

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

September 12, 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 Councilman Fadgen.

The Pledge of Allegiance followed.

3. Approval of the minutes of the meeting held June 5, 2013.

The minutes of the City Council Meeting held June 5, 2013 was approved as printed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic extended her condolences to the family of Congressman E. Clay Shaw.

Mayor Bendekovic made the following announcements:

- New recycling information will be sent out to residents during the month of September in their utility bills and a separate mailing.
- Cooper Super City Tennis Tournament will be held September 14 and 15, 2013 at the Frank Veltri Tennis Center from 8:00 a.m. until 5:00 p.m. There will be approximately 90 participants.
- Renovations have been completed for Deicke Auditorium. Open House will be held September 19, 2013 from 3:00 p.m. until 5:00 p.m.
- "ROGY" Tennis Tournament will be held September 21, 2013 from be held from 1:00 p.m. until 4:30 p.m. at the Frank Veltri Tennis Center. This is a starter series for young tennis players who have never played before. The term "ROGY" represents the colors of the tennis balls used for each division of players.

- The Midtown Charette will be held November 6, 2013 from 6:30 p.m. until 8:30 p.m. at Deicke Auditorium. For those who wish to participate please contact Administration.
- Plantation Farmer's Market will be held every Saturday from 8:00 a.m. until 2:00 p.m.
- Art Search Competition for students in kindergarten through 12th grade will be available from September 3, 2013 through October 11, 2013 at Central Park, Plantation Community Center and the local Plantation public schools. Awards will be given to each grade level. Winners will be displayed at Art in the Park and Plantation Central Park.
- The 47th Annual Art in the Park will be held at Liberty Tree Park. This year's theme is Home is Where the Art is. Sponsorship opportunities are still available.
- Time is still available for application for 2013 homestead exemption.
- Broward County Property Appraiser's community outreach program is held every Wednesday during the month of September from 12:00 noon to 2:00 p.m. at the Broward County Governmental Center West at 1 University Drive.

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CONSENT AGENDA

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

Item No.'s 5 and 12 were removed and discussed separately.

Mr. Lunny read the Consent Agenda by title.

4. Request for special permission – Central Broward Animal Hospital Pet Adoption and Fundraiser Event located at 200 NW 70 Avenue on Saturday, October 26, 2013 from 9:00 a.m. until 5:00 p.m.
6. Approve purchase of playground equipment for Deicke Park from Playmore Recreational Products & Services of Ft. Myers, FL in the amount of \$28,166. (Budgeted – Parks & Recreation).
7. Request for authorization to issue payment to Board of County Commissioners, Broward County, Florida, for the Joint Water Conservation and Incentives Program effort in the amount of \$32,392.72 (Budgeted – Utilities).
8. Request for authorization to participate in the Southeast Florida Co-Operative Bid for the supply of aggregates, topsoil and sand from Austin Tupler Trucking, Inc. Soil Tech Distributors, Inc. from August 28, 2013 through August 27, 2014. (Budgeted – Utilities).

Resolution No. 11743

9. **RESOLUTION** of the City of Plantation approving that certain draft agreement between City of Plantation and Wheelabrator Technologies Inc. for Optional Waste Services.

Resolution No. 11744

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 22 – September 4, 2013 for the Plantation Gateway Development District.

Resolution No. 11745

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 22 – September 4, 2013 for the Plantation Midtown Development District.

Resolution No. 11746

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 22 – September 4, 2013 for the City of Plantation’s Community Redevelopment Agency.

NOTE: Mayor Bendekovic voted on Item No. 13 affirmatively.

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: Fadgen, Jacobs, Stoner, Zimmerman, Levy

Nays: None

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Mr. Lunny read Item No. 5.

5. Approve Flood Insurance Renewal with Travelers Insurance Company for the period 9/20/13-9/20/14 in the amount of \$70,282

Councilman Fadgen requested to table this item to the next meeting so that the City can consider self-insuring this item. The next meeting will be held on September 25, 2013. He questioned the type of flood claims the City has had in the past.

Gary Shimun, Chief Administrative Officer, recommended approval and to review the feasibility of self-insuring during the next policy year. He further suggested the policy could be cancelled if the City chooses to self-insure.

Motion by Councilman Fadgen, to defer Item No. 5 of the Consent Agenda to September 25, 2013. There was no second to the motion.

Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Item No. 5 of the Consent Agenda as presented. Staff is requested to reevaluate the feasibility of self-insuring the City’s Flood Insurance. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Levy

Nays: Fadgen

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Mr. Lunny read Item No. 12.

Resolution No. 11747

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 22, 2013 – September 4, 2013.

Councilman Zimmerman was advised he may have a voting conflict on Check 143803 to the Broward Alliance for Neighborhood Development. He will not be voting on this check. The appropriate forms are on file in the City Clerk's office.

Motion by Councilman Jacobs, seconded by Councilman Fadgen, to approve Resolution No. 11747 as presented. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

14. DISCUSSION CONCERNING RENEWAL OF AGREEMENT FOR OPERATION AND MAINTENANCE OF PLANTATION TRAM.

A memorandum dated September 12, 2013, from Ed Consual, Public Works Director and Priscilla Richards, Strategic Operations Administrator, to Mayor and Members of City Council follows:

History: The City of Plantation entered into an Interlocal Agreement with Broward County for Community Bus Service in September of 2009. The Agreement terminated in 2012 and included two, one-year extensions until September of 2014. The City and Broward County have exercised both extensions.

