in considering same and other financial projections; making findings and determinations; requiring an accounting and reporting of impact fee collections and expenditures in a separate fund for such purposes; making provisions for administrative charges; providing that such fees shall be annually adjusted by an inflationary index; requiring periodic review and revision of impact fees to ensure that they remain based on recent and localized data; making other administrative and implementing provisions therefor; providing a savings clause; and providing an effective date of October 1, 2013.

Mr. Lunny indicated that he had to keep the title the same for advertising purposes. When the Council deferred the consideration of this ordinance to give itself more time to study it Mr. Shimun and he advised the Council that they could not keep the October 1, 2013 date because they had to do a 90-day public information campaign. Now that we hope it is adopted this evening, they are asking the Council to change Section 7 and a little of Section 6 to show that the effective date will be November 15, 2013 instead of October 1, 2013 and that will

give the City Clerk time to do the public information campaign that she needs to do. Making that change does not require a re-advertisement because the matter is being deferred from the advertised date.

Councilman Levy stated that in addition, he has received calls from businesses and major developers that are concerned about the increase in these fees and have asked that we re-examine them. There are also people in the audience representing businesses who are requesting the same thing. He would like to ask the Council members what they think about revisiting the entire issue.

In response to Councilmember Stoner, Councilman Levy advised that we are finally seeing an upturn in a lot of things in our community and he does not want to discourage it by people thinking they cannot come to Plantation because of our fees. He asked the Mayor for comments.

Mr. Lunny explained that this is a fee paid by developers or by persons who are improving property in the construction process. All fees to some extent get passed up the chain but this is a desire to offset from the taxpayer to the developer the cost of capital improvements and the schedules that were presented by the Finance Department show that the need for capital improvements to serve new residents and new businesses that are caused by construction and those costs to the taxpayers greatly exceed the fees that are proposed. Under our Administrative processes for doing conditional use reviews staff is allowed to consider the impact of the proposed development on police and fire suppression and emergency medical services and the like; however, when it did that analysis the development community pushed back and said they would rather have a fee so they know what it is when going in instead of a subjective evaluation. He thinks staff would still be interested in pursuing this. This is an impact fee, which is occasion by new development only.

Councilman Levy questioned why we are not setting up the enabling Legislation to do it as a resolution.

Mr. Lunny stated that his view is that the statutory framework indicates that the City may raise fees by ordinance and we have in the past allowed in a certain section of the code, once you adopt a fee it can be modified by a resolution within a certain range. This is new and why we are requiring an ordinance; however, we exempted the modification by resolution because it was a sensitive issue to Council. With the exception of the inflationary adjustment and any modifications come back to Council and there is a five-year look built in where every five years this will be formally reviewed by staff and presented to Council for consideration.

Mayor Bendekovic indicated that a comparison of other cities was provided.

Councilman Fadgen commented that we did have a Workshop and one of the members of the development community did not have enough time and suggested that we defer for a week, which we did. The rates with the modification that Councilman Zimmerman suggested made them competitive with other cities. While it does affect us down the road, it basically affects new development and those impacts on us. He thinks the basis for the various fees are reasonable. We had the public hearing and had some input. He is not in favor of deferring this item.

Councilman Jacobs and Councilman Zimmerman concurred with Councilman Fadgen.

The consensus was to move forward.

Shioban Edwards, Executive Director and President of Plantation Chamber of Commerce, was present. She voiced the opinion of quite a few of the developers who contacted her asking if she knew anything about this.

They expressed concern that the cost was going to be considerable impact fees on what they have been paying traditionally. She questioned if this is a one-time fix to help with the budget.

Mayor Bendekovic indicated that it is not a short term fix; it is a long term fix. Anytime you impact Parks and Recreation and Police it is a long term fix. Most of our development is complete but that does not mean that just because we are a little tardy on this does not mean that we cannot move forward with it. It would impact 321 North the most because Veranda, One Plantation Place, Crossroads and Midtown have already come in.

Ms. Edwards mentioned a new project by Stiles.

Mr. Lunny explained that it applies when a building permit is sought. There is no building permit at this moment for Crossroads. That is a decision that the Council can choose to exempt but ultimately we have a responsibility to make sure that we can service them appropriately and we are going to have to buy equipment and things to do that. Either the taxpayers shoulder more of that burden and more of the cost, which is an option, as well as existing businesses shouldering more of the cost or we try to push some of that burden to those who are creating the immediate need. Mr. Shimun previously stated that is a policy decision that Council needs to make. This is what you all decided to go with but that does not mean that it cannot change.

Councilmember Stoner stated that this decision was not made lightly; this was discussed very thoroughly, including bringing it back for a second thought process. One of the representatives that appear before us regularly indicated that he was also fine and felt like the proposed fees were fair. As staff has reviewed all of these fees across the board we are seeing a little adjustment to the fees because the fees have not been raised in over five years.

Mayor Bendekovic commented that Fire inspection has not been raised in four years and Parks and Receptions fees have not been raised since 1984 or 1985.

Councilmember Stoner indicated that when she initially came on the Council she was the one that mentioned bringing the fee after the fact; that the developer needed to know in advance because of how the loans work with the soft and hard costs.

Jon Auerbach with Stiles was present. They started the process in Crossroads in early 2012 and have worked diligently since that time working with staff and various departments within the City. They have made substantial commitments during that process. The impact fee has come about while they have been in the process. Impact fees are fair and exist in many cities. The process is fair but at the same time they are in a position where they have made many commitments to the process and now have additional fees on top of that. The fees discussed were the traffic light on Peters Road, which is in the \$300,000 range. They have additional Fire protection inside the building above and beyond, which is about a \$350,000 cost they are being asked to absorb. In addition, they have been asked to replace some of the aging infrastructure in front of their projects and some of that is beyond their project and is in the \$60,000 to \$70,000 range. They were also asked very early on to remove the FP&L power lines that go overhead in front of their project for a cost of \$150,000. They have about \$850,000 of commitments already out there and in addition to that he calculated \$657,000 with the impact fees. He does not know what the solution is but is requesting help as they move forward with the process. Perhaps these issues can be discussed further. This new round of impact fees was nothing they had anticipated as they started over a year and a half ago.

Councilmember Stoner mentioned the \$657,000. She questioned if they are in a position to pull their permit quickly once they are approved at this level.

Mr. Auerbach stated they are not in a position to pull their permit. They have not released plans for production because they are still being tweaked based on comments.

Councilmember Stoner questioned whether the traffic light was a County or a City requirement.

Mr. Auerbach advised that the warrant study for the traffic light currently exists. Without ever getting built they meet the warrants that could require a traffic signal to be installed there. They are the last person in and they are probably 1% or 2% of the total traffic that is going to transverse at the intersection and in working with staff that is one of their commitments. They will work through the process with staff; it is a commitment they have made.

Councilmember Stoner mentioned the fire requirements above and beyond.

Mr. Auerbach indicated that everyone files NFPA; the fire code for Broward County. The City of Plantation has some unique access requirements that appear outside of the NFPA code that has to do with fire equipment being able to pull up to the side of the building. In the One Plantation Place project they were over 75 feet to the highest occupied floor which put them into a high rise category. They are lower than that in their proposed project and the Fire Department has requested that they install smoke control systems, enunciator panels and as a result of those two systems an emergency generator system; that is the cost that is in the \$350,000 range.

In response to Councilmember Stoner, Mr. Auerbach advised that they have never put those in any of their buildings. If this building was built a couple of miles down the road in Fort Lauderdale, they have none of these systems.

Fire Chief Todd explained that this is a conditional use property. According to the ordinance there has to be 360 degrees around the building in order for them to remove people from the fourth or fifth floor. They did not meet the 360 degrees in the City ordinance and that is why they want the smoke control. In order to do that a generator is needed for backup. Only certain areas of the building are being done; they compromised.

Councilmember Stoner questioned whether other cities have the 360-degree requirement.

Fire Chief Todd stated that the requirements are in the City ordinance. They follow the code and the City ordinance supersedes the code.

Mr. Auerbach indicated that he spoke with the Plans Processor for Fire in the City of Fort Lauderdale as we were working through compromises with a full smoke evacuation fire protection, which is where we started, to a hybrid system which is where we are now. The Plans Processor did not know of another city that had that requirement.

Fire Chief Todd noted that per the code it does not meet a high rise building; a high rise building is 75 feet or higher. The hybrid system was comfortable for both parties.

