

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

November 13, 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 Fadgen.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Resolution No. 11788

3. **RESOLUTION** of Appreciation to Janice Fein for 8 years of dedicated service to the City of Plantation.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen to approve Resolution No. 11788 as presented. Motion carried on the following roll call vote:

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

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

- Multi-family Garage Sale at Volunteer Park on November 16, 2013 from 7:00 a.m. – 12:00 p.m.
- P.A.L. Registration for softball, baseball and basketball programs (ages 13-15) at Central Park on November 16, 2013 and November 23, 2013 from 9:00 a.m. – 2:00 p.m.
- 3rd Annual Web.com Stage II Qualifying School, PGA Event held at Plantation Preserve Golf Course on November 17 – November 22, 2013

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Mayor Bendekovic made the following announcements:

- Tree Day 2013, “Keep it Growing Keep it Going: Our Trees Our Gardens and Our Landscapes”, at Jim Ward Community Center on November 16, 2013 from 8:00 a.m. – 1:00 p.m.
- “It’s A Wonderful Life in Plantation” holiday parade on November 23, 2013 at 9:00 a.m.
- The 2013 Orange Bowl International Tennis Championships at Frank Veltri Tennis Center on December 5 – 15, 2013
- Forrest Gump Tennis Tournament at Central Park Gymnasium on December 7, 2013 from 9:00 a.m. – 4:00 p.m.
- The Plantation Farmer’s Market at Volunteer Park every Saturday from 8:00 a.m. – 2:00 p.m.

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Mayor Bendekovic thanked staff, the Parks & Recreation Department, and Public Safety for making the Veterans Day successful. She also honored all the veterans who have sacrificed for our nation. The Halloween Safety Festival was also a huge success and the attendance was doubled from the year before.

Mayor Bendekovic thanked the Plantation Junior Women’s Club for the Art in the Park event. She also mentioned that the 57th Annual Firefighters Barbeque was successful and there were over 6,000 visitors.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 14.

Item No.’s 8 and 9 were removed and discussed separately.

Mr. Lunny read the Consent Agenda by title.

4. Permission for PNC Bank located at Vizcaya Square Shopping Center to have a Grand Opening event on Saturday, December 7, 2013 from 10:00 a.m. until 2:00 p.m.
5. Request to approve a purchase order to Southeastern Pump in the amount of \$33,320.00 to purchase two submersible Barnes pumps to rehabilitate life station #86. (Budgeted – Utilities)
6. Request to approve a work authorization to Winningham and Fradley, Inc. for design of a 10” force main approximately one mile along Broward Boulevard at the Flamingo Road crossing in the amount of \$69,000.00 (Budgeted – Utilities)

Ordinance No. 11788

7. **ORDINANCE** Second and Final Reading 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 and modified fee schedules; providing a savings clause; and providing an effective date therefor.

Resolution No. 11789

10. **RESOLUTION** approving that certain special construction agreement with Comcast for portion of Gateway 7 Underground Utility Project; providing a savings clause; and providing an effective date therefor.

Resolution No. 11790

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 17, 2013 through November 6, 2013 for the Plantation Gateway Development District.

Resolution No. 11791

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 17, 2013 through November 6, 2013 for the Plantation Midtown Development District.

Resolution No. 11792

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 17, 2013 through November 6, 2013.

Resolution No. 11793

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period October 17, 2013 through November 6, 2013 for the City of Plantation's Community Redevelopment Agency.

NON-AGENDA ITEM

- 14a. Approve Hickory Sticks Barbecue Restaurant Grand Opening Event on Sunday, November 17, 2013 from 2:00 p.m. – 5:00 p.m. at 8320 West Sunrise Boulevard.

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: Fadgen, Jacobs, Stoner, Zimmerman, Levy

Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 14.

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Mr. Lunny read Item No. 8.

Ordinance No. 2491

8. **ORDINANCE** Second and Final Reading 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 an "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 public rights-of-way within the City of Plantation, Florida, and for real property which is not vehicular public right-of-way (including private property within Plantation); providing an expiry date; providing a savings clause; and providing an immediate effective date therefor.

A memorandum dated October 25, 2013, from Donald J. Lunny, Jr., City Attorney to Mayor and Members of the City Council follows:

As the City Council may recall, the First Reading of the Telecommunication Ordinance was tabled at the City Council Meeting of October 23, 2013.

As the City Council may also recall, the City's existing Moratorium expires on November 15, 2013. An Ordinance extending the Moratorium must be enacted prior to November 15, 2013.

As a result of the Telecommunications Ordinance being tabled, the City Council on October 23, 2013 approved on First Reading an Ordinance extending the Moratorium to March 31, 2014 (recognizing that the proposed Telecommunications Ordinance will take additional legislative work to finalize). Attached, please find for Second Reading on November 13, 2013 the draft Moratorium Ordinance that would extend the Moratorium to March 31, 2014.

This draft is now ready to be considered by the City Council at Second Hearing.

Mr. Lunny stated that for the record the industry has requested that the words "or other structures" be added to the end of line 56 of the draft included in the agenda package and staff has no objection to that language being so added.

