

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

October 23, 2013

The meeting was called to order by Councilmember 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 Councilmember Jacobs.

The Pledge of Allegiance followed.

3. Approval of minutes of meeting held June 25, 2013.

4. Approval of minutes of meeting held June 26, 2013.

The minutes of the City Council meetings of June 25 and June 26, 2013 were approved as printed.

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ITEMS SUBMITTED BY THE MAYOR

Boy Scout Pack 111 was recognized as being present to learn about government and earn their Citizenship Pin.

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Mayor Bendekovic presented Service Awards to the following employees:

Harvey Fischer	Public Works	35 years
Jeffrey Gouge	Public Works	15 years
John Greene	Police	15 years
Officer William Hamilton	Police	15 years
Officer John Reid	Police	15 years

Congratulations were offered.

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5. Resolution No. 11778

RESOLUTION of Appreciation to Timothy Cox for 19 years of dedicated service to the City of Plantation.

Mayor Bendekovic read the resolution into the record.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Resolution No. 11778 as presented. Motion carried on the following roll call vote:

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

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Assistant Director Sharon Kent announced the following:

- Kids Day Off, October 25, 2013 at Plantation Central Park for ages 5-11. The fee is \$30 for residents and \$43 for non-residents. An extra \$10 fee will be charged for registration the day of the event.
- Family Health and Safety Festival will be held October 26, 2013 at Volunteer Park Community Center. Admission is \$3.00 per person for children 2 years and older.
- Winter Craft Registration will begin November 4, 2013 and classes begin November 18, 2013.
- Veteran's Day Service will be November 11, 2013 at 9:30 a.m. at Veterans Park.

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Mayor Bendekovic announced the following:

- Police Department Drug Take Back Event will be held at the Safety Festival, October 26, 2013 at Volunteer Park from 10:00 a.m. until 2:00 p.m.
- Broward County Plant Affair will be held October 26 and 27, 2013 at Heritage Park.
- The 57th Annual Volunteer Firefighter's BBQ will be held November 3, 2013 from 12:00 noon to 5:00 p.m. at Pine Island Park.
- Art in the Park will be held at Liberty Tree Park.

- Share-A-Pony for ages 4-12 will be held October 25, 2013 and November 11, 2013 from 9:00 a.m. to 4:30 p.m. at the Plantation Equestrian Center. The fee is \$65 for residents and \$75 for non-residents plus an additional registration fee.
- Farmers Market is held every Saturday from 8:00 a.m. until 2:00 p.m. at Volunteer Park.

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NOTE: Item No. 16 was heard out of order and before the Consent Agenda.

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CONSENT AGENDA

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

Item No. 7 was removed and discussed separately.

Mr. Lunny read the Consent Agenda by title.

6. Request from Winn Dixie to sell Christmas trees in front of their location at 901 N. Nob Hill Road November 15 through December 24, 2013 from 7:00 a.m. until 11:00 p.m.

Resolution No. 11779

8. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property 341 Holly Lane.

Resolution No. 11780

9. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property 5341 SW 9 Street.

Resolution No. 11781

10. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the Period October 3, 2013 through October 16, 2013 the Plantation Gateway Development District.

Resolution No. 11782

11. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the Period October 3, 2013 through October 16, 2013 the Plantation Midtown Development District.

Resolution No. 11783

12. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the Period October 3, 2013 through October 16, 2013.

Resolution No. 11784

13. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the Period October 3, 2013 through October 16, 2013 the City of Plantation's Community Redevelopment Agency.

NOTE: Mayor Bendekovic voted affirmatively on Item 13.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve tonight's Consent Agenda as printed. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

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Mr. Lunny read Item No. 7.

Resolution No. 11785

7. **RESOLUTION** of the City of Plantation, Florida pertaining to Finance; establishing the City's intent to reimburse certain utilities project costs incurred with proceeds of future tax exempt financing or other obligations; providing certain other matters in connection therewith; and providing an effective date.

A memorandum to Mayor Bendekovic and Members of Council dated October 14, 2013 follows:

The Utilities Department intends to borrow tax-exempt funds to finance upcoming capital projects. The expected amount of the bank loan will be \$30,000,000.00. This Resolution is intended to constitute a "declaration of official intent" within the meaning of Section 1.150-2 of the Income Tax Regulation. This resolution enables the City to be reimbursed from proceeds of a future tax-exempt financing or other obligations for capital expenditures to be paid by the City in connection with the construction of these Utilities capital projects. Pending reimbursement, the City expects to use funds on deposit in its water and wastewater service funds to pay a portion of the cost of project costs.

Councilmember Stoner questioned what the Utilities Department would use the \$30 million bond is being used for. It was her belief that this is the wrong time to request these funds. She felt this should not have been placed on the consent agenda item. She noted the need for a revenue source for the debt service.

Mayor Bendekovic noted the request is for rehabilitation of the infrastructure. She explained Council approved the 5.6% increase to support this bond.

Financial Services Director Kristi Caravella explained this is part of the infrastructure improvements. Some projects are being done immediately and would allow monies to be reimbursed from the loan back to the Reserves. Currently, these projects are being funded through the Reserves.

City Attorney Lunny reiterated Council will approve the projects and more significant contracts that are within the Council authority. This will be a multi-step process. In response to Councilmember Levy, any municipal loan is a bond which can be private or public. The cost efficiencies of the private placement in terms of the interest rates are more favorable.

Councilmember Levy questioned why the City is not considering a bridge loan, shorter term, comparable or less interest rates and benefits the local economy and a dedicated financial source. It was his belief the debt should be paid by this generation and not future generations.

Dr. Caravella explained local banks are being solicited and evaluated the debt coverage that is available in utilities and they cannot afford a shorter term on the loan. The advertisement to solicit financing will be done after the first of the year. This will be a similar process to refinancing the bonds. There is approximately \$10 million in Utilities reserves.

Councilmember Zimmerman expressed concern that the scope of projects are defined and required the distribution of funds be noted ahead of time.

Utilities Director Chuck Flynn advised a complete list of projects has been compiled and totals more than the \$30 million being proposed. As the project moves forward the scope will broaden. The projects are prioritized according to area. The project will take approximately three years to complete. Mr. Flynn noted this funding will be for new projects and the term of the loan is for 10 years.

City Attorney Lunny noted the documents show the intent of the projects to be completed within three years. The presentation will provide the complete list.

Councilmember Fadgen expressed his belief the City should move forward with financing since the rates are low.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11785 as presented. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 14.

14. RESOLUTION APPROVING A CONTRACT FOR PROFESSIONAL SERVICE IN CONDUCTING A FIRE ASSESSMENT FEE STUDY BETWEEN THE CITY OF PLANTATION AND, TINDALE-OLIVER & ASSOCIATES, INC. AUTHORIZING A CONTRACT WITH PROPOSER CONSISTENT WITH THE TERMS AND CONDITIONS FOR THESE SERVICES AS OUTLINED IN THE REQUEST FOR ELECTRONIC (EMAIL) QUOTES (EMQU); DIRECTING THE MAYOR OR CHIEF ADMINISTRATIVE OFFICER TO EXECUTE SAME; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum to Mayor and Councilmembers dated October 4, 2013 from Kristi Caravella, Financial Services Director follows:

REQUEST: Approve agreement for fire assessment fee study.

ANALYSIS: The City requested email quotes (EMQU 114-03) for a fire assessment fee study. Four (4) firms sent email quotes for the proposed study. The deadline for quotes was August 20, 2013. The proposals were evaluated by Kristi Caravella, Financial Services Director,

Chief Laney Stearns, Fire Chief, Chief Don Todd, Deputy Fire Chief, Gary Shimun, Chief Administrative Officer and Priscilla Richards, Strategic Operations Administrator. During the evaluation, the top three firms were identified. Then it was determined which respondents were more qualified than others to conduct the study. After considering both qualifications and pricing, the three top firms were as follows:

- Tindale-Oliver & Associates, Inc.
- Government Services Group, Inc.
- Burton and Associates

The review committee recommends entering into an agreement with Tindale-Oliver & Associates, Inc. to complete the impact fee study. Copies of all quotes are available in the City Clerk's office for your review.

Councilmember Levy queried who was in favor of assessing a fire assessment fee. The following responses were noted:

- Councilmember Stoner no.
- Councilmember Zimmerman said that he would consider the fee; however, he would like more information.
- Councilmember Levy no.
- Councilmember Fadgen no.
- Councilmember Jacobs was indifferent due to the majority of responses being in the negative.

Councilmember Levy felt there should be no further discussion since there is a consensus not to impose a fire assessment fee. It was his belief the fee should not be expended to conduct the study.

Mayor Bendekovic expressed her belief that Council should listen to the presentation to make an educated assessment.

Motion by Councilmember Zimmerman, seconded by Councilmember Stoner, to table discussion of the aforementioned resolution to approve a contract for professional service in conducting a fire assessment fee study. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 15.

15. ORDINANCE PERTAINING TO THE SUBJECT OF FINANCE; CODIFYING THE PARKS AND RECREATION FEES FOR THE CITY OF PLANTATION; AMENDING SEC. 2-373 IN ORDER TO REFERENCE THE NEW MODIFIED FEE SCHEDULES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum from James S. Romano, Director of Parks and Recreation to Mayor and City Council Members dated October 10, 2013 follows:

For your review are proposed facility fee increases at Deicke Auditorium and the Central Park Gymnasium. As noted in an earlier memo to you dated October 1, 2013, with the makeover of Deicke Auditorium we recommend additional increases for the Main Hall rentals.

These proposed fee increases exceed the 50% fee increase and therefore are being brought back to the city Council for a second review.

At this time the Parks and Recreation Department is recommending that the City Council approve these proposed fee increases.

Please review this information and call me if you have any questions or concerns.

Discussion ensued with regard to previous fees. It was noted at the last presentation there were additional fees approved.

In response to Councilmember Stoner, Assistant Parks Director Sharon Kent advised there is little use for the gymnasium from local homeowners associations or nonprofits. A telephone survey was conducted and there were some municipalities that were either lower or the same as the proposed \$100 fee.

Motion by Councilmember Zimmerman, seconded by Councilmember Stoner, to approve the aforementioned Ordinance pertaining to the subject of Finance on first reading, codifying the Parks and Recreation fees for the City of Plantation on first reading. Motion carried on the following roll call vote:

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

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NOTE: Item No. 16 was heard out of order of the agenda and prior to the Consent Agenda.

Mr. Lunny read Item No. 16.

16. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF GROWTH MANAGEMENT; AMENDING THE CITY'S CODE OF ORDINANCES AS SAME PERTAINS TO COMMUNICATIONS TOWERS AND COMMUNICATIONS ANTENNAS; UPDATING THE CITY'S REGULATIONS IN LIGHT OF STATE PRE-EMPTIVE STATUTORY PROVISIONS; ESTABLISHING SUBSTANTIVE REGULATIONS FOR THE LOCATION; HEIGHT, AND PLACEMENT OF COMMUNICATIONS TOWERS THROUGHOUT THE CITY; ESTABLISHING AESTHETIC AND SAFETY REGULATIONS FOR COMMUNICATIONS TOWERS; ESTABLISHING PROCEDURES TO REVIEW APPLICATIONS TO INSTALL COMMUNICATIONS TOWERS; ESTABLISHING SUBSTANTIVE REGULATIONS FOR THE LOCATION, HEIGHT, AND PLACEMENT OF COMMUNICATIONS ANTENNAS; CREATING EXPEDITED REVIEW PROCEDURES THAT ENCOURAGE COLLOCATION CONSISTENT WITH STATE AND FEDERAL LAW; ESTABLISHING SUBSTANTIVE REGULATIONS GOVERNING INSTALLATION OF ANTENNAS AND ANTENNA SUPPORT POLES (I.E. STRUCTURES) IN MUNICIPAL AND NON MUNICIPAL RIGHTS-OF-WAY; AMENDING THE CODE OF ORDINANCES PERTAINING TO THE BOARD OF ADJUSTMENT; REPEALING MISCELLANEOUS CODE REGULATIONS IN CONFLICT WITH THE FOREGOING; ESTABLISHING OTHER MISCELLANEOUS IMPLEMENTING PROVISIONS THEREFOR; REVISING REGULATIONS THAT APPLY TO ROD AND SPIKE AND DISH ANTENNAS; ESTABLISHING "ZONING IN PROGRESS" SO THAT ANY APPLICATIONS RECEIVED WHILE THE CITY IS EVALUATING THIS PROPOSED ORDINANCE WILL BE SUBJECT TO THE SAME; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR – AND – PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF A MORATORIUM; IMPOSING A TEMPORARY MORATORIUM ON THE RECEIPT OR PROCESSING OF APPLICATIONS, PERMITS OR PENDING APPROVALS PERTAINING TO THE INSTALLATION OR SITING 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 MORATORIUM BEING EFFECTIVE FOR ANY MUNICIPAL RIGHT-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 AN EXPIRY DATE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE THEREFOR.

Mr. Lunny introduced the City's Special Telecommunications Counsel, Matthew Leibowitz, who represented the City years ago in connection with Cable Franchises and our first Telecommunications Tower Ordinance when the City embarked on Tower Regulation after the Federal Act. He invited Mr. Leeds, Mr. Butler, Mr. Sabouri, Chief Stearns and Mr. Ezzeddine, who are City representatives of the Industry Group to come forward to answer any questions. There were many Industry Group members in the audience from all of the carriers and their lawyers and principals, FP&L included. There have been several meetings concerning this ordinance and

those meetings have been frank and there are many points that he needs, the City needs, staff needs and the Industry needs to have advice prior to proceeding too much further with respect to this ordinance. Rather than focusing on everyone's comments, which are extensive, he would like to go through the major policy considerations and get Council's direction. He informed the Industry that the City Council would welcome any comments they might wish to make as we go through this; if they want to advocate a particular position they are welcome to do so. He suggested starting with major policy consideration #1.

Councilmember Zimmerman commented that in reading through this it seems like there is still a large divide a little between what the Industry wants and what the City is looking for. This is a lengthy memo with a lot of questions. We have very capable staff and we are represented by good attorneys.

Motion by Councilmember Zimmerman, seconded by Councilmember Stoner, that a 30-day extension be put on the moratorium; let City staff and the Industry review this a little more to refine these and come back with a formal recommendation.

There was no vote.

Mr. Lunny stated that even though the draft moratorium in the agenda package proposed an extension through December 20, 2013, once he started reading the Industry's request for deferral and postponement, if you choose not to do this tonight he believes that February 15, 2014 might be more appropriate given what is coming on the agendas and what work they might need to attempt without Council's direction.

Councilmember Zimmerman and Councilmember Stoner noted that was fine.

In response to Councilmember Levy, Mr. Lunny advised that both of these were duly advertised.

Councilmember Levy questioned what would need to be done if we were to follow through with Councilmember Zimmerman's motion. He questioned whether we would hear public comments tonight or defer until another time.

Mr. Lunny indicated that a new State Law requires that on any proposition made by anyone that the public has a right to speak.

Councilmember Levy is checking legally since we advertised this as public hearing and questioned whether this is made a formal public hearing.

Mr. Lunny stated that it is a public hearing and as he understands Councilmember Zimmerman's motion, he wants to defer to a date certain so a date would have to be picked.

In response to Councilmember Levy, Mr. Lunny clarified that he said February 15, 2014 for the moratorium. Since the First Hearing of the ordinance is not going to be considered tonight it will be brought back; however, you can listen to the public.

In response to Councilmember Jacobs, Mr. Lunny advised that a moratorium extension has to be a separate motion. The ordinance has to be approved on First Reading and we will bring it back. He noted that in order to be effective for February 15, 2014, the moratorium has to be approved by First Reading and then he has to bring it back.

Mr. Lunny indicated that #16 was the Telecommunications Ordinance proper and the other is the moratorium, which is a companion item.

Councilmember Zimmerman stated that he would like to defer the First Reading of #16 and the other item would be an extension.

Motion by Councilmember Zimmerman, seconded by Councilmember Stoner, to continue First Reading on the Telecommunications Ordinance to a future date.

There was no vote.

Mr. Lunny advised that he will ask the Planning and Zoning Board these policy considerations at its next meeting if he understands that it what Council wants to do. It will be back to you for First Reading on or about November 13, 2013.

Councilmember Stoner commented that there is too much and does not believe it should go to the Planning and Zoning Board in this format. She thinks that a lot of issues need to be resolved within the Industry before presenting it to the Planning and Zoning Board.

Mr. Lunny stated there is no need to continue the First Reading because we have not paid for an ad for the First Reading. If you wish to drop this we will drop the First Reading of this ordinance and will continue to work.

Councilmember Levy noted that the Industry is working on this with staff to bring back a combined report, which is what we are requesting.

Councilmember Zimmerman indicated that we are looking for staff and the Industry to work together to better define the ordinance that will meet the needs of both.

Councilmember Stoner advised that she received a couple of phone calls and was told that the last meeting was not very nice. They were basically told that if they had some concessions to make then some modifications would be made but if concessions were not made then those modifications were not going to be made. She has seen the requested modifications versus what is presented and she thinks they are pretty far apart. She thinks they need to go back to the drawing board and discuss the issues before it goes to the Planning and Zoning Board or Council.

In response to Councilmember Levy, Mr. Lunny stated that he understood. He does not share the same view of whoever it was that spoke to Councilmember Stoner. The questions ultimately are what are the City's goals for outcomes and what regulation does the City wish to have. He thought they went as far as they could to come back to Council for direction. Sometimes you cannot agree on everything because you feel like you are giving things up that maybe we do not perceive you would want to do and if someone shared something he would like to see it.

Councilmember Stoner commented that you would not know until you ask. Wireless is a new field and the growth is so phenomenal and such a huge, fast, quick pace that she thinks that given the number of professionals within the Industry that wanted to have some input into this, as a City we should have a little faith that they know how this growth is going to happen more than maybe staff and everyone does at this point because everyone has admitted that there is a learning curve. That does not mean that we cannot come back later and modify it because we have found a couple of things that do not work. She thinks that the Industry

would probably agree with that too, that it is going to be a work in progress along the way. Some of the things are not going to work. She has looked at some of the requested modifications that she did not think were terrible. She agrees with Councilmember Zimmerman that there is a lot of work and tweaking that needs to be done before it goes anywhere.

Councilmember Jacobs questioned whether Council should have a meeting to try to work through some of these issues.

Mayor Bendekovic advised that Workshops can be done but it is really not a Workshop anymore because we used to be permitted to have a conversation between us but now the public has to be permitted to speak at any time and that is why everything has been changed to Administrative items. If Council wants to have a special meeting that can be called so there can be a thorough discussion.

Councilmember Stoner thinks it might be nice for the Industry because they may have some things they want to present as we consider this.

Councilmember Jacobs commented that generally we delegate a lot of that to staff because it will be information overload and it will be rather technical and complicated.

Councilmember Zimmerman reiterated that is why he is saying go back and review; there is too much and he believes it needs to be refined.

Mayor Bendekovic questioned if Council was looking to have a 6:30 p.m. to 7:30 p.m. meeting on a Wednesday. We have two meetings in November and December and then there is a long time off for the holidays.

Councilmember Zimmerman thought that would be a good idea.

Councilmember Jacobs stated that the next meeting would be all right with him.

Councilmember Levy commented that it is fine with him to come in an hour earlier.

Councilmember Zimmerman questioned whether staff should look at this a little more with the Industry before coming back.

Mayor Bendekovic indicated that we have the November 13, 2013 and November 20, 2013.

Councilmember Stoner suggested November 20, 2013.

There was a consensus to have the meeting on November 20, 2013 at 6:30 p.m.

Councilmember Jacobs questioned whether the ordinance should be continued until November 20, 2013 or let it go.

Mr. Lunny stated that it does not matter because we have not paid for advertising for First Reading.

Mayor Bendekovic questioned whether the Industry should be able to give a ten-minute presentation. If there are too many we might have to come in a little earlier. She believes that ten minutes is a fair presentation.

Councilmember Levy noted that Council would like to hear from the Industry.

Mr. Lunny clarified that the meeting would be on November 20, 2013. He stated that the meetings have been about one and half to two hours and if the participation is about the same that much time might need to be allocated.

Councilmember Jacobs suggested taking an hour and a half to discuss, brainstorm and listen to the Industry to see if a direction can be set. Council is not educated enough to give direction.

In response to Councilmember Levy, Mr. Lunny advised that he did not need a consensus or a motion but on the moratorium, if you are going to start on November 20, 2013, and he assumes that he would have to come back with a revised document and then go to Planning and Zoning, the enactment period will be moved to probably March or April 2014. Two things have to occur in his judgment; one would be to extend the moratorium to the end of March 2014 and the second is that Crown Castle has been patient and we have asked the City Engineer to start working with Crown to have one or two installations. We have to get some of the ones that have been on the sidelines working with this ordinance approved in this interim.

Councilmember Stoner mentioned the ones in that area and questioned if they are of the type that we cannot push forward on what we currently have.

Mr. Lunny indicated that based on his understanding we are very close to bringing Crown to Council and having them approved. He would have to speak with Mr. Leeds regarding the height and setback. He was not sure about the other gentleman. If we are going to extend the moratorium again, the point is that we need to loosen up and let some of the people get approved because they have been waiting a while.

Councilmember Stoner questioned if the two that have already applied can be carved out.

In response to Councilmember Levy, Mr. Leeds advised that the other two have not applied but they have been pushing and he anticipates them applying soon if they hear the moratorium is extended until February 2014. These deal with antennas on top of buildings.

Mr. Lunny stated that antennas on top of buildings are not subject to the moratorium; it is only the new installations. The antennas on the buildings would be subject to the new law when it becomes effective and it is subject to the zoning in progress. The problem is that we have not gotten from the Council what it feels about the height issue where the Industry is asking a certain height for certain antennas and staff feels it is too high.

Mr. Leeds commented that is exactly the problem for antennas on top of the building. The staff has one position and the Industry has something else. He questioned what he should tell the applicants.