Councilmember Stoner commented that the difference in the fees is the issue. She specifically brought up this project when this was discussed. Her concern was that budgets had been prepared and the costs had been done and she did not want to affect the projects that were already in the pipeline because of those budgets. \$657,000 is a huge impact on any project.

In response to Councilman Jacobs, Mr. Auerbach advised that he did not know if there was an 80% reduction; he multiplied the 287 units by \$2,291 which might have been reduced. Mayor Bendekovic mentioned earlier that the fee schedule might have been reduced.

Mr. Lunny stated that it was reduced. It is 20% off; the Council approved 80% of the proposed chart.

Councilmember Stoner noted that it is over \$520,000.

Councilman Zimmerman indicated that when this ordinance was discussed it also allows some of the improvements to be credited back towards that impact fee.

Mr. Lunny advised that the Administrator does have some discretion to consider credits. This ordinance says on lines 178-180 that it would be applicable to all applicants on or after October 1, 2013, which is now November 15, 2013 regardless of whether the applicant's project was pending.

Councilmember Stoner questioned whether this allows for the appeal of the City Administrator's decision to Council. She noted that it says that it goes to the City Board of Adjustment and she does not think that is a good idea. She would prefer that they come to Council.

Mr. Lunny commented that all Administrative appeals normally go to the Board of Adjustment; however, this can be brought to Council if so wished. He stated that the Council has been of great assistance to development recently and the Council's actions have greatly helped this developer. By helping expedite the matter, which improves the tax base, you are allowing the developer to come to those budgetary conclusions perhaps a little more quickly than they otherwise would have had you not exercised your Legislative discretion.

Councilmember Stoner clarified that Administrative appeals come before Council on the impact fees versus the Board of Adjustment.

Councilman Jacobs has always had an underlying philosophy of not having people come to Council; it is a lot more difficult for an applicant to deal with. He understood the thought process. Perhaps it could be made an alternative.

Mr. Lunny stated that the ordinance says that it goes to Council; however, the draft on the bench says it goes to the Board of Adjustment. He recalled in a staff memo that the change was made. If you want to say that either have the ability to do so that is fine.

The consensus was to give an option; either the Council or Board of Adjustment.

Mr. Lunny questioned whether he should formulate a credit policy and present that to Council.

Councilmember Stoner expressed concern that if it comes to Council it becomes discretion on a case by case basis. If guidelines are developed it defeats the whole purpose.

Councilman Levy noted that each case should be ruled on a case by case basis.

Councilman Jacobs commented that it cannot be a free for all.

Councilman Levy advised to give parameters and in within that there is some discretion.

Mr. Lunny advised that the types of credits being envisioned may not be the same as what another individual is talking about as expressed in prior meetings.

Councilman Jacobs commented that the City needs to develop legally sufficient guidelines.

Mr. Lunny indicated that staff will try to develop some guidelines and present that to Council for review.

Mr. Auerbach questioned if that review process will happen anytime before the building permit is issued. He questioned whether it can be done earlier.

Mr. Lunny advised that the fees are levied on November 15, 2013. When someone comes in and pays for a building permit the impact fee will be calculated in accordance with the ordinance. The Administrator has the discretion in the ordinance to administer the ordinance and the Council has requested the Administration to advise it on what the credit policy might be.

Councilmember Stoner stated that it says in the course of administering the provision so she believes that it would be at any time in the process.

Mr. Lunny commented that once this adopted and we know what the numbers are. His suggestion is to let staff formulate their guidance and present it to you.

Mayor Bendekovic reminded everyone that this was to start out as a public safety impact fee and that the developer is requesting 287 units and there will be at least two people per unit. There will be calls for public safety and that is why these public safety impact fees were put into place.

***Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to approve Ordinance No. 2485, revising the dates in Section 6 and Section 7 from October 1, 2013 to November 15, 2013 and a change in Section 19-89 Appeals to reflect that appeals can be made to either the City Board of Adjustment or City Council. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy  
Nays: None

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Mr. Lunny read Item No. 8.

**Resolution No. 11723**

8. **RESOLUTION** of the City Council of the City of Plantation, Florida, opposing Broward County's proposed Historic Preservation Ordinance and urging the Broward County Commission to reject the proposed Historic Preservation Ordinance, which adds unnecessary local regulations to an already highly regulated area and infringes upon the City's Home Rule Authority.

Councilmember Stoner pulled this item. This reminded her of the Community Center and she was not real comfortable with the process that evolved during the whole thing. She appreciated that the County has a Historical Board that tries to identify these buildings and saves them. She is not sure that she does not think that leaving it to the City is not self serving on many levels. There are two sides and she understands what is being said. She is not sure about taking it out of the hands of an official Historical Board.

***Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11723.  
Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs  
Nays: Stoner, Levy

\* \* \* \* \*

Mr. Lunny read Item No. 14.

**Resolution No. 11724**

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 4 – July 17, 2013.

Councilman Zimmerman advised that he may have a voting conflict on check #141152 to the Broward Alliance and Neighborhood Development.

***Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11724.  
Motion carried on the following roll call vote:***

Ayes: Fadgen, Stoner, Jacobs, Levy  
Nays: None  
Abstained: Zimmerman

\* \* \* \* \*

**ADMINISTRATIVE ITEMS – None.**

\* \* \* \* \*

**LEGISLATIVE ITEMS – None.**

\* \* \* \* \*

**QUASI-JUDICIAL CONSENT AGENDA – None.**

\* \* \* \* \*

**QUASI-JUDICIAL ITEMS**

Mr. Lunny read Item No. 16.

16. **APPROVE DELEGATION REQUEST FOR TD BANK LOCATED AT 12391 WEST SUNRISE BOULEVARD.**

A Staff Report dated July 24, 2013, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST:** Consideration of a delegation request to amend the level of approved development for the Centrum-Sunrise Plat.

**ANALYSIS:** The subject site is 0.99 acres in area, located on the northeast corner of Flamingo Road and Sunrise Boulevard, and part of the Centrum-Sunrise Plat. The applicant is proposing to demolish the existing 7,579-square-foot gas station/convenience store and erect a 2,964-square-foot bank building with a drive-thru canopy. A site plan for TD Bank is currently in review. The applicant received approval from City Council on March 20, 2013, to amend the plat note as follows:

From: Parcel A is restricted to 99,338 square feet of commercial use. Parcel B is restricted to 100,000 square feet of commercial use.

To: Parcel A-1 (see attached legal description) is restricted to 99,338 square feet of commercial use. Parcel A-2 (see attached legal description) is restricted to 5,000 square feet of bank use. Parcel B is restricted to 100,000 square feet of commercial use.

Broward County has requested the Plat Note for Parcel A – 2 be restricted to a higher number (7,579 square feet) to keep the plat in compliance with the existing gas station until it is demolished to allow construction of the bank. The new plat note will read as follows:

To: Parcel A-1 (see attached legal description) is restricted to 99,339 square feet of commercial use. Parcel A-2 (see attached legal description) is restricted to 8,000 square feet of bank use. Parcel B is restricted to 100,000 square feet of commercial use.

**PLEASE NOTE:** The size of the bank building is restricted by City site plan approval regardless of the plat note limitation. The plat note is used by Broward County for other purposes, such as the collection of County impact fees.

**STAFF RECOMMENDATIONS:**

**PLANNING AND ZONING:** No objection.

**ENGINEERING DEPARTMENT:** No objection.

\_\_\_\_\_

***Motion by Councilman Jacobs, seconded by Councilmember Stoner, to approve Item No. 16. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy  
Nays: None

\* \* \* \* \*

Mr. Lunny read Item No. 17.

17. REQUEST FOR SITE PLAN, ELEVATIONS AND LANDSCAPE PLAN FOR TD BANK LOCATED AT 12391 WEST SUNRISE BOULEVARD AND ZONED B-2L. (LIMITED COMMUNITY BUSINESS DISTRICT)

A Staff Report dated July 24, 2013, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST:** Consideration of a request for a site plan, elevations, and landscape plan.

**WAIVER REQUEST:**

From: Section 13-40(c)(3), which requires terminal landscape islands having a minimum width of 10 feet (not including curbing) to be located so as to separate parking bays from major internal access drives.

To: Reduce the required terminal island width from 10 feet to 9 feet (applies to landscape island on the south side of building separating parking from drive-thru lanes).

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; site plan application; Planning and Zoning Board meeting minutes of May 7, 2013; Landscape Planning and Review Board meeting minutes of April 2, 2013; and Review Committee meeting minutes of January 22, 2013.