The City of Plantation entered into an Agreement with Limousines of South Florida, Inc., a Keolis Transit America Company for the Operation and Maintenance of Transit Bus Service (Plantation Tram) in 2012 for one year with one-year extension until September 2014. The City notified Keolis of its intention to extend the contract until 9/30/13 in July.

Keolis responded to the notice of extension by issuing a letter dated 7/31/13 requesting that the City consider an amended rate of \$54.96 per revenue service hour due to increased costs of vehicle operations and fleet maintenance. The current rate is \$31.00 per revenue service hour. The increase, therefore, would be \$23.96 per service hour.

Keolis invoices for approximately 1,146 service hours per month. The current rate is \$31.00 per service hour. Broward County contributes \$15.00 per hour and the City pays the balance of \$16.00 per hour.

City Total Current Annual Cost:
\$16.00 x 1,146 hours x 12 months - \$220,000.00

City Total Increase in Annual Cost:
\$39.96 x 1,146 hours x 12 months - \$549,529.92

Net Increase: \$329,529.92

On August 1, 2013, the City sent a letter concerning the interpretation of the contract with a request that Keolis advise the City of where they see that the contract allows Keolis to agree to an extension based on acceptance of a rate increase.

Keolis responded to the City's letter with a response letter dated August 9, 2013 requesting a meeting with City staff and Broward County "with the aim of reaching a compromise arrangement regarding rate adjustments."

Other Broward County cities were also notified by Keolis of a rate increase. On August 9, 2013 the Town of Davie issued a Request for Proposals for the Operation and Maintenance of Transit Bus Service. Proposals were opened on Thursday, August 29, 2013.

On August 14, 2013, City Council instructed staff to (1) arrange for a public meeting on September 12, 2013 as required by the Interlocal Agreement with Broward County in Anticipation of the termination of the Plantation TRAM due to increased costs and (2) to obtain the results of the Davie RFP as a potential opportunity to piggyback on the pricing.

On August 23, 2013, the City sent a letter to Keolis Transit America notifying Keolis of default in accordance with Section 8.11 of the Contract between the parties due to Keolis's unwillingness to honor the extension option based on current pricing structure (letter of August 9, 2013).

On August 23, 2013, the City sent a letter to Broward County terminating the Interlocal Agreement for Community Bus Service as of September 30, 2013 based on Keolis's increased costs. The letter states that the City Council may determine to rescind or ratify the Notice of Termination based on the public meeting.

On August 28, 2013, Keolis Transit America sent a letter to the City clarifying its letter of August 9, 2013 and stating that it would continue to honor its contractual commitment with the City of Plantation.

On September 1, 2013, the City of Plantation advertised a public meeting regarding the TRAM service as required by the ILA with Broward County. The City also provided information to Comcast for broadcast and to the County to distribute on the TRAM vehicles. Handouts regarding the public meeting were also available at all community centers, the Helen B. Hoffman Plantation Library and City Hall.

On August 29, 2013, the Town of Davie announced that four (4) proposals were submitted in response to its August 9, 2013 Request for Proposals:

Cruising Community, LLC	\$33.00 per service hour
Ft. Lauderdale Transit, Inc.	\$34.95 per service hour
Keolis Transit America	\$49.93 per service hour

Maruti Fleet Management \$31.70 per service hour

On September 4, 2013, the Town of Davie's Selection Committee met to discuss, rank and shortlist the firms. Staff ranked Cruising Community, LLC #1 and Ft. Lauderdale Transit Inc. Interviews and presentations are scheduled for September 11, 2013 and staff will make recommendations to Davie Town Council on September 18, 2013. They plan to award and execute the contract with an October 1, 2013 start date. Staff plans to negotiate rates.

Davie staff also mentioned that depending on the wording in the Federal grant documents, piggybacking by other cities may not be allowed.

Discussion: City now knows that Keolis is willing to perform under the terms of the current contract. Therefore, City would be able to continue the ILA with Broward County (contributing \$15.00 per service hour) and contract with Keolis Transit America (at rate of \$31.00 per service hour) until September 30, 2014. City's contribution is estimated at \$220,000.00 per year.

Proposed rates for the Town of Davie are higher than the current contract rate of \$31.00 with Keolis.

Expenses may be reduced by requiring fares, routes adjustments or reduction in the number of hours of service.

Community Bus contracts with Broward County and Keolis terminate as of September 30, 2014.

Mayor Bendekovic noted the increased costs associated with the TRAM. There have been several changes.

Priscilla Richards, Strategic Operations Administrator, advised a letter was sent to Broward County terminating the agreement due to the increased costs with the vendor. A letter was received from Keolis Transit America stating that they were disappointed that they were not able to have a meeting with the City and County. Tonight's meeting was advertised in the newspaper, flyers were placed on the buses, and at various City locations. With regard to the Davie contract, Staff has expressed concern with regard to piggy-backing on their contract due to terminology in the Federal Contract. As of tonight's meeting, Keolis is willing to operate at the \$31.00 per hour rate.