Councilmember Levy indicated that Mr. Leeds should let the applicants know that it is pending until Council determines on November 20, 2014 what kind of level and height and other factors.

Mr. Leibowitz advised that he is going to be out of town in November 2013 and will not be able to attend. He will present some material through Mr. Lunny's office. He believes it is important that Council focus on a few points tonight. When it comes to the right-of-way, both Federal and State Law has created special priorities. Under both laws there is a set of rules that creates a non-discriminatory, non-anticompetitive scenario. That means that once you let one person in your right-of-way that sets the precedent for everyone behind them. That first application is critical because everyone after has the same rights. Not everyone who wants to go into the

right-of-way has those rights. Under the State Law is Communication Service Providers; the ones who actually provide the service; and the ones who provide E911 service. Once you open the door to one applicant the door is opened to many. You have to understand that the technology and the law is rarely in sync. This is a new technology but the service areas are very small and there will be a debate between engineers as to how small. That means when you are walking down the street you may have one, two or ten poles of some type so the threshold questions have to be answered before you grant the first one. There are multiple carriers and multiple technologies and the City maintains the right under Federal and State Law to manage its right-of-way. The City has the power to do what they need to do. Mr. Lunny is looking for a separation requirement. If light poles are about 500 feet apart a similar rule could be adopted for these types of poles. You can require collocation, steps that try to mask the antenna. All of these will benefit the local residents. The critical point is while people have applied and waited, the dilemma under the law is once you approve one the door is open; therefore, you must be very careful on the first one and then follow that same precedent going forward.

Councilmember Levy clarified that once we allow the ones already in the pipeline to go through we cannot change whatever has been done and a precedent will be sent that we must follow in the future.

Councilmember Stoner questioned if that applies even though we have not passed the ordinance.

Mr. Leibowitz stated that it does not matter. Under Federal and State Law it is a non-discriminatory approach.

Mr. Lunny mentioned discussions we have had with Crown Castle and noted that our intent would be that it would be subject to the separation standard previously mentioned or collocation on an existing FP&L distribution pole to make it look like a street antenna and meet what staff is proposing. It would then have to come back to Council for approval, likely sometime after November 20, 2013, when we see whether that separation standard is appropriate or not. There is another strategic problem, which is that it has been his desire to have a check the box type of regulation that is cost effective to administer without any addition in Human Resources and without regard to the type of antenna that is proposed. Mr. Leibowitz's comment says that might cause the City to have more towers than it otherwise would have under an ordinance that would be more expensive to administer that we do not necessarily have the staff to administer. Administration has instructed that unless we have a dedicated new revenue source try not to do something that would strain our resources more than they are.

Councilmember Fadgen commented that if the first tower had all of the limitations on it; the separation, the collocation and the masking as a condition, we would be protected but we do not know what all of those limitations might be and that is the problem.

Mr. Leibowitz indicated that if the first application is allowed in subject to certain conditions that sets the precedent. Independent of whether there is a special ordinance, you have established the precedent by setting those conditions and that is permissible.

Councilmember Jacobs noted that stricter conditions could be set and it can always be liberalized at a later date.

Mr. Leibowitz stated that technology has changed dramatically and the systems are being overly stressed. The number of towers between now and the next few years, according to experts, are going to increase by 500% in order to be able to absorb this capacity. The question is where, how many, and what are they going to look like. If you just let them in no telling how many towers there may be per block.

Councilmember Jacobs mentioned that would get rid of the need for county wide dispatch because there will be accurate 911 locations.

Councilmember Stoner referenced precedent and noted that we already have some locations existing.

Mr. Lunny advised that our existing ordinance is not valid and that is why we embarked on this journey. To the best of his knowledge, Mr. Butler arrested the applications on municipal rights-of-way for stand alone antenna support structures. Chuck Flynn has some little antennas for lift stations and that is it. Those are the only communications things that he is aware of and that is for utilities. Perhaps FP&L has an antenna for electric but there is nothing like this. It was brought to the Council and that is when we started this regulatory process.

Mr. Leibowitz indicated that the ordinance he helped write years ago is antiquated both in terms of law and technology; that is the dilemma.

Councilmember Stoner commented that she was the one who initially sent the email about the moratorium.

Mr. Lunny clarified that the First Reading will be dropped and there will be a Workshop on November 20, 2013 with the Industry.

There was a consensus.

Mr. Lunny mentioned the moratorium and requested that it be extended instead of what was stated in the draft to the end of March 2014 and that it be passed on First Reading and then they will act in accordance.

Motion by Councilmember Levy, seconded by Councilmember Zimmerman, to pass the moratorium ordinance on First Reading and it will be brought back to Council's next meeting and the expiration date will be March 31, 2014. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

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NOTE: Item Nos. 17, 18 and 19 were read together, heard in tandem and voted on separately.

17. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF GROWTH MANAGEMENT. AN ORDINANCE OF THE CITY OF PLANTATION; FLORIDA PERTAINING TO THE SUBJECT OF GROWTH MANAGEMENT; REZONING 3.15 PLUS OR MINUS ACRES FROM "RS-1EP" (RESIDENTIAL SINGLE FAMILY ESTATE) TO "B-3P" (GENERAL BUSINESS) IN ACCORDANCE WITH THE CITY OF PLANTATION COMPREHENSIVE ZONING ORDINANCE, CHAPTER 27-681; AND ASSIGNING 3.15 RESIDENTIAL TO COMMERCIAL FLEXIBILITY ACRES TO THE FOLLOWING DESCRIBED PROPERTY LOCATED IN FLEX ZONE 76 SO AS TO PERMIT THE CONSTRUCTION OF A 18,197 SQUARE FOOT OFFICE BUILDING WITHOUT AMENDING THE CITY COMPREHENSIVE FUTURE LAND USE PLAN FOR PROPERTY WITHIN THE CITY OF PLANTATION, FLORIDA, WITH SUCH PROPERTY BEING LOCATED AT 12331 SW 3 STREET AND DESCRIBED AS A PARCEL OF LAND IN SECTION 12, TOWNSHIP 50 SOUTH, RANGE 40 EAST, SAID PARCEL INCLUDING LAKE PARCEL A AND LAKE PARCEL B AND PARCELS A,

B, C, A-1 AND B-1 OF LOU'S ACRES ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 163 AT PAGE 12 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTION IDENTIFIED AS "EXHIBIT A"; PROVIDING FINDINGS, PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to approve Item No. 17 as presented. Motion carried on the following roll call vote:

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

* * * * *

All witnesses intending to testify on quasi-judicial items during tonight's meeting were sworn in by Susan Slattery, City Clerk.

* * * * *

QUASI-JUDICIAL CONSENT AGENDA

NOTE: Item Nos. 17, 18 and 19 were read together, heard in tandem and voted on separately.

Resolution No. 11787

18. **RESOLUTION** APPROVING THE PLANTATION PALACE NORTH PLAT; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

The Planning and Zoning comments follow:

REQUEST: Consideration of a plat.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; Development review application; and Review Committee Meeting minutes of May 28, 2013.

REVIEW COMMITTEE RECOMMENDATION: **NO OBJECTIONS** to the project moving forward (May 28, 2013).

ANALYSIS:

The subject property is zoned RS-1EP (Estate District, Single Family) and contains 3.143 net acres. The subject property is currently vacant. The applicant requests plat approval to replat an existing plat, Lou's Acres Plat, which allowed for two single family homes. The site is bound by single-family residential use to the north and east, commercial/office/warehouse use to the south and west.

The proposed plat indicates one parcel instead of two having a lot size of 3.143 net acres. The applicant is requesting plat approval to allow development of the site for up to 19,500 square feet of non-residential development.

Access to the property is provided from Flamingo Road via a frontage road.

The current RS-1EP (Estate District, Single Family) zoning and Estate land use allows for residential uses at a density of one unit per acre. The applicant, under a separate application, is requesting rezoning from RS-1EP (Estate District, Single Family) to B-3P (General Business District) while maintaining the underlying "Estate" land use designation.

Policy 1.8.9 of the City's Future Land Use Element allows the City Council to "assign" flexibility to utilize up to 5% of the residential property within a flexibility zone for commercial use. Approval of the assignment of commercial flexibility would allow the requested B-3P zoning designation to be considered consistent with the residential land use designation. Allocation of 3.143 acres of commercial flexibility leaves a balance of 82 acres in Flex Zone 68 for allocation at the City Council discretion.

Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to approve Resolution No. 11787 as presented. Motion carried on the following roll call vote:

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

* * * * *

QUASI-JUDICIAL ITEMS

NOTE: Item Nos. 17, 18 and 19 were read together, heard in tandem and voted on separately.

19. CONSIDERATION OF A REQUEST FOR SITE PLAN, ELEVATIONS AND LANDSCAPE PLAN FOR PLANTATION PALACE NORTH LOCATED AT 12331 SW 3 STREET.

The Planning and Zoning comments follow:

REQUEST #1: Consideration of a request of a rezoning and the utilization of commercial flexibility.

REQUEST #2: Consideration of a request for a site plan, elevations, and landscape plan.

WAIVER REQUESTS:

1. From: Section 27-747(c), which requires loading zones to be 12 feet wide by 45 feet long.
To: Reduce the size of the loading zone from 12 feet wide by 45 feet long to 12 feet wide by 30 feet long.
2. From: Section 13-40(a)(b)(c)(5), which requires one planting island every eighth space, on an averaged basis, where multiple perpendicular parking spaces are provided.
To: Reduce the number of planting islands from one planting island every eighth space to one island every 9th/10th space.
3. From: Section 27637(13), which limits the height of fences and walls on nonresidential property to 8 feet.
To: Increase the height of the proposed wall to 10 feet along the eastern property line only.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; plan/rezoning application; Planning and Zoning Board Meeting minutes of July 9, 2013; Landscape Planning Review Board Meeting minutes of July 9, 2013; and Review Committee Meeting minutes of May 28, 2013.

PLANNING AND ZONING BOARD RECOMMENDATION: Recommended APPROVAL of the rezoning and the flexibility assignment (5-0) and APPROVAL of the waivers (5-0) and APPROVAL of the site plan (5-0) with the following recommendations.

- Prior to proceeding to Council, the landscape architect should work with staff to discuss additional landscape buffer to the building as it pertains to height and revisit the wall location.
 - *Landscape buffer questions should be referred to the Design, Landscape, and Construction Director.*
 - *Applicant has requested the wall be located on the lot line due to the practical problems in accessing the rear yards of residential lots separated by a wall.*
 - *building height and setback information is provided in the analysis portion of the staff report.*
- The applicant should discuss the plan with all of the surrounding neighbors.
 - *Applicant has discussed the plan with the surrounding neighbors.*
- The uses should be identified prior to proceeding to Council.
 - *Permitted uses are discussed in the analysis portion of the staff report.*
- Wall will be buffered on resident side to satisfaction of adjoining residents. A maintenance agreement between the developer and the residents should be executed.
 - *Staff has no information. Please refer questions to applicant.*
- Recommend approval of the waiver requesting up to 10 parking spaces between landscape islands with the understanding that the landscaping would not be reduced and would be planted elsewhere.
 - *Landscape agrees.*

LANDSCAPE PLANNING AND REVIEW BOARD: APPROVED subject to staff comments (6/0 July 9, 2013).