**PLANNING AND ZONING BOARD RECOMMENDATION:** APPROVAL subject to staff comments, except for the drive-thru canopy design recommended by staff. The Board recommended the canopy design match the newly constructed TD Bank on the northeast corner of Sunrise Boulevard and Pine Island Road. (6/0, May 7, 2013).

**LANDSCAPE PLANNING AND REVIEW BOARD:** APPROVAL subject to staff comments. (5/0; April 2, 2013).

**REVIEW COMMITTEE RECOMMENDATION:** NO OBJECTIONS to the project moving forward for further review (January 22, 2013).

**ANALYSIS:**

The subject site is .99-acres in area, zoned B-2L, and developed with a gas station and convenience store. Access to the site from Sunrise Boulevard is through the Best Buy/Pep Boys shopping center. The property is surrounded by commercial properties to the north, south, east, and west (in the City of Sunrise).

The applicant is proposing to demolish the existing gas station and construct a 2,500-square-foot bank building with a three-lane drive-thru canopy.

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

Planning: No objections.

Zoning:

Elevations:

1. Solar panels shall not be visible to pedestrians and adjacent property owners (Section 27-654).
2. The property is located in the City's B-2L (Limited Community Business Zoning District) in Plantation Acres. Revise the drive-thru canopy with an enhanced architectural style similar to the recently constructed TD Bank in Parkland/Coconut Creek.

Details:

1. Staff recommends Annapolis Typical bollards (6) between the parking lot and the south (front) elevation of the building. Sheet C-5 shows "standard" bollards and Sheet C-7 shows two types of bollards. Please revise both sheets accordingly to be consistent with staff's recommendation. Standard bollards shall be limited to dumpster enclosure.

Signage:

1. Signage is not part of this review.

**TRAFFIC CONSULTANT:** See Engineering.

**ENGINEERING DEPARTMENT:**

1. A queuing analysis for the drive-thru will be required.
  - a. *Please provide the calculations for the queuing analysis.* 06-28-13: Table 1 lists pass-by instead of referring to it as walk-in vs. drive-thru as stated in the text. There is also a note (2) by the pass-by with no note below. Please clarify. The trip generation is from the 8<sup>th</sup> edition when there is a current 9<sup>th</sup> edition. Please verify there is no change for this land use and provide a copy of the ITE data.
  - b. *Please also run the calculations using two (2) for the service channels, as the ATM lane is not the same as the service windows.* 06-28-13: The site plan will have to be modified to show that the ATM lane is also a drive-thru lane or it will not be used as such.

Permit Comments

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.

1. An erosion and sedimentation control plan will be required and reviewed at time of permitting. An NOI will be required.
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.
4. Surface water management permit(s) through the Plantation Acres Improvement District (PAID) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review.
5. 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.

## **DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:**

1. All site plan and planting plan comments from the Department of Design, Landscape and Construction Management must be responded to in writing at time of permitting. When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
2. Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.
3. 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.

### Site Plan:

1. Terminal islands, as per code, should be a minimum of 10' inside curb to inside curb. The island on the southeast corner of the building does not meet the required width with the addition of the sidewalk.  
*Waiver requested.*

### Planting Plan:

1. Please tighten the spacing on the proposed hedge and ground cover. The tips of plant material should be touching each other (i.e. 24" x 24" plants should be planted 24" on-center, 12" x 12" plants should be planted 12" on center).
2. It appears you have significantly reduced the amount of hedge material from 1977 to 1104; please clarify this reduction.
3. Staff does not recommend the planting of Dwarf Oleander; typically Oleander requires a higher level of maintenance and does not thrive on commercial properties.
4. Please submit irrigation plans at time of permitting.
5. City staff will verify all trees proposed "to be removed or relocated".
6. All proposed trees "to be removed" must be mitigated for as per City codes; tree mitigation will be above and beyond code-required trees on the property.

**BUILDING DEPARTMENT:** No objection.

### **FIRE DEPARTMENT:**

1. No objection as to this site plan request with respect to the submitted site plan only.
2. The applicant is aware that conditions may arise upon review of all required permitting plans.

### **POLICE DEPARTMENT:**

1. No objections as long as security standards are consistent with TD Bank Security Design.

**UTILITIES:** No objection; however, the following comments apply.

1. Show all existing water and sewer lines on plans.
2. Prior to a Building Permit being issued, the following must be provided:
  - \$500 review fee must be submitted to the Utilities Department.
  - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.

- Utilities Agreement must be executed.
  - Utilities Performance Bond must be posted.
  - Utility easements must be executed.
  - Utility Inspection Fees must be paid.
  - Capacity Charges must be paid IN FULL if applicable.
  - Contact: Danny Pollio if you have any questions; 954-797-2159.
3. Must provide receipt or check copy for \$2,000 deposit marked for Utilities Expenses to project cost recovery account.
  4. Show all existing water and wastewater facilities including easements on site plan.
  5. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.
  6. Maintain all utilities and utilities easements for water and wastewater system access.
  7. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".

**O.P.W.C.D:** No objections.

**WASTE MANAGEMENT:** No objections.

**PLANTATION ACRES IMPROVEMENT DISTRICT:** (Comments received 4/19/13)

The below comments are meant to alert the applicant of the potential impact of the District's criteria on the site plan. The below comments do not constitute an approval or denial of the site plan.

Advisory comments:

1. Prior to issuance of a building permit by the City, PAID requires approval of a paving and drainage plan. The plan must be approved by the PAID Board. The Board meets once a month. Plans must be submitted no later than four weeks prior to the Board meeting.
2. Work done prior to approval of the paving and drainage plan, such as clearing, demucking, demolition, and filling are subject to PAID approval. Plans for these activities are submitted to the PAID Engineer for review and approval.
3. Additional open space, low areas, and/or special grading may be required to meet the stormwater storage requirements within the District.

Specific Comments:

1. The site plan, preliminary engineering plan and preliminary stormwater management plan calculations appear to indicate that the project could meet PAID permit criteria.

Mr. Lunny read the waiver requested.

In response to Councilman Jacobs, Mr. Leeds explained that TB Bank has constructed a bank at the northeast corner of Sunrise Boulevard and Pine Island Road. The canopy is a conventional plain canopy. Staff is suggesting they put in the more ornate canopy which is similar to one installed in Coconut Creek. This is a high visibility location and it is at the entrance to the City.

Attorney Bonnie Miskal was present. She indicated that the lesser canopy is more expensive because it is a solar canopy. This building is a LEED certified building and 15% of their power comes from the solar panels that are in the updated canopy. The canopy in Coconut Creek was done a few years back and is actually

antiquated; it is not solar energy driven or designed. The canopy on the Pine Island side is because it is cutting edge new design, new technology and is what most of the banks are going with their canopies.

Councilman Jacobs commented that there is a balance whether to lean towards LEEDS or aesthetics.

Councilman Zimmerman mentioned that the panels can be put on the other roof as well; it does not have to be this roof. The decorative roof can also have those panels.

Jason Gunther, representative, was present. He stated that typically on the prototypes there are additional solar panels on the main structure itself; not the entire roof structure because they also have some air conditioning and mechanical equipment. The panels can be put on the decorative roof but the system would be less efficient because if more than 5% of the panel has any shade it will shut down the grid.

Councilman Zimmerman noted that the parapet can be either shallow or high depending on where the roof structure is. He does not want them to lose any points and the expense of solar is really high.

Councilman Jacobs commented that the compromise would be to make the parapet a little higher but not so high as to interfere with the solar.

Mr. Gunther advised that the whole building has changed from the one in Coconut Creek, which was done about six years ago. He is not sure of the architectural ramifications. In the old building the drive-thru is tied into the structure and in the newer version it is separated.

Councilman Jacobs suggested that Council go along with what they want to do and let them do their solar canopy.

Councilman Zimmerman stated that he is going to go with staff's recommendation.

In response to Councilmember Stoner, Ms. Miskel indicated that they would like to go with the design that the architect is recommending but everything else they are consistent with and they have no problem.

Councilman Jacobs commented that staff's recommendation is antiquated looking having the drive-thru so big.

Mr. Gunther noted that in internal conversations TD agrees with that as well; they feel that this is more modern looking.

Councilman Fadgen questioned what side of the building the drive-thru is on; the west side or the east side.

Ms. Miskel advised that the drive-thru is on the east side. She stated that the Planning and Zoning Board unanimously supported the contemporary version.