Discussion ensued with regard to reducing costs. Ms. Richards noted the following:

- Eliminate Saturday service - \$14,688 in savings
- Eliminate One Tram route - \$110,000 in savings
- Fare boxes - \$1,000 approximate cost for box and installation per vehicle
- Fare initiated of \$.25 - \$44,739 in revenue
- Fare initiated of \$.50 - \$89,478 in revenue
- Fare initiated of \$.75 - \$134,217 in revenue

Ridership has increased 1.6% from last year according to Broward County.

Mayor Bendekovic advised the Interlocal Agreement with Broward County will terminate September 30, 2014.

Ed Consual, Public Works Director, commented the ridership has decreased on Saturdays primarily because of schools not being in session. Ridership during this week is approximately three times the Saturday ridership.

Councilmember Stoner noted the contract calls for the contractor to equip the buses at their expense with lockable fare boxes which do not permit entry by drivers. She questioned the time down for the TRAMS and felt it was excessive.

Councilmember Levy indicated he received a phone call from Mr. Stipes (sic) who uses the TRAM on a regular basis and suggested running the TRAM on Sundays and considering a small fee.

Councilman Fadgen favored a fare that may recoup some of the monies and one of the routes be eliminated in its entirety.

City Attorney Lunny advised if one route was eliminated or a fare was enacted, this would not be a breach of contract. The Mayor had to notify Broward County that the City would be terminating the agreement with Broward County according to the facts that were previously known. Since those facts have changed, the notice will not have to be rescinded by the Mayor.

After discussion it was the consensus of those Councilmembers present to enact a \$.50 fare with Councilman Jacobs in disagreement. In addition, it was the consensus to revisit ridership in six months.

Councilman Jacobs felt the contract should continue "as-is" for the one year period and possibly discontinue the service after one year or seek further bids.

Councilmember Levy expressed his belief he would not like to keep people waiting double the current wait time.

Councilmember Stoner suggested enacting the fare and reviewing the ridership and feasibility in six months. She agreed to enact a \$.50 fare and eliminate the Saturday routes.

Councilman Zimmerman concurred the elimination of the entire route is less desirable than eliminating the Saturday service.

Councilmember Levy opened the discussion to the general public.

Irving Minney, Broward County Transportation Department, Community Transit Officer, commented with regard to charging a fare and the decreased ridership. He noted the importance of the transportation hubs that connect in the City and felt the service was needed in the City. He advised the City must maintain the 7.1 rider ratio within a six month period in order to maintain the agreement.

Councilman Fadgen reiterated his position that he was in favor of enacting a fee. If the service is valuable the citizens will pay for the service, otherwise the service will be eliminated.

Councilman Zimmerman agreed.

Councilmember Levy felt if the County feels this is important as a transportation corridor for residents and important connections with other municipalities the routes should be maintained.

In response to Councilmember Stoner, Mr. Minney explained the TRAM is quicker and more convenient than the Broward County Bus which is a two bus ride at \$1.75 for each ride.

After discussion it was the consensus to enact a \$.50 fare and to review the route in six months.

Motion by Councilman Fadgen, seconded by Chairman Levy, to impose a \$.50 fee and keep the schedule "as-is". Motion carried on the following roll call vote:

Ayes: Fadgen, Stoner, Zimmerman

Nays: Jacobs, Levy

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 15.

Ordinance No. 2487

15. **ORDINANCE** SECOND AND FINAL READING PERTAINING TO THE SUBJECT OF A MORATORIUM IMPOSING A TEMPORARY MORATORIUM ON THE RECEIPT OR PROCESSING OF ANY APPLICATIONS, PERMITS OR PENDING APPROVALS PERTAINING TO THE INSTALLATION OF SITTING OF ANY TELECOMMUNICATIONS TOWERS OR WIRELESS PERSONAL TELECOMMUNICATIONS SERVICE ANTENNA TOWERS AS DEFINED BY CHAPTER 5.5 OF THE PLANTATION CITY CODE, OR "TOWER" AS DEFINED UNDER SECTION 365.172 FLORIDA STATUTES, OR ANY OTHER COMMUNICATIONS FACILITIES SOLELY CONTAINED OR MOUNTED ON A SINGLE STANDALONE TOWER, AS MAY BE CONTEMPLATED BY SECTION 337.401 FLORIDA STATUTES; SUCH MORATORIUM BEING EFFECTIVE FOR ANY MUNICIPAL PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF PLANTATION, FLORIDA AND FOR REAL PROPERTY WHICH IS NOT VEHICULAR PUBLIC RIGHT-OF-WAY (INCLUDING PRIVATE PROPERTY WITHIN PLANTATION), PROVIDING THAT SUCH MORATORIUM SHALL EXPIRE SIXTY (60) DAYS AFTER THIS ORDINANCE'S EFFECTIVE DATE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE THEREFOR.

A memorandum dated August 22, 2013 from Donald J. Lunny, Jr., City Attorney, to Mayor and Members of City Council follow:

I.

At its meeting of August 14, 2014, the City Council approved at First Reading a draft Moratorium Ordinance that would extend the existing Moratorium for the placement of communications towers in rights-of-way and make same applicable to communications tower installations on private property. The Moratorium Ordinance is designed to replace an Emergency Moratorium which was passed just after Midnight on January 25, 2013.

Second Reading of the Moratorium Ordinance is advertised and scheduled for the September 12, 2013 City Council Meeting.

II.