REVIEW COMMITTEE RECOMMENDATION: NO OBJECTION to the project moving forward for further review May 28, 2013.

ANALYSIS:

The property is zoned RS-1EP (Estate District), 3.15 acres in area and is currently vacant. The property is bound by residential uses zoned RS-1EP to the north and east, and commercial uses zoned B-3P to the south and west.

The current RS-1EP zoning and Estate land use allows for residential uses at a density of one unit per acre. The applicant is requesting rezoning from RS-1EP to B-3P (General Business District) while maintaining the underlying Estate land use designation. Policy 1.8.9 of the City's Future Land Use Element allows the City to "assign" flexibility to utilize up to 5% of the land use area designated as residential within a flexibility zone for commercial use. Approval of the assignment of commercial flexibility would allow the requested B-3P zoning designation to be considered consistent with the residential land use designation. A request for assignment of commercial flexibility is accompanied with responses to the criteria found in Section 19-67 of the Code attached as Exhibit "A". A rezoning request is accompanied with responses to the criteria found in Policy 1.16.1 of the City's Future Land Use Element of the adopted Comprehensive Plan attached hereto as Exhibit "B".

The property located southeast of the subject site is zoned B-3P and under the same ownership. The adjacent (existing office) property is subject to a Declaration of Restrictive Covenants which includes 38 additional use restrictions to the B-3P allowable uses. The applicant has agreed to apply the same restrictions to the subject site if the rezoning is approving. The permitted uses of the B-3P zoning district and Declaration of Restrictive Covenants (applicable to the southeast property are attached as Exhibit "C" and "D" respectively. The draft restrictions exclude primarily "heavy commercial" uses. Most retail, personal service, and general office uses permitted in B-3P Zoning continue to be allowed. Restaurants and medical office are also allowed but are less likely based on the limited parking.

The applicant requests site plan approval to develop an 18,197 square foot single story commercial building. The building will have a similar architectural style to the single story office building located southeast of the subject site and under the same ownership. The building is 27' tall (30' at highest architectural features). The building is set back 120' from the north residential lot line and 70' feet from the east residential lot line. Setback areas between the building and adjacent residential are proposed for retention pond. The applicant proposes an eight-foot wall along the north residential lot line and a ten-foot wall along the east residential lot line. Access to the site is from SW 3 Street to the south and the Flamingo Road frontage road to the west.

STAFF COMMENTS

PLANNING AND ZONING:

Planning:

1. The proposed commercial/office use is not consistent with the "Estate" Future Land Use Map designation unless the City Council approves allocation of Commercial Flex Acreage. The applicant has requested a 3.15-acre assignment of commercial flexibility to allow commercial and office use in the "Estate" land use category. Similar to a request to assign flex units, the assignment of commercial flex runs concurrent with the zoning change, which also requires City Council approval.

Zoning:

In General

1. The applicant has requested that the address be changed to 12333 SW 3 Street. The address 12331 SW 3 Street is the address that is currently assigned to the property.
2. The applicant has included a draft of the declaration of restrictive covenants that is consistent with the existing declaration of restrict covenants. This document must be reviewed and approved as to form by the City Attorney, executed and held in escrow prior to scheduling the second reading of the rezoning and flex assignment ordinances for City Council.
3. The applicant is proposing to phase the project. The initial phase of construction will be the relocation of the pond to meet future drainage requirements, installation of the entire perimeter wall (which is required prior to engineering and building permits), and construction of a portion of the parking lot (the eastern portion off of the SW 3 Street entrance.) The applicant proposes to construct the remaining parking lot, landscaping, and building within the allowable period of approval.
 - a. If approved, the site plan will expired two years after the date of approval unless a building permit is submitted. The applicant will need to apply for a site plan extension if the building permit is not submitted within this period.
 - b. The property owner has indicated that the wall and retention area will be constructed first. Phasing commitments cannot be enforced in the absence of an agreement. However, zoning staff recommends the wall be constructed prior to the issuance of a building permit for the office/retail as a condition of any approval.

Elevations:

1. Note: Section 27-653 of the code states that the rooftop equipment may not exceed the height of the parapet on all sides. Building permit plan compliance is required.

Parking and Loading:

1. Section 27-747(c) requires loading zones to be 12 feet wide by 45 feet long. The proposed loading zone is 12 feet wide by 30 feet long. The applicant is seeking a waiver.

Signage:

1. Signage is not part of this review. Delete all references to signs from the permit plans. Staff reiterates that sign location will not be approved at this time.
 - a. Section 22-30 (Regulatory matrix) regulates the number, size, and type of permanent signage allowed for establishments, indicates how many signs and how large the signs may be. Section 22-20 regulates the design and appearance of wall and monument signs.
 - b. The code allows for this site one, 48-square foot, double faced, monument sign Type B
 - c. The maximum height is 5-feet overall (Section 22-02(p)) and
 - d. the minimum setback for the sign is 1 foot from the property line (Section 22-20(q))

TRAFFIC CONSULTANT: See Engineering

ENGINEERING DEPARTMENT:

1. A traffic study may be required. 06-25-13: Please provide the ITE trip generation for this use for Daily, AM and PM Peak Hour. **10-02-13: It does not appear that the trips generated will require a traffic study. However, please provide the current (9th Edition) ITE trip generation data.**
2. Sheet A-O. Please revise the Index of Civil Drawings, it does not match the Civil set.
3. Please note that for the initial erosion and sedimentation control plan, access to the site must be a minimum of 25 feet back from the edge of pavement. This includes the truck. Wash, silt fence and a temporary construction fence. Please show that on the permit plans.
4. Sheet A-4. Please remove the disabled/standard parking detail as it conflicts with the standard City detail.
5. The bike rack area may not be gravel, please revise.
6. Please revise the crosswalk lines to be perpendicular to the horizontal lines, not at an angle.

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 Dept. 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:

- All site plan and planting plan comments from the Department of Design, Landscape and Construction Management should 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.

- 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 @ (954) 797-2249 directly to obtain required permits.
- 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. 1 planting island is required every 8th space – proposed plans do not reflect this. *Waiver requested: staff has no objections to requested waiver.*
2. Staff recommends the possibility of the planting of a continuous hedge along the side of the wall facing the residential homes to the east and north; as discussed – in keeping with a “friendly neighbor” concept; you might want to offer the 1 time planting of a suitable specie with the responsibility of the maintenance be the homeowner.
3. As previously discussed, staff has concerns with the maintenance of the perimeter wall on the side of the wall facing the residential homes to the east and north.
It is the understanding of staff that the developer is working with the neighboring properties with regard to the maintenance of the perimeter wall as well as the possible planting of greenery to screen the proposed wall.

Planting Plan:

1. Staff recommends the use of an alternate specie in lieu of the Orange Geiger tree; the Orange Geiger is subject to extensive damage by the Geiger beetle which can defoliate the tree, eliminate flowering and make the tree unattractive; the Geiger tree is also susceptible to mites and scale.
2. Staff requests the additional planting of Sabal palms along the northern and eastern perimeter wall to provide added screening of the proposed project.
3. City staff will verify all trees proposed “to be removed”. All trees to be removed require ISA tree appraisals for mitigation purposes as per City codes.

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT: No objections as to these requests of a rezoning/utilization of commercial flexibility and submitted site/elevation/landscape plan.

POLICE DEPARTMENT: This project will have little or no impact on Police services.

UTILITIES: No objection.

1. Prior to a Building Permit 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.
 - BCHD and BCEPD 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
2. Any vacation of Utility easement requests must be reviewed and approved by utilities.
3. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked “FINAL”.

OPWCD: No objections.

WASTE MANAGEMENT:

1. PZED staff requires Waste Management to provide a detailed written explanation of the trash removal function, including but not limited to, dumpster capacity with respect to the use and floor area of the

building, WM truck approach and exit from the dumpster or compactor, and ability to service building with 2X per week removal. This information is required as a prerequisite to scheduling the site plan for Planning and Zoning Board.

P.A.I.D. (Plantation Acres Improvement District):

The comments below are meant to alert the Applicant to the potential impact of the District's criteria on the Site Plan. The above 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 PAID 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 4 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. Preliminary stormwater management calculations were unavailable to determine if additional stormwater storage will be required. A shortage of storage, if any, may affect the site plan.
2. The proximity of the private lake to the property line and building is subject to Board approval as part of the paving and drainage plan approval.
3. There are PAID easements that will need to be vacated and dedicated.
4. A guardrail will likely be required along the western lake bank.
5. There is a conflict with overhead utilities and the private lake.

A site plan was not provided for review. The above comments are based on a review of the preliminary engineering plan.

EXHIBIT "A"

A request for commercial flexibility must be accompanied by responses to criteria indicated in Section 19-67 of the City's Code of Ordinances. The applicant has responded as follows:

- a. Whether there is a change in population, socio-economic factors, or physical development of property near or affecting the subject property which change was unforeseen or unanticipated, and which change has created a present problem or opportunity that justifies utilizing the flexibility:

Applicant's Response:

Based on furnished information and the Demographic Profile as listed on the City's website, the City of Plantation has experienced steady population growth from 2000 to 2010. This is in spite of the economic stagnation that has occurred in the South Florida marketplace the last five to six years. With the current indicators showing a turnaround in the business climate, the City of Plantation has restated their commitment to provide a first class business atmosphere for the workforce who live right here in the City.

The subject property is currently platted and deed restricted as two single-family residential estate lots that are part of an integrated infrastructure system with the adjoining Plantation Acres Plaza commercial development. This includes shared ingress-egress, master stormwater management and utilities. In addition, the property is physically isolated from the adjoining Plantation Acres community and only has one permitted means of ingress/egress for interconnection to the neighborhood.

The use of residential-neighborhood commercial flex of the property is compatible for this quadrant of Flamingo Road and I-595. The north line of the subject property is approximately the eastern prolongation of

the Public Super Markets at Melaleuca Plaza commercial shopping center that is adjacent to the site on the west side of Flamingo Road, thus squaring-off the commercial node for this high intensity intersection.

Staff concurs to the extent that the prior approval of the convenience store/gas station years ago has made this property unsuitable for large lot single-family homes. The arrangement and impact of the gas station is incompatible with single family development.

b. Whether the project as proposed offers significant benefits not otherwise available to the City if the City's land development regulations were otherwise followed (for example, does the planning, design and development requirements in terms of reserving appropriate open space, development themes, taking advantage of natural and manmade conditions or environments, controlling pedestrian and vehicular traffic systems, substantially intensifying landscape or providing landscape contributions to the City, improving or maintaining public infrastructure or giving the City a contribution in aid of infrastructure improvements or maintenance, exceeding setbacks and building separations and reflecting an orderly and creative arrangement of buildings and land uses as appropriate?);

Applicant's Response:

The Applicant is requesting consideration and approval of the assignment of the residential-neighborhood commercial flex provision pursuant to the Plantation Comprehensive Plan Future Land Use Element Policies and Section 19-67 of the City's Land Development Code, and rezoning of the property to the same B-3P zoning that exists on the adjoining parcel. The Applicant has agreed to meet and in many cases exceed the applicable B-3P criterion of the city's Land Development Code. The stormwater retention pond that handles the future needs of the Applicant's site and the adjoining Plantation Acres Plaza will be located to the north of the proposed building to increase the setback distance to the adjoining residential neighbors. An 8-foot concrete wall will also be installed along the northern and eastern property lines to restrict pedestrian access to the residential community.