***Motion by Councilman Jacobs, seconded by Councilmember Stoner, to approve Item No. 17. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy

Nays: None

\* \* \* \* \*

Mr. Lunny read Item No. 18.

**Resolution No. 11725**

18. **RESOLUTION** approving a 180-foot communication tower as a conditional use to be located in an I-L2P Zoning District on property lying in Section 33, Township 49 North, Range 41 East, and described as the Motorola Plat, Parcel A, as recorded in Plat Book 101, Page 14, of the Public Records of Broward County, Florida and generally located on the southeast corner of University Drive and Sunrise Boulevard, 8000 West Sunrise Boulevard, providing a savings clause; and providing an effective date therefor. (Motorola)

A Staff Report dated July 24, 2013, to City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST:** Consideration of a request for conditional use approval to erect a 180-foot high self-supporting communication tower.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; Conditional use/site plan application; and the following minutes:

- City Council: December 12, 2012, November 14, 2012, and October 24, 2012.
- Planning and Zoning Board: August 7, 2012.
- Review Committee meeting: June 26, 2012.

**PLANNING AND ZONING BOARD RECOMMENDATION:** Motion to recommend approval and suggesting that applicant (a) meet with the neighbors and (b) provide documentation regarding safety issues. The Board voted 3 to 1 to approve. However, the motion failed because at least four affirmative votes of the Planning and Zoning Board are required for approval (August 7, 2012).

The subject property (Motorola site) is zoned I-L2P (Large Light Industrial District) and developed with a three-story 877,869-square-foot building on the (+/-) 77.54-acre site.

The applicant initially (May 2012) proposed a 250-foot tall communications tower to be located at the southeast corner of the site in an existing loading zone/compound area enclosed by a 12-foot wall on the south and east sides. The most recent submission proposed a 180-foot tower in the same location. The proposed tower is setback over 500 feet from residential properties to the south and over 600 feet from residential properties to the east. I-L2P zoning requires a minimum 25-foot setback from exterior property lines. I-L2P does not limit building or structure height.

The communications tower is classified as a conditional use based on the I-L2P Zoning. I-LP2 Zoning allows "all uses permitted in the IL-P Zoning District". I-LP zoning regulates communication towers as a conditional use.

The Zoning Code describes conditional uses as uses which are found essential or desirable for the orderly development of the City and for the public convenience or welfare, which because of their particular characteristics or requirements should be given individual consideration with respect to their location and the relationship to surrounding property, the neighborhood, and which are or may be affected by such uses. On December 12, 2012, the City Council cancelled the January 9, 2013 City Council hearing date for this application. The application was cancelled until the application (a) submits additional information and (b) meets with the nearby residents. The applicant submitted the requested additional information identified below

and made part of this report. Line of site plans of the tower and adjacent homes are included in your backup but not identified as an exhibit.

Exhibit	Document
A	Applicant and staff responses to Conditional Use criteria found in Section 27-768 of the City Code.
B	Letter dated July 5, 2012, from Motorola Solutions acknowledging prior approval of one-story unmanned equipment shelter (384 square feet) located near proposed tower base did not create an entitlement, expectation, or assurance of conditional use approval to construct tower.
C	Letter dated October 24, 2012, from Motorola Solutions indicating it will comply with City of Plantation code regulating wireless cell antenna collocation criteria.
D	Communication Tower Study dated February 11, 2013, from Appraiser Boyd, Schmidt & Brannum providing appraisals of residential communities located adjacent to communication towers.
E	Letter dated February 12, 2013, from the Federal Aviation Administration assessing hazard to air navigation.
F	Letter dated April 2, 2013, from Pyramid Network Services, LLC in response to letter from PZED Director dated December 26, 2012.
G	<p>Letter dated April 17, 2013, from Motorola justifying on-site tower location.</p> <p><i>STAFF COMMENT: On the second page of this exhibit, applicant states that the tower must be located adjacent to the previously approved 384-square-foot equipment shelter. Proximity to the existing equipment shelter is not a valid justification as applicant acknowledged that permit approval of the shelter created no assurance or expectation of City Council approval of tower (See Exhibit B).</i></p>
H	Letter dated April 18, 2013, from Motorola addressing public safety and tower exposure.
I	Letter dated April 24, 2013, from Pyramid Network Services, LLC summarizing the resident meeting and notification.
J	City Council notice and mailing list.

**STAFF COMMENTS:**

**PLANNING AND ZONING:** Please see applicant and staff responses to Conditional Use Criteria (Exhibit A).

**TRAFFIC CONSULTANT:** No objection.

**ENGINEERING DEPARTMENT:** No objection.

**DESIGN, LANDSCAPE AND CONSTRUCTION MANAGEMENT:**

1. The landscape plans submitted are incomplete; if this request is approved please address the following items at time of permitting:
  - a. An existing tree/palm plan should be included (specie, location, height, spread, caliper, condition and disposition of existing trees/palms).
  - b. The scientific name of all plant material should be included on the proposed plant list.
  - c. The plans should include the height, spread, caliper, and spacing of all proposed plant material.

- d. A Tree Staking detail should be included.
- e. Landscape notes as well as general contractors note should be included.
- f. It is not clear which side of the existing wall the proposed Viburnum hedge will be planted.
- g. Please include plans throughout the site (parking area as well as swale) where the proposed facility is in view of the neighborhood.

**BUILDING DEPARTMENT:** No objection.

**FIRE DEPARTMENT:** No objection.

**POLICE DEPARTMENT:** No objection.

**UTILITIES:** No objection, but the following comments apply:

1. Water and Sewer Utility Plans were not provided with this submission.
2. Prior to a Building Permit being issued, the following must be provided if applicable:
  - \$500 review fee must be submitted to the Utilities Department.
  - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
  - BCHD and BC EPD Permits must be approved.
  - Utilities Agreement must be executed.
  - Utilities Performance Bond must be posted.
  - Utility Easements must be executed.
  - Utility Inspection fees must be paid.
  - Capacity Charges must be paid in FULL.
  - Contact: Danny Pollio if you have any questions, 954-797-2159.
3. Onsite improvements and equipment may be required at applicant's expense to support project.
4. Water and Wastewater Utilities must be shown on plan before a proper review can be completed.
5. Show all existing water and wastewater facilities on site plan.
6. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.
7. Maintain all utilities and utilities easements for water and wastewater system access.
8. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".

**O.P.W.C.D.:** No objection.

**WASTE MANAGEMENT:** No objection.

#### **EXHIBIT "A"**

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 (see below). Following each criterion is a response from the applicant and Planning and Zoning. The City Council, in evaluating the application, may require additional information they deem appropriate and necessary to complete their review of the application.

- (1) The applicant/developer submits a site plan for the parcel on or within which the conditional use permit is sought which correctly reflects ingress and egress to such use, the landscaping, parking, buffering, etc. of the surrounding property from such use and depicts the exterior elevations of any structure to be erected, including the materials to be utilized thereon, so as to establish same to be architecturally in harmony with the surrounding property. Unless waived by the City Council, no conditional use approval shall be considered without such binding and buildable site plan accompanying same to allow the Council to determine the architectural features and buffering needed to protect the surrounding property and so as to allow the City Council to evaluate the proposed use's compliance with the remaining criteria hereafter set forth.

**APPLICANT RESPONSE:** A binding and buildable site plan has been submitted for the proposed project for City review.

**PZED STAFF RESPONSE:** *The Council shall consider based on the application material, including but not limited to proposed landscape buffers\* and tower height and setbacks, if the proposed communication tower is architecturally in harmony with the surrounding property.*

- (2) The proposed conditional use will be consistent with the general plan for the physical development of the district including any master land use plan or portion thereof adopted by the Council.

**APPLICANT RESPONSE:** The development of the tower based on Future Land Use Designation of Industrial or the Zoning Designation of IL-P2, meets the minimum setback requirement (2x the tower height) and is consistent with the general plan and physical development of the property.