At First Reading, the Council requested in response to comment by Mr. D'Arelli that a provision be added to allow the Council to consider granting legislative temporary exceptions to the Moratorium, which would be evidenced by Resolution. A provision was already in the draft for right-of-way installations, and the Council requested that the language be expanded and made applicable to both right-of-way installations and private property installations. This language appears in "blue line" on (Lines 70-80 and Lines 126-138).

III.

As announced at the August 14, 2010 Meeting, Staff met with legal representatives for the Industry on August 20, 2013. The sign-in sheet for this Meeting is attached. The industry is internally coordinating the submission of specific written comment on the draft Communications Ordinance. However, given the Industry's scheduling considerations and the City's agenda closing deadlines for both the August 28, 2013 meeting of the City Council and the September 10, meeting of the Planning and Zoning Board, Staff and the Industry Group recommend that the effective date of the proposed Moratorium Ordinance be September 16, 2013, so as to allow the Moratorium to extend sixty (60) days thereafter. The Emergency Moratorium would remain effective in the Interim. Making the Moratorium Ordinance effective on September 16, 2013 would allow:

- a. The Industry to complete their internal coordination of specific comments on the draft Communications Ordinance and give submit them to Staff by August 30, 2013;
- b. Allow Staff to review such comment and determine whether or not to incorporate such comment in a third Meeting with the Industry Group on September 10, 2013;
- c. Allow Staff to make the agenda submission cutoff deadline of September 24, 2013 for the October 1, 2013 Planning and Zoning Board Meeting; and,
- d. Return the substantive Communications Ordinance to the City Council for consideration and enactment in the late October early November time frame (currently, the Council has scheduled meetings for October 9, 2013, October 23, 2013, and November 13, 2013).

The Moratorium Ordinance has been revised to become immediately effective On September 16, 2013 after Second Reading by the City Council and signature by the Mayor (Lines 149-151).

Part of the advertised Legislative decision-making for the Moratorium Ordinance included whether to repeal the Emergency Ordinance, and this is included in the Ordinance's title. The Ordinance will be read in this fashion for Second Reading; however, to accomplish the Industry and Staff's desired timeframes for review and comment, this portion of the title will need to be amended at adoption (Lines 6-7), and the portion of the Moratorium Ordinance that repealed the Emergency Ordinance will need to be deleted (Line 54).

IV.

The Moratorium ordinance is now ready for consideration as a Legislative Item at Second Reading.

Mr. Lunny noted this is a public hearing. This item was advertised with a proposed "repealer" of the prior ordinance and the title was read into the record twice to comply with the dual reading. It was noted the title will be modified afterwards to reflect the title in the agenda package.

Mr. Lunny read the following title into the record:

AN ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF A MORATORIUM; ~~REPEALING EMERGENCY ORDINANCE NO. 2486 CONCERNING A MORATORIUM~~; IMPOSING A TEMPORARY MORATORIUM ON THE RECEIPT OF PROCESSING OF APPLICATIONS, PERMITS OR PENDING APPROVALS PERTAINING TO THE INSTALLATION OR SITTING OF ANY “TELECOMMUNICATIONS TOWERS”, AS MAY BE DEFINED BY FEDERAL LAW, OR “WIRELESS PERSONAL TELECOMMUNICATIONS SERVICE ANTENNA TOWERS” AS DEFINED BY CHAPTER 5.5 OF THE PLANTATION CITY CODE, OR “TOWER” AS DEFINED UNDER SECTION 365.172 FLORIDA STATUTES, OR ANY OTHER COMMUNICATIONS FACILITIES SOLELY CONTAINED OR MOUNTED ON A SINGLE STAND ALONE TOWER, AS MAY BE CONTEMPLATED BY SECTION 337.401 FLORIDA STATUTES; SUCH MORTORIUM BEING EFFECTIVE FOR ANY MUNICIPAL PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF PLANTATION, FLORIDA, AND FOR REAL PROPERTY WHICH IS NOT VEHICULAR PUBLIC RIGHT-OF-WAY (INCLUDING PRIVATE PROPERTY WITHIN PLANTATION); PROVIDING THAT SUCH MORTORIUM SHALL EXPIRE SIXTY (60) DAYS AFTER THIS ORDINANCE’S EFFECTIVE DATE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTE DATE THEREFOR.

Mr. Lunny suggested Council consider adoption of the ordinance with the deletion of Section 1, because the Ordinance will still need to be effective to give time to meet this schedule. He further noted an email was received from ATT which requested a clarification that this ordinance would not affect their wired and installation maintenance of wired facilities in rights-of-way which is not the intent of the City. It was his belief FPL would like the same clarification. It was noted the other change requested was to remove subparagraph “b” from Section 4.

Councilmember Levy opened the discussion to the general public.

Paul D’Arelli, Clearview Tower, questioned the intent of line 131 of the proposed Ordinance.

Mr. Lunny explained Council reviewed the draft Ordinance and indicated it will be “zoning in progress”. The industry has commented extensively on the draft Ordinance. If Council approves applications with significant changes, those changes would then be incorporated into the Ordinance.

Motion by Councilman Fadgen, seconded by Councilman Zimmerman, to adopt the draft Ordinance as presented in the agenda package with the deletion of Section 1 and to clarify that the moratorium will not affect the wired facilities of the utility providers and exclude Section 4 subparagraph “b”. Motion carried on the following roll call vote:

Ayes: Fadgen, Jacobs, Stoner, Zimmerman, Levy

Nays: None

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NOTE: The following resolutions were discussed together but voted on separately.