The proposed building architectural style, theme and color palette, including a self-imposed 1-story height limitation, will be similar to the Applicant's adjoining Plantation Palace building located at 12270 SW 3 Street. The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the sole benefit of the City of Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses.

Staff concurs to the extent (1) the applicant provides a landscape plan acceptable to the Department of Construction, Landscape and Design Services, and (2) the office/commercial building provides a significant buffer by separating the active gas station from the existing single-family homes.

c. The extent to which the project contributes to the tax base, adds employment, and provided other positive economic impacts;

Applicant's Response:

The assignment of the residential-neighborhood commercial flex and the rezoning of subject property from RS-1EP to B-3P will add to the City's tax base, provide employment opportunities for the residents of the City and have a positive economic impact to the area.

Staff concurs.

d. The extent to which the project impacts public services (e.g., fire, EMS, school, police, water, wastewater, and other services), and generates negative secondary effects of odors, fumes, noise, traffic, or crime;

Applicant's Response:

Based on coordination with the applicable reviewing and service providers, which included the preliminary review of the proposed development through the Sketch Plat process of Broward County, pursuant to Section 5-188(c) together with the DRC meeting process with the City, the development of the subject property will have minimal additional impacts on the existing public facilities. By virtue of the assignment of residential-neighborhood commercial flex and the rezoning of the property from residential to low intensity neighborhood commercial, there will not be any impact on public schools and parks.

Public utilities currently bisect and serve the property and the adjoining commercial properties, including the gas station/convenience store, Advanced Auto Parts, and the Applicant's Plantation Palace building. The existing stormwater pond that currently handles the stormwater detention for the subject property and the adjoining commercial has been coordinated with the Plantation Acres Improvement District (PAID) and will be sized to handle the future development stormwater needs and will be relocated to the northern limits of the parcel and serve as an additional open space buffer to the adjoining residential neighbors to the north and east.

Negative Secondary Impacts: This proposed office/commercial building provides a significant buffer from the gas station, a "heavy commercial" use. The office/commercial building does not generate noise, fumes, or odors associates with the gas station or heavy commercial use.

Public Service Impacts: To be determined by individual review departments.

e. The extent to which the property has potential to be developed in a desirable manner under its present land use and zoning scheme without the application of flexibility and whether such foreseeable development is or is not more beneficial to the community.

Applicant's Response:

Under its present residential land use and single-family estate zoning scheme, the Subject Property has not been desirable or compatible due to its proximity with the adjoining commercial development. The subject property is isolated from the adjoining Plantation Acres residential community. The development of the parcel into a low intensity commercial facility will be compatible in use and scale with the adjoining commercial properties to the south.

Staff generally concurs. Single-family development of the property is problematic due to the prior approval of the adjacent gas station and convenience store.

f. The nature and types of uses surrounding the subject property and whether the development proposal is compatible and complements those uses;

Applicant's Response:

The subject property is isolated from the adjoining Plantation Acres residential community. The development of the parcel into a low intensity commercial facility will be compatible in use and scale with the adjoining commercial properties to the south. The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the

sole benefit of the City of Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses.

Staff Comment: The proposed office/retail building, based on the site plan, building height, setbacks, parking lot location and the prohibition on heavy commercial uses, is generally compatible with single family.

g. Specific goals objectives or policies of the City Comprehensive Plan and other City plans that are consistent or inconsistent with the development proposed.

Applicant's Response:

The Applicant is proposing to develop the subject property to be a like-kind low intensity commercial development as his existing Plantation Palace building that is located immediately adjoining the site in the Plantation Acres Neighborhood. The existing facility was designed, built and is currently a working model for compatible commercial development within the Plantation Acres Neighborhood.

The Applicant's proposal to redevelop the property from the currently approved two single-family lots into a viable commercial building furthers the City's Goals, Objectives and Policies by adding an increased tax base and local employment opportunities for the residents of the City of Plantation. This will be achieved by assignment of the residential-neighborhood commercial flex and rezoning the property from RS-1EP to B-3P.

Staff concurs.

h. The extent to which the type of flexibility proposed to be utilized will remain available for future use by the City under this Section's requirements and under any possible regulatory scheme;

Applicant's Response:

The City has the ability to assign neighborhood commercial uses up to five(5) percent of the area designated within a flexibility zone pursuant to Plantation Comprehensive Plan Future Land Use Element Policy No. 1,8,9, and consistent with the Broward County Planning Council Administrative Flexibility Rule 2.5(A)(2). Based on information obtained by the city's Planning, Zoning and economic Development Department, there is sufficient remaining availability of the residential-neighborhood commercial flexibility to accommodate the Applicant's low intensity commercial facility and future assignment by the City.

Staff concurs.

i. The extent to which the utilization of flexibility serves or does not serve the public's health, safety or welfare;

Applicant's Response:

Under its present residential land use and single-family estate zoning scheme, the Subject Property has not been desirable or compatible due to its proximity with the adjoining commercial development. The subject property is isolated from the adjoining Plantation Acres residential community. By assignment of the residential-neighborhood commercial flex, the parcel may be developed as a low intensity commercial facility which will be compatible in use and scale with the adjoining commercial properties to the south.

The subject property is isolated from the adjoining Plantation Acres residential community. The development of the parcel into a low intensity commercial facility will be compatible in use and scale with the adjoining

commercial properties to the south and maintain safe pedestrian and vehicular access to the property. The proposed building architectural style, theme and color palette, including a self-imposed 1-story height limitation, will be similar to the Applicant's adjoining Plantation Palace building located at 12270 SW 3 Street. The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the sole benefit of the City of Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses.

The proposed site plan (including building location, design and setbacks) serves the public welfare to the extent that it provides a low-impact transitional use between the single-family homes and the high-impact gas station.

j. The future land use and needs of the community;

Applicant's Response:

The Applicant is requesting consideration and approval of the assignment of the residential-neighborhood commercial flex provision pursuant to the Plantation Comprehensive Plan Future Land Use Element Policies and Section 19-67 of the City's Land Development Code, and rezoning of the property to the same B-3P zoning that exists on the adjoining parcel. The rezoning of subject property from RS-1EP to B-3P will add to the City's tax base, provide convenient and local employment opportunities for the residents of the city and have a positive economic impact to the area.

Staff response to "k" above.

k. Such other policy considerations that may not be set forth above, but which are nonetheless considered by the City governing body to be reasonable and appropriate under the circumstances.

Applicant's Response:

The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the sole benefit of the City of Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses. In addition, an 8-foot concrete wall will be installed along the northern and eastern property lines to separate and restrict pedestrian access to the residential community.

Staff has no comment.

EXHIBIT "B"

A rezoning request must be accompanied by responses to criteria indicated in Policy 1.16.1 of the City's Future Land Use Element of the adopted Comprehensive Plan. The applicant has responded as follows:

1) Whether there is a change in population, socioeconomic factors, or physical development of property nearby or affecting the subject property, which change was unforeseen or unanticipated, and which change has created a present problem or opportunity that justifies a change of land use designation or zoning classification on the subject property; and further, the extent to which the proposed land use or zoning would result in action towards mitigating any problem, or capitalizing on any opportunity identified above (the established character of predominantly developed areas should be a primary consideration when a change of zoning classification or of future land use designation is proposed);

Applicant's Response:

Based on furnished information and the Demographic Profile as listed on the City's website, the City of Plantation has experienced steady population growth from 2000 to 2010. This is in spite of the economic stagnation that has occurred in the South Florida marketplace the last five to six years. With the current indicators showing a turnaround in the business climate, the City of plantation has restated their commitment to provide a first class business atmosphere for the workforce who live right here in the City.

The subject property is currently platted and deed restricted as two single-family residential estate lots that are part of an integrated infrastructure system with the adjoining Plantation Acres Plaza commercial development. This includes shared ingress-egress, master stormwater management and utilities. In addition, the property is physically isolated from the adjoining Plantation Acres community and only has one permitted means of ingress/egress for interconnection to the neighborhood.

The rezoning of the property to commercial is compatible for this quadrant of Flamingo Road and I-595. The north line of the subject property is approximately the eastern prolongation of the Publix Super Markets at Melaleuca Plaza commercial shopping center that is adjacent to the site on the west side of Flamingo Road, thus squaring-off the commercial node for this high intensity intersection.

Staff concurs. See Exhibit A staff responses.

2. The impact of development permitted by the proposed land use or zoning on existing public facilities and services, including schools, police and fire, potable water, sanitary sewer, local or regional roads, parks and open spaces, and drainage;

Applicant's Response:

Based on coordination with the applicable reviewing and service providers, which included the preliminary review of the proposed development through the Sketch Plat process of Broward County, pursuant to Section 5-188(c) together with the pre-DRC meeting process with the City, the development of the subject property will have minimal additional impacts on the existing public facilities. By virtue of the rezoning of the property from residential, there will not be any impact on public schools and parks.

Public utilities currently bisect and serve the property and the adjoining commercial properties, including the gas station/convenience store, Advanced Auto Parts, and the Applicant's Plantation Palace building. The existing stormwater pond that currently handles the stormwater detention for the subject property and the adjoining commercial has been coordinated with the Plantation Acres Improvement District (PAID) and will be sized to handle the future development stormwater needs and will be relocated to the northern limits of the parcel and serve as an additional openspace buffer to the adjoining residential neighbors to the north and east.

Staff: To be determined by public service providers.

3. Whether development permitted by the proposed land use or zoning will be compatible with development permitted under the land use and zoning of property surrounding the subject property;

Applicant's Response:

The subject property is isolated from the adjoining Plantation Acres residential community. The development of the parcel into a commercial facility will be compatible with the adjoining commercial properties to the south. The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the sole benefit of the City of

Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses.

Staff concurs. See Exhibit A staff responses.

4. The extent to which the proposed land use or zoning designation is consistent with the Goals, Objectives and Policies of the Neighborhood Design Element where the property is located. (The City has an optional Neighborhood Design Element which effectively splits the City into five (5) different regions for future land use comprehensive planning purposes. Each of these five (5) regions is a discrete unit, unique in character and has special Goals, Objectives, and Policies. In evaluating any proposed change of a land use or zoning designation, the Goals, Objectives, and Policies of the affected flexibility zone Neighborhood Design Element should be given a primary importance);

Applicant's Response:

The Applicant is proposing to develop the subject property to be a like-kind commercial development as his existing Plantation Palace building that is located immediately adjoining the site in the Plantation Acres Neighborhood. The existing facility was designed, built and is currently a working model for compatible commercial development within the Plantation Acres Neighborhood.