**PZED STAFF RESPONSE:** *The proposed conditional use is consistent with the I-2LP zoning district to the extent that the City Council determines that the application meets the conditional use criteria. The Future Land Use Element of the City of Plantation Comprehensive Plan, ("Industrial" Land Use) states that potentially negative impacts from industrial uses on nearby residential areas shall be mitigated by adherence to environmental performance standards and by densely landscaped, buffering open space\*, utility and transportation corridors and canals.*

*The City Council shall consider, based on the application material, if the communications tower potentially negatively impacts the surrounding area. If the Council determines there are potential negative impacts, then the Council shall determine if the communication tower adheres to performance standards and provides sufficient landscape buffering to mitigate said impacts.*

*The conditional use criteria is intended to prevent or mitigate operational impacts, including but not limited to objectionable noise, vibration, fumes, odors, dust, glare or physical activity. (See No. 4 below).*

- (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 new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. The Council must find from a preponderance of the evidence of record that for the public convenience and service a present need exists for the proposed conditional use for service to the population in the area considering the present availability of such uses to that area and such area's existing development. Further, the use at the proposed location must be found to not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections or its location in relation to other buildings or proposed buildings on or near the site within

the neighborhood and the traffic pattern from such buildings on or near the site within the neighborhood and the traffic pattern from such buildings or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital or other public use or place of public assembly. Where such use involves heavy on-site vehicular traffic ingressing or egressing from adjacent roadways or is deemed a trip generating use, a traffic analysis shall be submitted by the applicant with suggested means of ameliorating such traffic impact on the surrounding property and the neighborhood.

**APPLICANT RESPONSE:** The proposed conditional use is in harmony with the zoning of the property and with general character of the neighborhood, and will not impact adversely the population density, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. Based on the proposed location of the tower the required setbacks from residential (2X height of tower) have been exceeded and it is consistent with general plan and physical development of property. The tower is needed to enhance emergency service communications throughout the City of Plantation. The tower will create no additional vehicular traffic in the area or at the site.

**PZED STAFF RESPONSE:**

- **Traffic:** *The Engineering Department (Traffic Consultant) indicates that the proposed communication tower does not create a traffic hazard or nuisance.*
- *The City Council shall determine, based on the application, including but not limited to tower height, setback, and landscape buffers\*, if the propose communication tower will be in harmony with the neighborhood.*

*The Conditional Use section of the Zoning Code defines a neighborhood as the area within one (1) square mile of the site on which a conditional use permit is sought. In this case, the neighborhood includes single-family homes to the south and southeast, multi-family to the east, industrial to the west and north (Motorola site) and commercial use further to the west and north (across University Drive and Sunrise Boulevard respectively) within the one mile area.*

- *The City Council shall also determine from a preponderance of the evidence of record that a present need exists for the proposed conditional use to service the population in the neighborhood.*
- (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, odors, dust, glare or physical activity.

**APPLICANT RESPONSE:** The development of the tower 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, odors, dust, glare or physical activity.

**PZED STAFF RESPONSE:** *The City Council shall consider, based on the application material, if the communication tower will be detrimental to the use, development, or economic value of the surrounding neighborhood. Please see Applicant's Exhibit D (Appraisal Information) in applicant's backup. Staff is not qualified to determine if this appraisal data is applicable to the Plantation residential areas adjacent to the proposed communication tower.*

- (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.

**APPLICANT RESPONSE:** The proposed conditional use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood. Health information has been provided that demonstrates the same.

**PZED STAFF RESPONSE:** *The City Council shall consider, based on the application, if the communication tower will adversely affect the health of the residents. Please see application's Exhibit H (Safety Information). Zoning Staff is not qualified to review the electronic emissions data.*

- (6) The proposed conditional use will not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements and will not create a hazard by virtue of its site and location to residents, visitors, or workers in the neighborhood.

**APPLICANT RESPONSE:** The proposed conditional use will not overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements and will not create a hazard by virtue of its site and location to residents, visitors, or workers in the neighborhood.

**PZED STAFF RESPONSE:** *Please refer to the "Staff Comments" section of this report.*

- (7) The proposed conditional use shall meet all other specific standards which may be set forth elsewhere in the Code of Ordinances for such use.

**APPLICANT RESPONSE:** The proposed conditional use will meet all associated conditions for this zoning district.

**PZED STAFF RESPONSE:**

- *The applicant meets I-LP2 "quantitative" zoning code requirements (i.e. setback, parking, height, etc.) set forth in the Chapter 27 (Zoning).*
- *The Design, Landscape and Construction Management Department indicate the landscape plan is incomplete. See Staff Comments.*
- *"Use" determination is subject to the conditional use review process.*

- (8) The proposed conditional use shall disclose the square feet of use sought for approval so that an adequate evaluation can be made of the conditional use in keeping with the standards and criteria of this article. Should any conditional use seek to expand in size, the extend of expansion shall undergo conditional use review as provided in this article XII, except as otherwise provided by the provisions of article III, division 3 of this chapter.

**APPLICANT RESPONSE:** The development of a self-support tower along with the existing unmanned equipment shelter will encumber 4,460 square feet on the 77-acre parcel.

**PZED STAFF RESPONSE:** *Complied.*

*\*The Design, Landscape and Construction Management Department indicate the landscape plan is incomplete. See Staff Comments.*

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Mr. Lunny advised that this particular zoning district, I-L2P, is the most intensive zoning district that the City has in terms of the intensity of development which is allowed on this site. The property has enjoyed this zoning for many years. This is a conditional use application as reflected by staff and Council can consider the qualitative standards of the conditional use ordinance in considering the matter. At the time it was last considered, Council directed Administration and Administration directed the Planning and Zoning Department to seek information as to whether the tower could be moved to an alternative location off site; what could be done to the height of the tower and at that time it was 250 feet, much higher than it is today; and information on property values which has been furnished. The Administration has done what Council has asked in terms of information and the item has returned to Council for continued public hearing on the matter.

Mitch Nowak, with Motorola, was present.

Councilmember Stoner questioned whether an outreach was done to the residents.

Mr. Nowak indicated that they had their second meeting on Wednesday, April 24, 2013; over 400 residents were notified and 15 of them came and only 14 registered on the attendance sheet. The general consensus from that meeting was a lot of good questions even though they did not agree on everything. It seemed they understood the location and the second thing was the landscaping. We took them to the location where the tower would be and the proposed landscaping is on the outside of the 12-foot fence. They questioned if that could be moved to the adjacent property line on the south side, which they would be willing to do. The third thing was the reduction of the tower. Originally it was 250 feet and after meeting with the residents they dropped it down to 180 feet; it will still serve the City and the taxpayers very well in a backup situation and it will no longer have a light. That was the general consensus of the meeting.

Councilmember Stoner stated that the project manager, who is no longer with Motorola, was adamant that the 250 feet could not be reduced when it was brought up. She questioned what changed.

Mr. Nowak advised that they have been partners and residents of the City for over forty years; they have been here since 1972. Perhaps they were not listening properly when the tower was presented. He came in with his management and took over the project. After meeting with staff and citizens they understood some of the problems; therefore, they changed their design. The original 250-foot design was a category 5 rated tower and it would be a backup communication for public safety countywide. They changed the focus; it is going in Plantation, this is their home, so they were making it just for Plantation for backup and 180 feet will do that. If the tower crumbles and falls over they can put new antennas on there and keep communications for Police and Fire running as they do today.

Councilmember Stoner thought a couple of other cities were already going to participate in that use.

Mr. Nowak indicated that the City of Plantation is connected to the master site today along with the City of Fort Lauderdale, Broward County and Hollywood. These cities will still participate in the 180-foot tower. He noted that no performance aspects were sacrificed in the reduction of the height with regard to connecting to the master site.

Councilman Jacobs mentioned that the master site is connected by wire or by microwave.

Mr. Nowak stated that the range for the microwave for the various entities to connect is 140 feet to 170 or 180 feet.

Councilman Jacobs commented that the connectivity had nothing to do with the height of the tower.

In response to Councilman Levy, Mr. Nowak believes they have gone over everything and have submitted everything.

Councilman Levy knows there are certain legal boundaries that we have in regards to communication towers and what we can and cannot approve. He questioned if he is familiar with those. We have some limitations on what we can say completely no or turn it down or those kinds of things.

Mr. Lunny explained that this is not a wireless telecommunications tower; therefore, they do not, at the moment, fall under the preemptive discussion we are going to have for the Workshop. If one day a wireless antenna gets hung on this tower that might get called into question. Under the City's conditional use process the Council's discretion is constrained by the record before it. The record in this case shows that there was one concern about the landscape plans possibly not being as complete as the Design, Landscape and Construction Management Department would prefer. Other than that comment there was nothing that stood out in his legal review as a strong basis to indicate that a prime fascia showing to support the application has not been made. It would be up to the City to demonstrate by affirmative evidence that this application is not consistent with the public's interest and that showing has not been demonstrated yet because of the way the item came. The staff was relatively clean the first time and the City got the information requested but if there are other areas of information or you feel it is insufficient you would have to direct staff to try to supplement the record.