Resolution No. 11748

16. **RESOLUTION** ADOPTING THE TENTATIVE MILLAGE RATE FOR THE CITY OF PLANTATION OF 5.6142 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 – SEPTEMBER 30, 2014 IDENTIFYING THE CITY ONLY ROLLED-BACK MILLAGE RATE, THE AGGREGATE MILLAGE AND AGGREGATE ROLLED-BACK RATE; AND OTHERWISE DIRECTING THE CITY CLERK TO ADVERTISE THE TENTATIVE AGGREGATE MILLAGE RATE, THE AGGREGATE ROLLED-BACK MILLAGE RATE AND THE DATE OF THE PUBLIC HEARING FOR FINALIZING OF SUCH MILLAGES AND BUDGETS; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFORE.

Resolution No. 11749

17. **RESOLUTION** ADOPTING THE TENTATIVE MILLAGE RATE FOR PLANTATION GATEWAY DEVELOPMENT DISTRICT OF 2.0 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 – SEPTEMBER 30, 2014; IDENTIFYING THE COMPUTED ROLLED-BACK MILLAGE RATE; PROVIDING FINDINGS; PROVIDING FOR A HEARING ON SEPTEMBER 25, 2013 COMMENCING AT 7:30 P.M. IN THE CITY COUNCIL CHAMBERS TO FINALIZE THIS MILLAGE RATE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFORE.

Resolution No. 11750

18. **RESOLUTION** ADOPTING THE TENTATIVE MILLAGE RATE FOR PLANTATION MIDTOWN DEVELOPMENT DISTRICT OF 1.0 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 – SEPTEMBER 30, 2014; IDENTIFYING THE COMPUTED ROLLED-BACK MILLAGE RATE; PROVIDING FINDINGS; PROVIDING FOR A HEARING ON SEPTEMBER 25, 2013 COMMENCING AT 7:30 P.M. IN THE CITY COUNCIL CHAMBERS TO FINALIZE THIS MILLAGE RATE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Resolution No. 11751

19. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE TENTATIVE CONSOLIDATED ESTIMATED REVENUE AND APPROPRIATION BUDGET OF THE CITY OF PLANTATION FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 – SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING FOR A HEARING ON SEPTEMBER 25, 2013 COMMENCING AT 7:30 P.M. IN THE CITY COUNCIL CHAMBERS TO FINALIZE THIS BUDGET; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFORE.

Resolution No. 11752

20. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE TENTATIVE ESTIMATED REVENUE AND APPROPRIATION BUDGETS OF THE DEPENDENT TAXING DISTRICT OF PLANTATION GATEWAY DEVELOPMENT DISTRICT FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 – SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING FOR A HEARING ON SEPTEMBER 25, 2013 COMMENCING AT 7:30 PM IN THE CITY COUNCIL CHAMBERS TO FINALIZE THIS BUDGET; PROVIDING A SAVINGS CLAUSE, AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Resolution No. 11753

21. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE TENTATIVE ESTIMATED REVENUE AND APPROPRIATION BUDGETS OF THE DEPENDENT TAXING DISTRICT OF PLANTATION MIDTOWN DEVELOPMENT DISTRICT FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING FOR A HEARING ON SEPTEMBER 25, 2013 COMMENCING AT 7:30 PM IN THE CITY COUNCIL CHAMBERS TO FINALIZE THIS BUDGET; PROVIDING A SAVINGS CLAUSE, AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Resolution No. 11754

22. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE TENTATIVE ESTIMATED REVENUE FOR APPROPRIATION BUDGET OF THE PLANTATION COMMUNITY REDEVELOPMENT AGENCY FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 – SEPTEMBER 30, 2014; PROVIDING FINDINGS, PROVIDING FOR A HEARING ON SEPTEMBER 25, 2013 COMMENCING AT 7:30 P.M. IN THE CITY COUNCIL CHAMBERS TO FINALIZE THIS BUDGET, PROVIDING A SAVINGS CLAUSE, AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Resolution No. 11755

23. **RESOLUTION** PERTAINING TO THE SUBJECT OF STORM WATER MANAGEMENT; FURTHER IMPLEMENTING THE CITY DECISION TO COLLECT THE STORM WATER MANAGEMENT UTILITY FEE BY USING THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS AS PROVIDING IN SECTION 197.3632, FLORIDA STATUTES; APPROVING A FINAL NON-AD VALOREM ASSESSMENT ROLL FOR SUCH ASSESSMENTS AND PROVIDING FOR THE CERTIFICATION THEREOF SO THAT SUCH NON-AD VALOREM ASSESSMENTS MAY BE LEVIED AND APPEAR ON THE 2013 NON-AD VALOREM TAX BILL; SPECIFYING THE UNIT OF MEASUREMENT FOR THE ASSESSMENT AND THE AMOUNT OF THE ASSESSMENT; PROVIDING FINDINGS; PROVIDING DIRECTIONS, PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Mr. Lunny read Item Nos. 16 through 23 into the record. He noted pursuant to law the certification of the Non-Ad Valorem Assessment roll must take place on or before September 15, 2013.