Staff concurs, based on the proposed site plan and use restrictions.

5. The extent to which development permitted under the proposed land use or zoning is consistent with the Goals, Objectives, and Policies of the Future Land Use Element and the other Elements of the Comprehensive Plan. (A land use or zoning change is consistent if it is "compatible with" and "furthers" the Goals, Objectives and Policies of the Comprehensive Plan. The term "compatible with" means that the proposed change is not in conflict with the Goals, Objectives, and Policies. The term "furthers" means that the proposed change takes action in the direction of realizing the Goals, Objectives, or Policies. For purposes of determining consistency of a land use or zoning change with the elements of the Comprehensive Plan, the Comprehensive Plan shall be construed as a whole and no specific goal, objective, or policy shall be construed or applied in isolation of all other Goals, Objectives, or Policies in the Plan);

Applicant's Response:

The Applicant's proposed to redevelop the property from the currently approved two single-family lots into a viable commercial building furthers in the City's Goals, Objectives and Policies by adding an increased tax base and local employment opportunities for the residents of the City of Plantation. This will be achieved by rezoning the property from RS-1EP to B-3P.

Staff concurs, based on the proposed site plan and use restrictions.

6. Whether projects as proposed offers significant benefits not otherwise available to the City if the changes were not made (fox example, does the planning, design, and development of the property exceed the minimum otherwise required land development requirements in terms of reserving appropriate open space, development themes, taking advantage of natural and manmade conditions or environments, controlling pedestrian and vehicular traffic systems, substantially intensifying landscape of providing landscape contributions to the City, improving or maintaining public infrastructure or infrastructure improvements or maintenance, exceeding setback and building separations where appropriate, and reflecting an orderly and creative arrangement of buildings and land use as appropriate?);

Applicant's Response:

The Applicant has agreed to meet and in many cases exceed the applicable B-3P criterion of the City's Land Development Code. The stormwater retention pond that handles the future needs of the Applicant's site and the adjoining Plantation Acres Plaza will be located to the north of the proposed building to increase the setback distance to the adjoining residential neighbors. An 8-foot concrete wall will also be installed along the northern and eastern property lines to restrict pedestrian access to the residential community.

The proposed building architectural style, theme and color palette, including a self-imposed 1-story height limitation, will be similar to the Applicant's adjoining Plantation Palace building located at 12270 SW 3 Street. The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the sole benefit of the City of Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses.

Staff concurs, based on the proposed site plan and use restrictions.

7. The extent to which the proposed land use or zoning would contribute to enhancing the tax base, adding employment, and providing other positive economic impacts;

Applicant's Response:

The rezoning of subject property from RS-1EP to B-3P will add to the City's tax base, provide employment opportunities for the residents of the City and have a positive economic impact to the area.

Staff concurs, based on the proposed site plan and use restrictions.

8. The extent to which the subject property has potential to be developed in a desirable manner under its present land use and zoning scheme;

Applicant's Response:

Under its present residential land use and single-family estate zoning scheme, the Subject Property has not been desirable or compatible due to its proximity with the adjoining commercial development. The subject property is isolated from the adjoining Plantation acres residential community. The development of the parcel into a commercial facility will be compatible with the adjoining commercial properties to the south.

Staff concurs, based on the proposed site plan and use restrictions.

9. The future land use and zoning needs of the community.

Applicant's Response:

The Applicant is requesting consideration and approval of the assignment of the residential-neighborhood commercial flex provision pursuant to the Plantation Comprehensive Plan Future Land Use Element Policies and Section 19-67 of the City's Land Development Code, and rezoning of the property to the same B-3P zoning that exists on the adjoining parcel. The rezoning of subject property from RS-1 EP to B-3P will add to the City's tax base, provide employment opportunities for the residents of the City and have a positive economic impact to the area.

Staff concurs, based on the proposed site plan and use restrictions.

10. Such other policy considerations that may not be set forth above but which are nonetheless considered by the City governing body to be reasonable and appropriate under the circumstances.

Applicant's Response:

The Applicant has agreed to adopt the "Consolidated and Amended Declaration of Restrictive Covenants Relating to Permitted Uses with Plantation Acres Plaza" that is for the sole benefit of the city of Plantation as recorded in the public records of Broward County and includes 38 additional use restrictions to the B-3P allowable uses. In addition, an 8-foot concrete wall will be installed along the northern and eastern property lines to separate and restrict pedestrian access to the residential community.

Staff has no comment.

11. The proposed future land use or zoning of the property does not and will not result in contamination of groundwater sources used to supply potable water; and

Applicant's Response:

The subject property will be developed in the same strict adherence to the permitting and operational criteria of the Plantation Acres Improvement District (PAID) and Broward County.

Staff response: Written comments received from the PAID Engineer.

12. The proposed future land use or zoning of the subject property does not cause the City's water demands to exceed the City's water supply availability or consumptive use permit.

Applicant's Response:

The demands on the City's water supply as a small-scale commercial development will not be significantly greater than those of the currently permitted single-family residential units on the property.

See Utilities Department comments.

EXHIBIT "C"

Sec. 27-720 Master list of business uses.

Owner James Donnelly and Representative Mark Robbins advised they were sworn in and understood the rules governing the procedures of the hearing.

Mr. Robbins presented an overview of a powerpoint presentation showing the site plan of the property.

Councilmember Levy opened the discussion to the general public.

Mrs. Rae Carole Armstrong advised she was sworn in and understood the rules governing the procedures of the hearing. She acknowledged the developer has worked with the neighbors and has made commitments that are not shown on the plan. She felt it was a good plan.

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

In response to Councilmember Fadgen, Mr. Robbins explained the wall will on the east side will jog the boundaries on the property line.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve site plan, elevations, and landscape plan for Plantation Palace North, located at 12331 SW 3 Street, subject to the requested waivers and staff comments. Motion carried on the following roll call vote:

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

City Attorney Lunny noted Item No. 19 is contingent upon approval at second reading of the aforementioned Ordinance referenced in Item No. 17.

* * * * *

Resolution No. 11786

20. **RESOLUTION** APPROVING A 1,395 SQUARE-FOOT MASSAGE ESTABLISHMENT (CALLISTO THERAPEUTIC SPA) AS A CONDITIONAL USE TO BE LOCATED IN A SPI-3 ZONING DISTRICT ON PROPERTY LYING IN SECTION 9, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND DESCRIBED AS A PORTION OF JACARANDA PARCEL 815, AS RECORDED IN PLAT BOOK 114, PAGE 9, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND GENERALLY LOCATED ON THE SOUTHWEST CORNER OF UNIVERSITY DRIVE AND SW 6 STREET (THE FOUNTAINS); PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

The Planning and Zoning comments follow:

REQUEST: Conditional use approval to allow a 1,395 square foot massage establishment in an SPI-3 (Midtown) zoning district.

WAIVER REQUESTS:

From: Section 27-743, which requires 2,494 parking spaces based on the overall master plan mixed uses (including 1 space per 150 square feet of floor area for massage establishments);
To: Reduce required parking to 2,490 parking spaces (a 4 space deficit).

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; Conditional use/site plan application; and Review Committee Meeting minutes of August 27, 2013.

PLANNING AND ZONING BOARD RECOMMENDATION: APPROVAL of the conditional use and the parking waiver. (October 1, 2013; 5/0)

REVIEW COMMITTEE RECOMMENDATION: No objection moving forward subject to compliance with staff comments (August 27, 2013).

ANALYSIS:

The subject property is zoned SPI-3, approximately 45.9-acres in size, and part of the 65-acre master plan known as The Fountains Shoppes of Distinction. The property is generally located south of SW 6th Street and

north of SW 10th Street between University Drive and SW 78th Avenue and developed with retail, office, restaurant and hotel uses. The master plan consists of the shopping center, 6 retail/restaurant out-parcel buildings, a hotel, 4 office buildings, and the recently constructed 12-story residential tower for Residences at the Fountains.

City Council approved a master plan modification for the Fountains Shoppes of Distinction on May 7, 2008, which included a 109,060 square foot 2 story Kohl's Department store with three small in-line tenants just west of Kohl's (Retail C). The applicant intends to occupy one of the three spaces of Retail "C".

"Callisto Therapeutic Spa" is classified as a massage establishment which requires conditional use approval in the SPI-3 zoning district. The applicant requests approval to allow a 1,395 square foot massage establishment with six (6) treatment rooms and sixteen (16) employees. The proposed hours of operation are from 9 am to 9 pm Sunday thru Saturday.

The review of a Conditional Use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, which is attached hereto as Exhibit "A".

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. The proposed use is consistent with the Commercial land use designation.

Zoning:

1. Identify the number of employees which are massage therapists. All massage therapists must individually comply with the standards in Chapter 14 and 27 of the City Code. Compliance with all applicable City codes relating to the operation of this use is required including the requirements of Florida Statutes Section 480.043 and Chapter 64B7-26, F.A.C. as may be amended from time to time.
2. Parking
 - a) Total required and provided parking for the Fountains retail and residential complex is 2,490 parking spaces. This required parking count is based on the September 25, 2013, City Council approval of the SPI-3 mixed-use parking code applicable to the Fountains commercial and residential uses (including the Camden Midtown Phase II).
 - b) Required parking for a 1,395 sq. ft. retail space is five spaces. Required massage establishment parking for the same size tenant space (at one space per 150 square feet of floor area) is nine spaces. The applicant is requesting a waiver for the 4 space additional parking impact.
3. Total cumulative window signage shall not exceed 20% of the glazed area on which such signs are displayed.
4. Occupational license approval is subject to the conditions of this approval.

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT: No objection.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: No objection.

BUILDING DEPARTMENT: No objection

FIRE DEPARTMENT: No objection as to this conditional use request.

POLICE DEPARTMENT:

1. No objection to the conditional use approval, however, any change in business conditions as explained on the application will be reviewed by the Police Department.

UTILITIES: No objection to the conditional use approval, however, the following comments apply

1. Water and Sewer Utility Plans were not provided with this submission.
2. Prior to Building Permit or Occupational License issuance, the following must be provided:

- Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions, 954.797.2159
3. Full Utilities plan review & approval is required prior to permitting. No plans are for construction until marked "FINAL".

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

WASTE MANAGEMENT:

1. Contact Jim Padovan, Senior District Manager via email at jpadovan@wm.com or at 954-935-2327 for review comments.

Councilmember Levy opened the discussion to the general public. There being none, this section of the meeting was closed.

Motion by Councilmember Jacobs, seconded by Councilmember Stoner, to approve Resolution No. 11786 including the requested waiver and allowing the parking to be reduced to 2,490 spaces. Motion carried on the following roll call vote:

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

* * * * *

21. REQUEST TO APPROVE SITE PLAN, ELEVATION AND LANDSCAPE PLAN FOR BRAVO RESTAURANT AT THE WESTFIELD BROWARD MALL.

The Planning and Zoning comments follow:

REQUEST: Site Plan, Elevation and Landscape Plan for a freestanding low turnover sit-down restaurant.