Councilman Levy clarified that Mr. Lunny said that we are not limited by any Federal law in regards to this tower.

Mr. Lunny advised that the Council does not have Legislative discretion to deny this application because it is a Quasi-Judicial decision where the ordinance standards have to be applied. The evidence before Council tends to indicate that the safety concern is not an issue; the height has been reduced; the setback is met and the landscaping is an issue. In order to deny this there would have to be substantial competent evidence in this record to support the denial.

Councilman Levy mentioned the impact on home values. According to their study and what they provided, there is not a significant impact on home values. That needs to go into the record because that was a major issue during a previous discussion.

Mr. Lunny indicated that if the City wants a second opinion, because staff does not have the authority to procure a second opinion, they would have to do that.

Councilman Levy emphasize that he wants people to understand that all of this is included in today's package; it was information that was previously requested and Mr. Nowak has stated that they have provided the information requested. When Council makes this decision it will be an informed decision including what legal boundaries we may have regarding what we can and cannot do versus Legislative. He questioned what would happen if all of the neighborhood residents came to the meeting and requested that the Elected Representatives vote no on the item.

Mr. Lunny explained that the case law is clear that mere resident opinion that is not factually supported is insufficient and is not substantial competent evidence that supports a denial.

Mayor Bendekovic stated that Administration has met with them and went item by item. The applicant has complied with each of the items and has worked very hard with the City to try to come to a compromise with what the Council requested.

In response to Councilman Fadgen, Mr. Nowak indicated that there were two meetings with the residents. The last meeting was on April 24, 2013; however, he did not have the date of the first meeting. He noted that prior to that meeting they decided to lower the tower, which they said at the first resident meeting. He believed there were more than 15 individuals at the first meeting; probably about 25 to 30 people.

Councilman Fadgen questioned whether there was a change from the first meeting with regard to agreement.

Mr. Nowak advised that there was a big change in tone; he thought the meeting was good. It was a tough meeting but it was fair. They did a presentation and had a lot of open dialogue. At the end they showed where the tower would be constructed. They were also shown the 12-foot wall and where an interior fence would be along with multiple cameras that would do 24/7 video security. They were as open as they could be.

Councilman Fadgen reviewed the paired study of real estate values at each of the seven locations. Based on his observation, four of the seven closer properties had higher square foot prices than the ones that were further away from that same location. The conclusion was that there is no measureable decline in property value. He questioned whether that would occur in Plantation based on that report.

Mr. Nowak indicated that he is not a professional appraiser. They did not hire that company, Pyramid Consultants did, which they are currently working with. They did an independent study and that was their findings.

In response to Councilman Fadgen, Mr. Nowak did not know how close the City tower is to the residents on the north.

Councilman Fadgen stated that his concern was aesthetics and the impact it has on the neighborhood to the north of City Hall. He questioned whether the distance from the tower to the houses parallel to NW 5<sup>th</sup> Street is less than 600 feet. He commented that he never sees the tower.

Police Chief Harrison believed that it would be less than 600 feet. He noted that the big difference between the Police Department's tower and that of the proposed tower is that there are three different sets of lights; there is one at 400 feet; one at 300 feet and one at the 200 or 250 mark; there are quite a few lights that are constantly on at the Police Department. The Motorola tower does not have any lights.

Councilmember Stoner advised that she called two appraisers as well as various real estate sales people and asked the question about the values. Across the board not one of them said yes that there was any impact. She then went online and could not find anything negative. As far as the health concerns, she read government reports and a lot of literature and did not find anything.

***Motion by Councilman Jacobs, seconded by Councilmember Stoner, to approve Item No. 18. There was no vote.***

Dr. John Fedore, resident, was present. He highlighted his professional experience and provided testimony on both aesthetic and ethical considerations of the proposed tower and the potential harmful consequences that such action might have on the residents of Marcano Estates, Motorola, the City Council and the City of Plantation.

Mayor Bendekovic assured that there is no conflict whatsoever.

James Beratella (sic), resident, was present. He questioned how the representative of Motorola reached out because he has been looking on the City website and has never found anything. He and his neighbors were never approached.

Mr. Nowak advised that a list of addresses was obtained from the City Clerk and 400 mailers were sent to residents.

Ms. Slattery clarified that it was for people within 300 feet of the tower and for anyone who had signed up at any of the previous meetings. The City Clerks office sent out almost 500 notices to the same people.

Councilmember Stoner advised that she was disappointed at the less than 5% of the 400 that showed up in response to this. Council tends to get two or three calls about an item out of 86,000 residents and those calls are taken extremely seriously. When Council extends to a proponent of a particular idea that they need to go the extra measure to reach out to the community and the community does not participate it is more than a little disappointing.

Ms. Slattery indicated that Motorola was on the agenda in December, January or November last year and that is when sign in sheets were announced.

Mr. Beratella referenced the telecommunication tower and mentioned the phrase "Not aesthetically pleasing". He questioned the height of the tower.

Councilman Jacobs clarified that Item #19 is a workshop and that is to discuss an ordinance applying to all communication towers in the City. He noted that an ordinance that is passed at a future date is not generally retroactive.

Mr. Lunny explained that the proposed ordinance, if the Council chooses to move forward with the proposed ordinance, would have allowed a slightly taller tower for this site and it is better for the Council to consider this application under the law tonight as a conditional use item. This is the heaviest industrial area of the City and the proposed ordinance would allow a lattice tower 185 tall and the setbacks as proposed would be met even under the proposed ordinance. The ordinance that is proposed has no impact on this application.

Mr. Beratella questioned whether any artist's renderings were shown during the meeting with the residents.

Mr. Nowak stated that they went over site development plans, which gave aerial views from four different locations from above and four different locations out.

Councilman Levy commented that one of the main issues is that there is not going to be a flashing light on top.

Councilman Jacobs noted that this is not a large tower; it is hardly bigger than a 12-story building. The zoning is industrial; Motorola is an industrial plant; it is a manufacturing facility. The zoning there is heavy use and this kind of tower is not uncommon in that kind of zoning.

Donna Levine, resident, was present. She referenced research outside of the United States such as in Canada in Europe and noted that microwaves have tremendous negative consequences. She stated that she did not receive any information about the meeting. She has been looking for information and following this diligently since the last meeting. She received an email that the meeting was tonight; however, she never received anything from Motorola and chances are other residents did not receive the notice and that was the reason for the low turnout. She questioned why 400 notices were sent out because there are not 400 families that live within a 300-foot radius.

Councilmember Stoner indicated that she could not find any actual statistics.

Ms. Slattery explained that a notice was sent to people residing within 300 feet and to people who had signed up at the previous meetings; it was a notice of this meeting and was mailed U.S. Mail. There was one person for this meeting who requested an email and did not want notice in the mail.

Ms. Levine questioned whether Motorola, in the future, be allowed to add to the height of the tower. If so, she questioned what the additions would be.

Councilman Levy advised that those are usually attached on a lower level. He believes that the height was set by the ordinance.

Councilman Jacobs stated that antennas may be put on the tower.

Mr. Lunny commented that question is not addressed by this application; it can be directed to Motorola if there is ever an intent to raise the height and if they are willing to make a commitment not to.

Councilman Levy questioned whether some kind of caveat can be put in that if they do want to do this that it has to come back before Council. He does not want to limit the height of the tower because technology changes so much; however, there may be a justification for Plantation to have specific needs that need to be addressed by raising the tower in the future but it would need to come back and there would be another public hearing.

Ms. Levine liked the idea that they put something in that they will not be adding to the height.

Mr. Lunny indicated that a new application could be required. This application is only for 180 feet and the Council is not approving any number in excess of that.

Councilman Jacobs noted that they will not be able to raise the tower just by bolting something onto it.

In response to Ms. Levine, Mr. Nowak advised that it is Category 5 rated; they cannot just add to it. The structural integrity is designed for 180 feet.

Councilman Levy commented that something needs to be added so there is a level of comfort regarding the fact that it would have to be reviewed by a non-partisan body as best as possible if it ever were to come back. This application is limited to 180 feet.

Ms. Levine mentioned the other 70 or 50 feet when it was 250 feet; the last 50 feet were going to be used for Motorola dealing with cell phone use.