A memorandum from Kristi Caravella, Financial Services Director, To Mayor and Members of Council dated September 4, 2013 follows:

Pursuant to Florida Statutes and the City of Plantation Council, the First Public Budget Hearing is scheduled for 7:30 PM, Wednesday, September 12, 2013. Attached are tentative millage and budget resolutions for the first public hearing, based on the maximum millage established by City Council on July 10, 2013 and submitted on the DR-420 forms to the Property Appraiser as follows:

1. Tentative Millage Resolution – City of Plantation
2. Tentative Millage Resolution – Plantation Gateway Development District
3. Tentative Millage Resolution – Plantation Midtown Development District
4. Tentative Budget Resolution – City of Plantation
5. Tentative Budget Resolution – Plantation Gateway Development District
6. Tentative Budget Resolution – Plantation Midtown Development District
7. Tentative Budget Resolution – Plantation Community Redevelopment Agency

The City of Plantation Budget is based on the General Fund operating millage of 5.6142 mills, which is an increase of 3.27% from the rolled-back millage rate of 5.4365 mills.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 64.6% from the rolled-back millage rate of 1.2149 mills.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 150% from the rolled-back millage rate of 0.4005 mills.

The City of Plantation Aggregate Budget is based on the operating millage of 5.6412 mills, which is an increase of 3.27% of the rolled-back millage rate of 5.4365 mills.

At the July 24, 2013 City Council meeting, the sale of the City's surplus property valued at \$2.25 million was voted down and, therefore, has been eliminated as one-time revenue in the proposed budget. In order to balance the City's overall budget, all major capital projects in the General Fund have been removed from the proposed budget.

The second public hearing is scheduled for 7:30 p.m. Wednesday, September 25, 2013.

Dr. Caravella, Financial Services Director, noted the total proposed budget for the City is \$178,110,619. There is no proposed millage increase for the General Fund which will remain at 5.6142 mills. The recommended millage increases in the Special Districts are proposed and required for capital improvement projects.

Mayor Bendekovic discussed the 2013/2014 Budget presentation prepared by staff. She noted there have been several workshops prior to tonight's hearing which discussed various budget items including benefits, health care, pensions and the \$4.29 million budget shortfall. These presentations explained the City's financial status. She explained the budget is a fluid document and changes will occur throughout the budget process. Factors that have affected the budget in the past include the economic downturn, the low millage rate, the increased costs of business, the reduction of revenue sources and the increased cost of personnel benefits. She reiterated the City cannot state that the City has recovered from the aforementioned factors until capital projects are funded and the reserves are replenished at least 5% of the General Fund or \$4.3 million.

Mr. Shimun, Chief Administrative Officer discussed the millage rate review portion of the Budget presentation.

Dr. Caravella, discussed the General Fund Budget and Enterprise funds, Special Revenue funds and Special Districts Budgets.

Councilmember Levy reminded the residents, the City does not charge a fire fee. He explained the State legislature allows City's to charge a separate fee to recoup fire fees. Council has decided not to impose a fire fee because of the Volunteer fire system. With regard to the reserves, he commented the City of Pompano Beach may not be providing the services to the people who are being taxed that amount of money, if more than half of the budget is kept in reserve. It was his belief the City should have a reserve amount of between 7-10% in order to retain fiscal integrity.

Mayor Bendekovic noted the following City fire fees:

- Hollywood - \$181

- Lauderdale Lakes - \$215
- West Park - \$350
- Dania Beach - \$128
- Lauderdale By the Sea - \$130
- Lauderhill - \$388
- Miramar - \$405
- Weston - \$333

The Cities of Wilton Manors, Pembroke Park, Plantation, Hillsboro Beach, and Sea Ranch Lakes do not have a fire fee in place.

Councilmember Levy opened the discussion to the general public.

The following individuals spoke with regard to the City's budget:

- Dr. Barbara Weinstein – requested a community contribution to benefit Family Central. It was noted this is a budget amount of \$28,645.00.
- Priscilla Hawk – requested to maintain the infrastructure for Country Club Estates. She objected to the Storm Water fee.
- Nancy Burch – concurred with Ms. Hawk. She objected to the Storm Water fee.
- Dennis Conklin – was in opposition to the Storm Water fee. He urged the City consider the roll-back millage rate.
- Dottie Davis Francis – expressed concern with regard to the Storm Water fee remaining \$30 per year in subsequent years.
- Rob Juskiwicz – commented the City needs revenue and in the long run additional taxes will be assessed because of lack of maintenance.

Discussion ensued with regard to the Storm Water Fee. Mayor Bendekovic noted the charge is \$30 for the year.

City Engineer Brett Butler explained the Storm Water Management includes maintaining water quality, other services such as the CRS program for Flood Insurance, entire services throughout the City which are serviced by the City, exit strategy in case of a major flood insurance. Staff views this program as City wide and all residents derive a benefit from the program. With regard to Plantation Acres, they are unique due to the history of the City. Plantation Acres has their own State chartered structure which administers the affairs of storm water within the defined boundaries of their community. Notwithstanding the fact that they are separate, the resident's pay a fee for the same type of services that are being delivered by the City. Fees are being paid to a different entity rather than the City. It was his belief the Plantation Acres differs because they are an incorporated entity, an improvement district, which does significantly business separately and independently from the City. To date, the City is waiting for legislation dealing with the water quality issues and how they will be implemented. This will be a long term, unfunded mandate that will be imposed by the Federal government. It was noted the City has the ability to review the Storm Water fee on an annual basis.