WAIVER REQUESTS:

1. From: Section 27-743(36)(a), which requires a unified control document and a B7-Q zoning designation to apply the shared parking requirement;
 To: Allow application of the shared parking requirement without a unified control document in an SPI-3 Zoning District.
2. From: Section 27-721(90) of the City Code, which limits low turnover sit-down restaurants serving alcohol to no more than 4,000 square feet of floor area and no more than 20 linear feet of bar area;
 To: Increase the allowable floor area to 8,490 square feet and
 To: Increase the linear feet of bar area to 25 feet.
3. From: Section 27-721(61)(f) of the City Code which requires outdoor café seating to be at tables.
 To: Allow bar seating and couch seating in lieu of seating at tables in a 600-square foot outdoor patio area.
4. From: Section 13-40(a)(b)(c)(4)(c). Interior landscaping for parking areas:
 Medians shall be provided between double parking bays, shall be curbed and shall have a minimum of 8" in green area, not including curbing.
 - 8' wide median required in eastern parking area – 0' has been provided
 - 8' wide median required in western parking area – 0' has been provided.

Large shade trees shall be installed in all parking areas at a maximum spacing of 40' on-center.

- 4 trees required in eastern parking area – 0 provided.
- 3 trees required in the western parking area – 0 provided.

Staff has no objection to this waiver request; staff requests mitigation of required trees if waivers are approved.

5. From: Section 13-40(a)(b)(c)(3). Interior landscaping for parking areas: Large shade trees shall be installed in all parking areas.
- *1 category tree is required in all terminal islands – 0 provided throughout the eastern parking area.*
Staff does not support this waiver request; staff requests the piling of code required shade trees in the terminal islands in lieu of a single palm as the tree canopy is well below City codes throughout median, planting islands, and landscape pedestrian zones.
6. From: Section 13-40(a)(b)(c)(5). Interior landscaping for parking areas:
Where multiple perpendicular or angular parking spaces are provided to driveways, landscape islands will be preserved in green so as to break up the driveways, landscape islands will be preserved in green so as to break up the monotony of such parking and to minimize the hazards created thereby providing visual breaks to assist in seeing other pedestrian and vehicular traffic every eight spaces.
- *1 island required along the southern parking area adjacent to the building – 0 provided.*
 - *1 island required along the western parking area adjacent to the building – 0 provided.*
 - *1 island required along the parking area east of the building – 0 provided.*
 - *1 island required along the parking area west of the building - 0 provided.*
- Large shade trees shall be installed in all parking areas.
- *1 tree required in the required island along the southern parking area adjacent to the building – 0 provided.*
 - *1 tree required in the required island along the western parking area adjacent to the building – 0 provided.*
 - *1 tree required in the required island parking area east of the building – 0 provided.*
 - *1 tree required in the required island parking area west of the building – 0 provided.*
- It is staff's understanding that additional parking spaces cannot be removed to allow for code required planting islands as the overall mall site has a parking agreement with the anchor stores; if this waiver is approved, staff requests mitigation for code required trees.
7. From: Section 13-40(c)(1) Interior landscaping for parking areas:
No landscaped area shall have any dimension less than 5'.
- *5' minimum planting space required- 4' provided along the southern landscape pedestrian zone.*
Staff has no objection to this waiver request.
8. From: Section 13-41(a)(b)(c). Pedestrian zones along building facades.
Landscape pedestrian zones shall extend the full width of each façade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.
- 11'-3" required along the northern façade – 10' provided
 - 11'-3" required along the southern façade – 9' provided.
- Staff has no objections to this waiver request.*
One tree shall be installed in this zone per each 30 lineal feet, or fraction thereof, of façade width.

- 4 trees required along the northern façade – 1 provided.
- 4 trees required along the southern façade – 0 provided.
- 5 trees required along the eastern façade – 3 provided.

Staff has no objections to this waiver request; staff requests mitigation of code required trees if waiver is granted.

Staff has no objections to this waiver request.

One tree shall be installed in this zone per each 30 lineal feet or fraction thereof, of façade width.

- 4 trees required along the northern facade – 1 provided.
- 4 trees required along the southern façade – 0 provided.
- 5 trees required along the eater façade – 3 provided.

Staff has no objections to this waiver request; staff request mitigation of code required trees if waiver is granted.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; site plan application and site plan.

ANALYSIS:

The City Council approved a site plan on May 9, 2012, to add a 2,489 seat movie theater, 16,270 square foot of additional retail/restaurant area, and a 4,179 square-foot, free standing bank outparcel at the corner of South University Drive and Federated Road. An amended master site plan was approved by the City Council on August 8, 2012, and included changes to the proposed restaurant and retail square footages, minor exterior changes to the parking lot and sidewalks, and minor interior floor plan changes.

The applicant is requesting approval to amend the site plan to replace the approved bank with an 8,490 square-foot low turnover sit-down restaurant (Bravo). The initial City Council submittal generated concerns from the Planning and Zoning Department regarding the building design, concerns from the Engineering Department regarding on-site traffic circulation and concerns from the Design, Landscape and Construction Management Department regarding landscape areas adjacent to the building. This submittal was deferred by the City Council for the applicant to work with staff on the site and building design.

The newest submittal includes changes to the site layout which improves the traffic circulation and increases the landscape areas adjacent to the building. Architecturally, the submittal includes:

1. the addition of a sloped roof with decorative brackets on the main entry tower;
2. a reduction in the entrance archways on the tower to allow placement of the “Bravo” signs on the wall above the arch;
3. an increase in the height of the stone water table on the entry tower from 4 feet to 6 feet;
4. the addition of a sloped roof with decorative brackets over the outdoor patio areas on the north and east;
5. an increase in the number of gooseneck light fixtures;
6. removal of the proposed building up-lighting; and
7. an increase in the amount of accent tile provided in the decorative arched inserts containing metal trellises.

Overall the site layout and building appearance has improved significantly from the previous submittal.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning: The proposed restaurant use is consistent with the “Commercial” land use designation on the Future Land Use Map and Future Land Use Element of the Comprehensive Plan.

Zoning:

In general:

1. The applicant is requesting waivers from Section 27-721(90) of the City Code to allow a low turnover sit-down restaurant:
 - i. to exceed 4,000 square feet, and
 - ii. to have a bar exceeding 20 feet in length.
2. The applicant is requesting waivers from Section 27-721(61)(f) of the City Code to allow bar seating and couch seating in lieu of seating at tables in a 600 square foot outdoor patio area.
3. If approved, service at outdoor seating areas must discontinue at 11:00 p.m. in accordance with the low turnover site-down restaurant requirements.

Site Plan:

4. Revise plans to show scaled setback dimensions from the south and east property lines to the closest points of the buildings.

Parking:

5. Section 27-743(36)(a) which requires a unified control document and a B7-Q zoning designation to apply the shared parking requirement. The applicant is requesting a waiver to allow application of the shared parking requirement without a unified control document in an SPI-3 Zoning District. *If the Council chooses to waive the UCD to allow the restaurant, approval shall be subject to execution and recording of the amended agreement prior to approval of restaurant development permits.*
 - a. The UCD is a legal document that generally allows employees or customers to park anywhere on a site containing multiple owners. Westfield owns a portion of the mall and the mall parking lot and each anchor owns their building footprint and a portion of the overall parking lot adjacent to their store. Without a unified control document, each site must stand alone with regard to compliance with on-site parking requirements. City Council approved a waiver on May 5, 2012, to apply the shared parking calculation found in Section 27-743(36) without benefit of a unified control document (UCD) to support development of the theatre based on an agreement requiring Westfield to replace any loss of shared parking that could result from an anchor store expansion or redevelopment requiring more parking than currently provided. The agreement requires Westfield to construct a parking garage on their property should a parking shortage occur.
 - b. The most recent City Council approval (August 8, 2012) indicated a parking surplus of 355 spaces of the overall site. For this current proposal, with the substitution of the restaurant for the bank, the current parking surplus is 325 spaces.

Elevations:

6. Section 27-653 requires that all rooftop equipment to be screened, with the parapet or screening mechanism to be as high or higher than the highest portion of the equipment or apparatus being screened. Revise building elevations and site plan to show rooftop equipment location and the screening as required by code.

Signage:

7. Signs are not part of this review. Note: The number of signs and sizes shown on the current plan do not meet sign code requirements.

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT:

1. Please provide demo plan on the existing conditions, not the proposed.
2. Please provide the Type “D” curb detail. The curb detail provided only includes curb and gutter.
3. The parking space in the NW corner of the building needs to have the curb revised. As shown the vehicle will extend into the drive aisle. Please straighten the angled curb.

4. Impacted easement will need to be vacated prior to the issuance of a CO.
5. Please provide a detail for the dumpster to insure that the gates do not encroach into the drive aisle and interfere with the pedestrian access and vehicular parking. 10-07-13: comment not addressed. Please show as requested.
6. The ADA connection to the public sidewalk will need to be rerouted around the existing trees. Engineering is discussing this with the Applicant.
7. Any on site curbing that will remain and is currently broken or damaged will need to be shown on the plans as being replaced at time of permitting.

Permit Comments (required at time of submittal for permitting)

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. Provide an erosion and sedimentation control plan and an FDEP approved Notice of Intent (NOI), if applicable.
2. A demo plan and permit will be required with a building permit.
3. Please provide an MOT for all phases of the project, prepared by a person certified to prepare the plans.
4. Please provide drainage calculations, signed and sealed by a professional engineer, registered in the State of Florida, as well as approval from OPWCD.
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 AND CONSTRUCTION MANAGEMENT:

In General:

- When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
- The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at time of permitting.
- 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.

Site Plan:

1. Please dimension all green spaces (i.e. medians, islands, landscape pedestrian zones, etc.)
2. One planting island is required every 8th space on an averaged basis on commercial properties; proposed plans do not reflect this in the new parking areas. *Waiver required.*
3. Medians between double parking bays shall be curbed and have a minimum width of 8' in width, not including curbing. 2' vehicle overhang does not count towards code required dimensions. *Waiver required staff has no objections to the waiver request.*
4. No landscaped area shall have any dimension less than 5'-4' has been provided along the southern landscape pedestrian zone. *Waiver required; staff has no objections to the waiver request.*
5. Code requires landscape pedestrian zones (lpz) to extend the full width of each façade abutting a parking or vehicular use area; the minimum width shall be ½ the height of the proposed or 10' (paved areas in the lpz may not constitute more than 5' of the required lpz);
 - a. 11'3" lpz is required along the northern façade – 10' has been provided
 - b. 11'3" lpz is required along the southern façade – 9' has been provided
 - c. 11'3" lpz is required along the eastern façade – 0' has been provided*Waivers required; staff has no objections to the waiver request.*
6. Please do not place lighting in landscape island where trees are required by code. Light poles must be a minimum of 15' from any tree planting to avoid interference as the tree/s mature.

7. Please do not place fire hydrants or associated equipment in planting islands where trees are required by code.
8. Please consider the use of a bike rack to provide an alternate method of transportation.