Councilman Jacobs stated that was not the case. There was never an intent to put cell phone communications on this tower.

Mr. Nowak indicated that they wanted 250 feet to be a central hub for backup communications for Police and Fire throughout the entire height.

Ms. Levine stated that the residents were requesting that Motorola move the tower to the southeast corner of Sunrise Boulevard and University Drive farther away from Marcano Boulevard and they were told that for security they could not do that.

Mr. Nowak advised that they did not move the location; the best and the most secure location is a location that they chose, which is buffered right against the building; in the middle of the building on the south side. It is behind a 12-foot solid wall and inside will be an additional eight-foot fence and there will be multiple cameras monitored 24/7.

In response to Ms. Levine, Mr. Nowak clarified that they are right next to the Motorola building.

Ms. Levine does not understand the importance of 12-foot of landscape when you are talking about 180 feet of tower.

Councilman Jacobs noted that has to do with the line of sight.

Councilman Levy indicated that if you lived closer you would be able to see the landscaping rather than the tower base. He is sure that the Council would approve additional landscaping as necessary.

Councilman Fadgen commented that to make it invisible would be to perhaps get more street trees, particularly in that curve. The tower will be seen from a distance. Maybe the City could encourage some street tree planting in those areas.

Michael Radar (sic), resident, was present. He mentioned that the street tree program does exist and he has made numerous calls to the Landscape Department in an attempt to get more trees on their street. He was finally told that they were going to dedicate trees from another program to his street. They have been waiting for trees for two years. He noted that there is another issue at Motorola. They had 20-foot high Ficus hedges that blocked their parking lot and when they turned into their neighborhood on North Marcano, which is NW 14<sup>th</sup> Street, they did not see much of Motorola. There was a White Fly program and those hedges were butchered to a six-foot level three years ago.

Councilman Levy suggested that he discuss the hedge issue with Motorola.

Mr. Radar referenced the statement regarding the last meeting. Prior to the meeting in October 2013 he and his wife personally distributed fliers throughout the entire subdivision and that is why so many people showed up. He believes if fliers were distributed the night before the meeting there may have been a better turnout. He was not at the meeting in April because he was working; however, he spoke with neighbors who attended the meeting and the representation of the tone of that meeting being better with the residents is inaccurate. The fact that they went from 250 feet to 180 feet is an improvement but he feels they could do better. They considered

the south side of Motorola is even worse. He believes that most of the residents were hoping for something farther up on the northern side of the property around Sunrise Boulevard where it is far more commercial. He thinks that most people are not concerned about the radiation issues; he believes the majority is aesthetics.

Mike Egan, resident, was present. He presented additional information regarding property values and cell towers, which he submitted as evidence. He questioned whether the Telecommunications Act of 1996 is relevant.

Mr. Novak advised that the Telecommunications Act is not for the purpose of anyone talking on cell phones; this is public safety communications land mobile radio; two-way radio.

Councilman Levy stated that Act has changed drastically since 1996.

Police Chief Harrison indicated that he spoke with a gentleman who questioned if this is part of what everyone has read about in the consolidation of 911. He was advised that this is somewhat of a component of that but it has nothing to do with the actual phone part; 911 deals with phones whether it is cell phones or landlines. This particular request with regards to the tower is strictly for the radio component of what law enforcement and firefighters use to communicate back and forth. It is a part of the overall process of moving towards a consolidated master site. It is very complex when getting into the technical parts. The entire tower is strictly for the radio communications process; it has nothing to do with the part of the landlines or cell phones.

In response to Councilman Levy, Chief Harrison clarified that his recommendation is for approval of the tower as it is presently suggested. He has met with Motorola and discussed some of the concerns. Moving that tower from 250 feet to 180 feet eliminates the use of the lights, which is significant. He agreed that this benefits the residents of Plantation in greater safety and better emergency care.

Mr. Nowak advised that they recently redid a large landscape plan with the City and is willing to working with the City to come up with a new design or whatever is desired.

Mayor Bendekovic suggested that Mr. Radar speak with Mr. Ezzeddine regarding landscaping.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Item No. 18 subject to Motorola working with residents and the Landscape Department regarding landscaping issues. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Stoner, Jacobs, Levy

Nays: None

\* \* \* \* \*

#### **COUNCILMEMBERS' COMMENTS**

Councilman Fadgen would like to see Administration determine whether it is worth privatizing the pool operations.

Councilman Jacobs has discussed this with Parks and Recreation several times and they always have reasons not to privatize.

Councilmember Stoner commented that most times people react to how an idea is presented.

Councilman Fadgen believes it is a matter of saying the City of Plantation is interested in entertaining the possibility and seeing what type of interest we have. He feels that Council should look at this.

Councilman Levy stated that he would like to look at the options that could impact.

Councilmember Stoner indicated that she tends to look at everything from a business sense but everything cannot run like a business because we are providing services. She questioned if this pool facility one of those things that we are always going to supplement.

Councilman Jacobs noted that the physical part of it is very expensive. If we privatize all we are addressing is the labor not the pumps and the electricity. If the maintenance is turned over to someone and they mess it up then there will be issues.

Councilman Levy stated that there are a lot of issues when talking about it but noted that it is a matter of pride. Our Aquatics Center is one of the definite areas that make Plantation proud along with our tennis center and the entire Central Park area. His concern is that in this rush to come up with ways of increasing income that we do not lose sight of the greater issue of what makes people proud to live here. Looking at opinions, in his opinion, without giving a specific thing to go for an RFP is bringing in people who live in the industry who can give suggestions and ideas before we go to the thought of bringing in an RFP.

Councilmember Stoner advised that she is not discounting the creativity of staff. She would think that staff has already tried to think about how to increase the revenue and the budget for that facility so when they are asked to do that they have probably already done it.

Councilman Levy commented that he would like to bring an expert in from outside to give us ideas. He believes it would be worthwhile in order to gain knowledge that maybe we can privatize with labor and maintenance that would help us and maybe not. He does not know that and is uncomfortable voting without having the knowledge.

Councilman Zimmerman stated that he was not sure that there are other municipalities that have privatized their pools; the ones he knows of are all run by City staff themselves.

Mr. Romano indicated that they have approximately a \$1.2 million aquatic budget and they bring in over \$400,000 in revenue a year. As stated previously, if anyone wants to sit with him he would be happy to go over the aquatics and any other facility you want to talk about with regards to Parks and Recreation. He believes that once you have a full understanding of what they do, how it is done, the number of people and volunteers involved, there may be a different light.

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Councilman Zimmerman expressed some concerns regarding the Plantation Preserve. He spent some time at the Plantation Preserve with Mr. Romano going over some of the budget. In a long term process there are some concerns moving forward which were discussed.

\* \* \* \* \*

Mayor Bendekovic made the following comments:

- If anyone would like to attend the Florida League of Cities conference please call her office.
- Clarification was requested on refinancing of the bond. There was some indication that some of you wanted the \$2.1 million in 2003 bond that was designated to go towards rebuilding the Kennedy Community Center to go back as a repayment to the bond or is it designated just for the Kennedy Community Center.

Mr. Lunny indicated that if you take the funds you were thinking about to build the Center and satisfy the bond so you no longer have that money then we might as well stop the design review.

Councilman Zimmerman questioned how much our debt service would be lowered if we pay back with the \$2.1 million.

Mr. Lunny advised that the other consideration is if you are thinking in the foreseeable future that you might want to acquire money in order to do that project then there are some borrowing costs. One of the things that were emphasized is the current rate of interest and how that is moving and how it might be more expensive later. The current plan discussed was that it would cost approximately \$27+ million to call in all of the old bonds and redeem them from that issue and the plan was to borrow about \$26 million. In order to make that plan work you have to take the money set aside for the Kennedy Community Center and use it to pay off the existing debt service and you would not replenish it with the new loan. If in two years or whenever desired, when you revisit the issue there will be borrowing costs at that time.

Councilman Levy recalled looking at a group of people from the neighborhood and we made a promise to them that we would very quickly, within a year from construction start, replace their Community Center. We told them that they would be temporarily misplaced. The old money under the old rules is a lot cheaper than new money is going to be. He believes that we made an obligation, not this particular body but the previous body, to the people of that community and the greater Plantation community that this facility would be available to them for their use whether it be for aerobics or whatever. Not only was the vote to knock the building down, it was also to replace it as soon as possible. He feels we have a moral obligation to replace it. He is in favor of replacing the Plantation Community Center, using the funds, going out for the design build and see what it would cost. He believes in giving the people what we promised them and what we took away from them.