With regard to the Storm Water Management Budget, Mr. Butler advised there is an allocation being performed for the fund for the staff cost, regular operation and maintenance. The three persons allocated by staff are working full time. Other staff member's salaries will be allocated on a prorated basis and are not noted as part of the three staff person who are not working full time on the Storm Water Management. The projected allocated amount for the Storm Water program is \$350,000-\$400,000 in revenue to begin working on projects.

A capital improvement program has been refined. He noted in the future, there will be regulation that will affect the treatment of storm water.

Councilmember Stoner commented the Clean Water Act is different than the Storm Water issue which is being presented tonight and acknowledged that they may affect each other in the future. The Storm Water issue is addressing the aging infrastructure.

There being no further comments, this section of the meeting was closed.

In response to Councilmember Stoner, Mayor Bendekovic explained the staff costs for the Community Center and programs were placed in other facilities and being maintained so that when the Community Center is rebuilt the staff and programs will be available. Additionally, no new positions were created. Positions were filled due to vacancies. The positions eliminated were budgeted vacancies that were never filled. There were eight layoffs and two full time employees are now part time employees.

Councilman Fadgen requested a list of employees that were promoted or received salary adjustments. He reiterated his previous request to freeze all hiring and promotions and gives Council the opportunity to see if there are other alternatives to handle the job being done. He suggested elimination of the second Deputy Chief position. In the past, Council was provided an opportunity to vote on significant administrative opportunities. He felt requests are being made and less information is provided. He noted Council's approves the financial expenditures while the Mayor makes recommendations.

Mayor Bendekovic noted a detailed response was provided showing those positions and where they were noted in the budget. She advised a comprehensive list of those individuals will have to be compiled and remain a part of the organizational chart. Mayor Bendekovic commented the hiring freeze proposal did not manifest due to a lack of a second to the motion. She emphasized the transparency of this Administration. She noted in the City Charter, it calls for the Mayor to bring only Department Heads for Council approval.

Police Chief Harrison advised the Deputy Chief position was promoted approximately one month ago. He noted there has been a loss of several employees for the past few years. The staffing has been maintained through retirement. He has tried to implement succession planning.

Councilmember Levy commented the Charter states that the Mayor is in charge of personnel. Department Heads are brought for Council approval. He reiterated the importance of allowing the Police Chief to work with his staff.

Councilman Fadgen questioned whether the Assistant Utility Director position has been filled.

Mayor Bendekovic clarified a vacancy would have been noted if the position had not been filled.

Utility Director Chuck Flynn advised the position for Assistant Utility Director was filled in April.

Councilman Fadgen felt permanent steps needed to be taken in order to correct the City's financial crisis.

Councilmember Levy expressed his belief that the City has come a long way with regard to its financial situation.

Mayor Bendekovic commented the City has decreased its deficit from \$12 million to \$4.3 million. The Administration and Staff have decreased their budgets while revenue was generated.

Councilman Fadgen reminded residents the millage rate increase would be agreed to by the Plantation Midtown Development District Board and be limited, to be revisited next year, not a permanent increase.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11748.
Motion carried on the follow roll call vote:***

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

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11749.
Motion carried on the following roll call vote:***

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

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11750.
Motion carried on the following roll call vote:***

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

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11751.
Motion carried on the following roll call vote:***

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

It was noted that the Utility tax and the sale of the 10-acres North Parcel are not included in this item.

Councilmember Stoner felt the budget process has come a long way, but there is still work to be done.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11752.
Motion carried on the following roll call vote:***

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

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11753.
Motion carried on the following roll call vote:***

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

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11754.
Motion carried on the following roll call vote:***

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

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11755.
Motion carried on the following roll call vote:***

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

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Mr. Lunny read Item No. 24.

Ordinance No. 2488

24. **ORDINANCE SECOND AND FINAL READING PERTAINING TO THE SUBJECT OF STORM WATER MANAGEMENT; PROVIDING CLARIFYING CHANGES TO THE STORM WATER UTILITY FEE WHICH ARE NECESSARY AS A RESULT OF THE CITY DECISION TO UTILIZE THE NON-AD VALOREM TAX PROCESS TO COLLECT SUCH FEE; CHANGING THE METHOD BY WHICH INFLATIONARY ADJUSTMENTS ARE CONSIDERED FOR APPROVAL; CLARIFYING THE TRIENNIAL METHODOLOGY REVIEW AND MAKING SAME MANDATORY; MAKING OTHER MISCELLANEOUS CHANGES TO THE METHOD BY WHICH PRIVATE STORM WATER SYSTEMS ARE REVIEWED AND THE FEES CHARGED FOR SAME; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A Memorandum from Donald J. Lunny, Jr., City Attorney, dated September 5, 2013, to Mayor and Members of City Council follow:

After numerous public hearings and public meetings, the City created a Storm Water Management Utility and a Storm Water Management Utility Fee when City Ordinance No. 2468 became effective on April 4, 2012. This Ordinance indicated that the elected officials would later decide how to collect the Ordained Fee (i.e. through independent billing, combination billing, or an alternate means of collection such as the Uniform Method for the Levy, Collection, and Enforcement of Non-Ad Valorem Assessments). The City Council on May 23, 2012 directed Staff to collect the Fee using the Uniform method for the Levy, Collection, and Enforcement of Non-Ad Valorem Assessments when t promulgated City Resolution No. 11506.