Planting Plan:

1. Screen above ground utilities on the planting plan with live greenery, including FPL boxes, etc. *Please make a note to this effect on plans.*
2. Please show existing and/or proposed lighting on landscape plan; light poles must be a minimum of 15' from any tree/palm planting to avoid interference as the trees mature.
3. 3" of clean mulch shall be installed around all new and existing trees, palms and throughout planting beds; mulch shall be kept 3" away from the trunks and stems of plants. Please do not use Cypress or red mulch (Eucalyptus, Melaleuca, or recycle mulch is acceptable) *Please make a note to this effect on the plans.*
4. Please make a note on the landscape plans that an ISA certified Arborist root prunes any existing tree within paving/curbing areas to be installed.
5. Please revise comment 23 under landscape notes – City staff will work with the property owner/agent to determine trees to be removed/relocated in lieu of the landscape contractor.
6. Please amend comment 16 under landscape notes – currently they are in conflict with the City planting detail.
7. Please clarify the species of Crape myrtle to be used; please note if the Crape myrtle trees are to be standards or multi-trunk (please use standard trees where there might be a sight visibility problem).
8. All proposed trees to be removed or relocated require ISA appraisals based on the Checked Trunk Formula Method, Guide for Plant Appraisal, 9th edition 2000.
9. 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.
10. City staff will verify all trees proposed “to be removed or relocated”.
11. Staff does not support the removal of a good, existing, mature Live oak tree with a caliper of 25” or greater. Staff requests an alternate path taken for ADA accessibility.
12. Staff has a concern with the placement of a new sidewalk within what appears to be <1’ from an existing mature tree (tree B35); please adjust the placement of the sidewalk so the tree will not be compromised.
13. All landscape areas shall be provided with an automatically-operating underground irrigation system; with a minimum of 100% coverage, with 50% minimum overlap in ground cover and shrub areas. The rain sensor must be installed as well as a rush inhibitor if applicable. Irrigation plans must be submitted at time of permitting.
14. Large shade trees shall be installed in all parking areas (medians) at a maximum spacing of 40’ center to center. *Waivers required; staff requests mitigation for required trees if waivers are approved.*
15. Large shade trees shall be installed in all planting islands and terminal islands. Plans submitted propose category 2/3 and 4 trees in lieu of Category 1 trees. *Waivers required; staff does not support this request; staff requests the planting of code required trees in the terminal islands in lieu of category 4 trees throughout the eastern parking area.*
16. A minimum of 1 tree is required every 30 lineal foot, or fraction thereof, of façade width (3 palms = 1 tree):
 - a. 4 trees required along the northern lpz – 1 tree has been provided
 - b. 4 trees required along the southern lpz – 0 trees have been provided
 - c. 5 trees required along the eastern lpz – 3 trees have been provided

Waivers required; staff has no objection to the requested waiver; staff requests mitigation for required trees if waivers are approved.

BUILDING DEPARTMENT: Per City Code Section 10-4, an A/C garbage room is required.

FIRE DEPARTMENT: As with the prior application for City Council approval on September 25, 2013, the Fire Department has no objections as to this site/elevation/landscape plans with the understanding that the applicant and/or owner are aware of the conditions listed below. In response to these Fire Department comments from the prior application, the applicant did not correct any of the plans to reflect any of the comments, specifically items 1-4, but simply responded to all with the same response: "This comment is noted and shall be addressed during Building Plan review".

1. Fire hydrant and Fire Department connection shall be locate don same side of roadway, within 25' of each other, and within 6' of curb; fire hydrant requires a minimum clearance of 7.5' in front and to the sides, with 4' to the rear; fire department connection requires a minimum clearance of 7.5' in front and to the sides.
2. Dedicated second means of egress required from public area, complying with 2010 FFPC NFPA -101 Chap 7; shall not exit through food preparation area or any assembly area.
3. Occupant load shall be calculated per 2010 FFPC NFPA-101 12.1.7 and 7.3.1.2.
4. Occupant load is inclusive of public/non-public areas and interior/exterior areas.
5. As preliminarily calculated, occupant load exceeds 300 which will require the installation of a voice evacuation system, monitored by the fire alarm system.
6. Fire alarm control panel shall be located adjacent to main entrance.
7. Additional conditions may arise upon review of all required permitting plans.

POLICE DEPARTMENT: This project will have little impact on police services.

1. All security lighting designs should conform to IESNA security lighting levels and be unified with Westfield Mall security lighting design.

UTILITIES: No objection; however, the following comments apply to the Site Plan:

1. Prior to a Building Permit being issued, the following must be provided:
 - \$500.00 review fee must be submitted to the Utilities Department.
 - Water and Sewer Utility plans (5 sets) must be submitted to the Utilities Dept. for review and approval.
 - BCHD and BC EPD Permits must be approved if required.
 - 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.
2. Must provide receipt or check copy for \$2,000.00 deposit marked for Utilities Expenses to project cost recovery account.
3. Complete Water and Wastewater utilities must be shown on plan before a proper review can be completed.
4. Provide plan for vacating easements as necessary.
5. Show all new and existing water and sewer lines and easements on landscaping and drainage plans.
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"
8. No structures are allowed in utility easements.

NOTE: Mayor Bendekovic announced an ex-parte communication with the applicant. She announced this will have no impact her decision if she is required to vote.

Councilmembers Jacobs and Zimmerman announced an ex-parte communication with the applicant. They announced this will not have an impact of their decision with regard to this matter.

Attorney Scott Steady and Representative Michael Platt were present on behalf of the applicant. They both advised they had been sworn in and understood the procedures for this hearing. Mr. Steady introduced several members of the development team who were also present. He presented a power point presentation highlighting the site plan.

Mr. Steady explained the approval for this project is within the dotted line notated on the plans. It was noted the improvements made in the notated envelope are being made by Westfield Mall and not Bravo.

City Attorney Lunny clarified this is an older property with a unique ownership. From a practical standpoint, the City has treated the project as a unified project, there is not going to be any practical way to make the project unified in the modern regulatory sense. Negotiations ensued with regard to the appropriate waivers including several matters but not limited to forgiveness of assessments and deed restrictions. Those inducements coupled with the reality of the historical way in which the project sits warranted the recommendation to approve the waiver.

Mr. Steady noted agreements have been worked out to commit to a unified control documents.

Councilmember Levy opened the discussion to the general public. There being none, this section of the meeting was closed.

Discussion ensued with regard to tree mitigation due to the landscape island and parking spaces required.

Design, Landscape and Construction Management Director Danny Ezzedine was present and explained the tree mitigation program. He noted the amount of mitigation has not been determined.

Councilmember Stoner expressed her belief the mitigation amount should be capped at \$5,000.

Mr. Steady acknowledged the project costs have increased. He agreed to the mitigation.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Item No. 21 for site plan, elevation and landscape plan approval for Bravo Restaurant, including waivers 1, 2, 3, 4 with an agreement to mitigate, 5 and 6, 7 will be reduced to 4 foot, 8 will be reduced to 10 and 9 feet, the shade trees will be mitigated. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

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COUNCILMEMBERS' COMMENTS

Councilmember Fadgen advised it was his understanding that the Plantation Isles Bridge on SW 16 Street was built without permits.

City Engineer Brett Butler noted he has not received any correspondence on this matter.

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Councilmember Zimmerman requested the City review the Local Preference Ordinance to include Professional Services.

He thanked Messrs. Sabouri and Butler for their efforts in expediting the Dunkin Donuts opening.

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Mayor Bendekovic referenced meetings with State and Federal representatives will be held in the near future. She asked for comments from Council regarding a priority list from Councilmembers.

She noted the coin meters for the Trams are in place. The \$.50 fees will begin on November 15, 2013.

She reminded the public of the Veterans' Day celebration and the Fireman's BBQ.

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Councilmember Levy thanked the Plantation Acres Woman's Club for their spaghetti dinner event last Friday night. The dinner benefited Project Smiles

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Attorney Paul D'Arelli was present on behalf of US Capital. He requested clarification with regard to the forbearance agreement on the Fashion Mall and the bond amount. The agreement has been signed and in place. The cash bond of \$250,000 will be posted to cover the required improvements. He suggested Council consider reducing the bond after the work is completed to cover the pressure washing obligation. The estimate for the work by the current painting contract is \$10,000 per pressure washing.

City Attorney Lunny expressed his belief Administration would have the authority to release the bond for pressure washing when the buildings to be pressure wash were demolished. He did not feel comfortable since this is a forfeiture bond authorizing the concept without approval of Council. There is no legal objection to the request.

Mayor Bendekovic expressed her concern with regard to the maintenance of the property.

Councilmember Stoner was of the belief if all of the items are completed by the end of April, the bond should be released.

City Attorney Lunny stated it was his understanding that the bond was for ongoing maintenance.

Motion by Councilmember Fadgen, seconded by Councilmember Jacobs, to allow Administration to execute an agreement to reduce the bond to \$25,000 at which time the majority of work has been completed and the pressure cleaning of the building remains. Motion carried on the following roll call vote:

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

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SEALED COMPETITIVE SOLICITATIONS

22. REQUEST TO AWARD CONTRACT FOR THE REPAIR AND CALIBRATION OF FLOW METERS AND RELATED DEVICES AT ALL THREE TREATMENT FACILITIES (BUDGETED – UTILITIES).

A memorandum from Chuck Flynn, Director of Utilities to Mayor and Member of City Council dated October 16, 2013 follows:

Sealed competitive proposals in response of RFP No. 119-13 were opened on October 1, 2013 for the repair and calibration of flow meters and related devices at all three treatment facilities. Our three treatment plants utilize approximately \$30,000.00 per year of these services.

The two respondents were P.C. Controls, Inc. and Delta Control Engineering. Both companies have completed many projects successfully for the Utilities Department. However, P.C. Controls, Inc. has always exhibited a more proficient and effective method of establishing longevity of existing equipment while providing suggestions of improving processes.

The proposals were reviewed and evaluated by the water and wastewater treatment superintendents, and the Utilities Budget and Purchasing Manager. The criteria evaluated were:

1. scope of services;
2. firm qualifications;
3. references;
4. price.

P.C. Controls, Inc. had a higher labor cost, however, they have demonstrated higher efficiency and lower total cost, which indicate their services and qualifications would far surpass their quote price. Their troubleshooting and equipment analysis capabilities would provide for future cost avoidance.

Delta Control Engineer provided a lower hourly rate price in their proposal package, but their past performance demonstrated less efficiency. Our review yielded the following point scale:

P.C. Controls, Inc.: 246
Delta Control Engineering: 244

This information is provided to recommend award of the referenced contract to P.C. Controls Inc. for a period of two years with two additional two-year elective extensions.

City Attorney Lunny noted the memorandum is confidential.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to recommend approval per staff recommendations. Motion carried on the following roll call vote:

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

After the motion, City Attorney Lunny announced the action awards to **P.C. Controls Inc.** for the repair and calibration of flow meters and related devices for all three treatment facilities for an initial period of two years with two additional two-year elective extensions.

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WORKSHOPS - None

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Meeting adjourned at 10:20 p.m.

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Councilmember 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