Mr. Lunny stated that is why this Administration did not want to make this decision on sizing the issue without discussing this with Council.

Councilman Zimmerman clarified that he is not saying that we should take it out; he is just questioning what it is costing a year. He noted that it is definitely cheaper to use the money now than to borrow the money.

Ms. Caravella advised that the debt service savings is projected to be about \$430,000 for the first year and then it drops off every year. It is an eleven-year loan. The debt service savings is minimal; maybe in the range of \$30,000 to \$60,000 per year.

In response to Councilman Jacobs, Mr. Caravella indicated that the debt to be refinanced is \$26 million.

Mr. Lunny stated that the number on Tuesday was that we would borrow \$26 million to pay off about \$27 million and change. The financial advisor was proposing using the money that is in the bond proceeds account for the \$2.1 million to pay off the loan. Because this transaction was a little delayed the numbers will change a

little in terms of whether it is \$27 million we are paying or less because we are going to make one more payment on the debt service and then pay off the bonds. The \$2.1 million has a borrowing cost right now that is higher so we could propose to roll it into the new loan and still have the money available to build the Center. He believes that is ultimately what staff will do if that is the Council's desire as opposed to using it to pay debt service and then at some point later deciding to build the Center. There were some operating cost issues with the Community Center in addition to the Capital issue and there was also a question if the furnishing would be included; however, the construction budget has not quite been finished. The question is does Council want to try to preserve this pool of money and keep it either in the old issue or in a refinancing that is not where you are going in your own pocket but borrowing a little more. We need to know the decision now.

In response to Councilman Levy, Mr. Lunny advised that all that is being proposed at the current time is to take out the remaining principal on the 2003 bond issue that has certain higher interest rate and replace it with debt service.

Councilman Jacobs indicated that he did a quick calculation of the savings of the \$2.1 million and it is about 8% of the total debt; therefore, we would save \$32,000 less each year than we would if it was not in there.

Councilman Levy questioned if there is any projection of how long this would delay the actual construction of the new Center.

Mayor Bendekovic stated that we are in the process of going out for the RFP for the design.

Councilman Fadgen commented that the prior Council made a commitment and there were some people adamantly opposed to tearing down the Center. When the residents found out that they were getting a new Center they were all for it. He believes it was a bad decision but the decision was made. He thinks we have a commitment. He would say refinance it; get rid of the old bond and build the Center with the new bond money.

Mr. Lunny clarified that whatever strategy we employ try to keep the money.

Councilman Jacobs agreed that we should rebuild the Center.

Councilmember Stoner noted that the new bond is not going to have excess dollars for the new Center; we have to find that somewhere else.

Councilman Zimmerman stated that they were going to finance enough to put the \$2 million within so within the \$26 million the \$2 million will be in there.

Ms. Caravella advised that it will probably be \$27 million rather than \$26 million. We have to do a final verification report so that will be the total number and it will be brought to Council at the August 14, 2013 meeting and it will detail all of the costs. We just need to know whether to preserve the \$2 million for the Kennedy Community Center.

Mr. Lunny commented that what is being proposed is a privately placed tax exempt loan.

In response to Councilmember Stoner, Mr. Lunny stated that the lender who submitted the most favorable response to the RFP was J.P. Morgan Chase.

Ms. Caravella indicated that they went out for RFP, which was mentioned at the budget meeting, and the RFP closed July 9, 2013. There were six proposals out of 29 banks solicited and J.P. Morgan came in at the lowest with the most favorable terms. The interest rate is just below 2.5%.

Mr. Lunny advised that the interest floats along until the 14<sup>th</sup> and then it will be fixed.

Councilmember Stoner questioned how the rate is locked in.

Ms. Caravella commented that the rate is based on the market and they can lock it in. There is a one month rate plus 2.5%.

Councilman Zimmerman clarified that we are going to take the \$2 million and put it out over 11 years. Straight costs it is costing us \$180,000 a year so our budget to pay this back has to be \$180,000 a year plus whatever the interest is.

Councilmember Stoner noted that is unstaffed.

Councilman Zimmerman reiterated that it is \$180,000 per year and that comes out of the General Fund. We are building a new building in a time when we do not have the budgeting; we are going to spend \$180,000 per year plus staffing, equipment, electric, etc. Borrowing the money now at this interest rate is the right thing but it is the timing.

Councilmember Stoner commented that with this budget it is not the smart thing to do. She questioned the tradeoff.

Mayor Bendekovic continued with the following comments:

- The next Collective Bargaining session will be on August 14, 2013.

\* \* \* \* \*

Councilman Levy questioned whether we are having a food truck event on July 28, 2013.

Mayor Bendekovic advised that is County at Heritage Park. She stated that we are having issues with food trucks and will bring some speaking points to Council at a workshop to see if you want to move forward with an ordinance. Recently several cars were broken into during a food truck event and there have been other complaints. The workshop will not be held until sometime in November.

In response to Councilman Levy, Mayor Bendekovic stated that another food truck event is at Volunteer Park and they get permitted. There needs to be parameters because there should be security with the crowds they are gathering.

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## **PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS**

The following residents made comments:

- Dennis Conklin
- Rico Petrocelli

\* \* \* \* \*

**SEALED COMPETITIVE SOLICITATIONS** – None.

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## **WORKSHOPS**

### **19. DISCUSSION CONCERNING PROPOSED TELECOMMUNICATIONS TOWER/ANTENNA ORDINANCE.**

Mr. Lunny advised that you could enact an emergency ordinance which would extend the current moratorium for 30 days for rights-of-way and spread that onto private property. It would require two-thirds majority vote and that would give us thirty days to go figure this out in terms of whether it is a vested rights issue. He is concerned about the 90-day time line for private property installations. He would like to bring some kind of a regular measure to the next meeting; perhaps we could make it for 45 days.

Councilman Jacobs suggested that we apply the “Zoning in Progress”; it protects the City the best.

Melissa Anderson, with Crown Castle, was present. She stated that Crown Castle does not object to a “Zoning in Progress” as long as the ordinance that is attached to it does not become affected. People can be put on notice that you are changing the telecommunications code. Crown Castle is working with staff and has been through the moratorium. She is more concerned with not being under regulations as they are currently written in the ordinance. She suggested to either pass a “Zoning in Progress” without necessarily having this ordinance become effective today or extend the moratorium for 45 days.

Mr. Lunny indicated that if there is going to be an argument about “Zoning in Progress” and whether the protective measure is valid, his advice would be to adopt an emergency ordinance for a 30-day period and at the same time move the ordinance for “Zoning in Progress”.

Mr. Lunny read the title of the emergency ordinance as follows:

AN EMERGENCY ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF A MORATORIUM, IMPOSING A TEMPORARY MORATORIUM ON THE RECEIPT OF PROCESSING APPLICATION, PERMITS OR PENDING APPROVALS PERTAINING TO THE INSTALLATION OR CITING OF ANY COMMUNICATIONS ANTENNAS OR COMMUNICATIONS TOWERS OR WIRELESS PERSONAL TELECOMMUNICATIONS SERVICE ANTENNA TOWER OR WIRELESS PERSONAL TELECOMMUNICATIONS SERVICES ANTENNA; THE LATTER BEING DEFINED BY CHAPTER 5.5 OF THE PLANTATION CITY CODE, WHERE TOWER IS DEFINED UNDER SECTION 365.172 FLORIDA STATUTES, OR ANY OTHER COMMUNICATIONS DISTRIBUTION FACILITIES SOLELY CONTAINED OR MOUNTED ON A SINGLE STAND ALONE TOWER, AS MAY BE CONTEMPLATED

BY SECTION 337.401 FLORIDA STATUTES IN ANY MUNICIPAL PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF PLANTATION, FLORIDA, OR ON PROPERTY WHICH IS NOT MUNICIPAL PUBLIC RIGHT-OF-WAY EXCLUDING ONLY RIGHT-OF-WAY OWNED BY THE STATE OF FLORIDA OR BROWARD COUNTY.

Mr. Lunny proposed that this ordinance also indicate that you are extending City Ordinance No. 2479 and that you are spreading the provisions of such ordinance onto non-right-of-way property as indicated and the length of the Moratorium will be 45 days.

\* \* \* \* \*

Meeting adjourned at 12:05 a.m.

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Councilman Robert A. Levy, 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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
Susan Slattery, City Clerk