In order to implement the City's decision concerning the method of collecting the Fee, the City Council conducted an advertised public hearing on November 20, 2012 and adopted City resolution No. 11604, which formally declared the City Council's official intent to use the Uniform Method of Collecting Non-Ad Valorem Assessments to collect the Fee. This Resolution also approved Interlocal Agreements with the Property Appraiser and Broward County Tax Collected for this process. Staff has been working very hard with these agencies to prepare in the required electronic medium a Proposed Non-Ad Valorem Tax Roll which has been advertised for consideration and approval by the City Council on September 12, 2013 pursuant to proper practices and procedures.

Because this is the first time the City has levied a Non-Ad Valorem Assessment to collect the Storm Water Management Utility Fee, a hearing to adopt the Non-Ad Valorem Assessment Roll is required. Once the proposed non ad-valorem assessment roll is approved, the statutory procedures requires that the “*chair of the local governing board or his or her designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector*” by September 15. For this reason, the Proposed Non-Ad Valorem Assessment Roll is in digital form and is on file with the City Clerk.

State law provides the following with respect to the City Council’s September 12, 2013 hearing on the Non-Ad Valorem Assessment Roll:

“At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons. The local governing board may adjourn the hearing from time to time. If the local governing board adopts the non-ad valorem assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment. Notwithstanding the notices provided for in paragraph (b), the local governing board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the board will provide or has provided to the property with the revenue generated by the assessment.” (Fla. Stat. § 197.3632 (4)(c)(2012)).

Attached, please find a draft Resolution for the City Council’s consideration which evidences its approval of the Non-ad Valorem Assessment Roll. In relevant part, the recitals outline the lengthy process and many hearings the City Council has already conducted with respect to this matter and how the September 12, 2013 hearing was advertised (Lines 19-102). Sections 2,3,4, and 5 of the Resolution are taken from prior action (ordinances and resolutions) and repeat for public knowledge the benefits of the Storm water Management Utility, the need for the Fee, the Levy of the Fee and Unit of Measurement (the “ERU Rate) and the legal description of Assessed Property (Lines 109-314), Section 6 sets forth to total amount to be levied in the upcoming 2013-2014 fiscal year (Lines 314-321) which has been calculated consistent with the approved methodology. Section 7 provides for the approval of the Final Assessment Roll (Lines 322-331) and Section 8 authorizes several employees to make required electronic Certification (Lines 332-337).

Staff does not anticipate that the City Council will desire to make many individualized parcel specific determinations of assessments at the September 12, 2013 hearing because, as the elected officials may recall, City Ordinance No. 2468 establishes procedures for administrative relief with respect to the Storm Water Management Utility Fee. The first is an “adjustment,” The calculation of the Storm Water Management Utility Fee for non-residential property is largely driven by the extent of a property’s impervious surface area. City Ordinance No. 2468 allows for the City Engineer to make adjustments to the Fee based on more detailed evidence of the extent of impervious surface area for a specific property, and any appeals may be considered by the Board of Adjustment (alternatively, the City Council may establish an “Appeals Committee” for this purpose). In addition to “adjustments”, a property owner may construct qualifying off-site and on-site storm water treatment facilities in excess of that required by City law and receive “credits” against the Fee when such facilities are placed in service. To receive an adjustment or credit for fiscal year 2013-0214 using either form of administrative relief, the City must receive a Petition for Credit or Refund, as the case may be, by September 30, 2014.

This matter is now ready for the City Council’s consideration.

NOTE: Discussion of this item was heard during the previous budget items.

Councilmember Levy opened the discussion to the general public.

Dennis Conklin was present in opposition.

There being no further discussion, this section of the meeting was closed.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Ordinance No. 2488.
Motion carried on the following roll call vote:***

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

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QUASI-JUDICIAL CONSENT AGENDA - None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 25.

25. REQUEST TO DEFER TOYS R US SITE PLAN MODIFICATION UNTIL OCTOBER 9, 2013.

NOTE: This item was heard out-of-order of the agenda and after the consent agenda.

Motion by Councilman Jacobs, seconded by Councilman Fadgen, to defer Item No. 25, request to defer Toys R Us Site Plan Modification until October 9, 2013. Motion carried on the following roll call vote.

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

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COUNCILMEMBERS' COMMENTS

Councilmember Stoner appointed Dr. Ann Quintoch (sic) to the Library Board.

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Councilman Fadgen questioned if the street trees near Motorola could be addressed to hide the tower as it is erected.

Danny Ezzedine, Director, Landscape Design and Construction Management, advised a meeting was held and it was decided that Motorola will remove the bushes around the fencing and two layers of trees will be planted to help hide the tower from the street view.

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Mayor Bendekovic announced City Hall will be closed September 13, 2013 due to Yom Kipper. The next Council meeting will be held on September 25, 2013.

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PUBLIC REQUESTS OF THE COUNCL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, 4581 NW 6 Court, was present and reflected on the remembrance of September 11, 2013 and the Benghazi tragedy.

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Priscilla Hawk recommended another hearing on the Storm Water Management because of the potential impact on liens.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOP – None.

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Meeting adjourned at 11:05 p.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