Councilmember Stoner wanted to make sure that went into the record.

Motion by Councilmember Stoner, seconded by Councilmember Fadgen, to approve Ordinance No. 2491 with requested change. Motion carried on the following roll call vote:

Ayes: Fadgen, Jacobs, Stoner, Zimmerman, Levy

Nays: None

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Mr. Lunny read Item No. 9.

Resolution No. 11794

12. **RESOLUTION** for adopting the Official City Holidays for the Calendar Year 2014.

Councilmember Stoner suggested that the number of Holidays be reviewed by Council. She was not looking to take away anyone's pay just asking employees to work the day. Traditionally in the private sector seven holidays are standard. According to the information provided, 40 cities besides Plantation do not offer Yom Kippur as a City Holiday. It was her opinion that if an employee wanted to take that day off they could take a personal day.

Motion by Councilmember Stoner to remove Yom Kippur as one of the Official City Holidays. Councilmember Fadgen seconded the motion for discussion.

Councilmember Fadgen agreed that one of the holidays be removed but he believed that it should be the day after Thanksgiving instead of Yom Kippur.

Councilmember Stoner believed that no one would give up the day after Thanksgiving just like it was assumed that there were other holidays that are agreed upon such as Martin Luther King Jr. Day, Presidents Day and Veteran's Day. She found the chart that was provided interesting in that no city besides the City of Plantation had Yom Kippur as an approved holiday which is the reason she choose that holiday.

Councilmember Fadgen stated that he would not be in favor of Yom Kippur being removed, he would be in favor of the day after Thanksgiving which he believed was the least significant individual day, religiously or traditional.

Mayor Bendekovic agreed that the City of Plantation is the only one that has Yom Kippur as a city holiday but when staff was researching it they found that other cities were giving off New Year's Eve, Birthdays, Good Friday, Spring holidays, Winter holidays, Quality day and Columbus Day. There are different cities that do different things as far as what this City doesn't do. The one thing she would like everyone to look at is private industry, Willis provided a comparison between the City and private industry. What they found out was with businesses and private industry the break down for City Holidays was between 8-11 days. If you compare the City of Plantation with other cities, we are right there in the norm. The City of Hollywood has 16 Official City Holidays and the City of Plantation does 11 City Holidays. She didn't believe that the number was out of the normal level with other cities or the industry. She would like to keep the Official Holidays status quo.

Councilmember Levy agreed with Mayor Bendekovic. He felt that having Yom Kippur was something special for the City of Plantation to recognize and has been a holiday for years. He believed the holiday is tradition, people plan around it and some community members are grateful for it to be there. He would be against removing the holiday. He expressed that he didn't believe that 11 paid holidays a year wasn't an appropriate amount.

In response to Councilmember Stoner, Councilmember Fadgen informed Council that his employees don't get holidays, they can work and they can take off any day they want.

Councilmember Stoner stated that 90% of businesses have less than 25 employees and 70% of them have less than 5 employees.

Councilmember Levy believed that you cannot compare the City that has over 600 employees to a business that has less than 25 employees.

Councilmember Stoner mentioned one of the exhibits given with this item about private businesses. In this particular case the information is not necessarily correct. It was her finding that when the Council makes a decision about a benefit it compares it to other cities or municipality or governmental entity. It never takes the lead and changes the model that the City functions under and wonder how we are affording this.

Councilmember Levy credited the City with being in the lead by having Yom Kippur as an Official City Holiday.

Councilmember Fadgen withdrew his second to the motion.

Amended motion by Councilmember Stoner, seconded by Councilmember Zimmerman to reduce the amount of Official City Holidays to 10 days. Motion failed on the following roll call vote:

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

Mayor Bendekovic clarified that staff went through a third party to collect the data that was provided and asked Councilmember Stoner to give her the data that shows that this information is incorrect.

Councilmember Stoner agreed to provide the information.

Motion by Councilmember Fadgen to remove the day after Thanksgiving as an Official City Holiday. There was no second to the motion.

Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to approve Resolution No. 11794 as presented. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

15. DISCUSSION PERTAINING TO SUGGESTED CHANGES TO RESOLUTION NO. 1.

A memorandum dated May 23, 2013, from Donald J. Lunny, Jr., City Attorney to Mayor and Members of the City Council follows:

I. Background

As the Council may know, City Charter Section 11 indicates in relevant part, "...[T]he council may determine its own rule of procedure..." and Charter Section 6 indicates in relevant part:

"The members of the council shall elect annually at the first regular meeting after the annual election herein provided for, one of their number as president of the council, who shall preside over its meetings, and enforce such rules as may be adopted by the council and perform such duties as may be prescribed by ordinances. The council may elect a present pro tem to act in the absence or disability of the president."

II. Resolution No. 1 is Outmoded

Resolution No. 1 largely sets forth how the Council Meetings are conducted, and is not consistent with Council's modern practices. A copy of this Resolution is attached as Exhibit "1". One of the items that the Administration has had "on the work list", so-to-speak, is to ask the Council to consider modernizing this

Resolution so as to avoid confusion and assist the public in understanding how the City Council Meetings function.

III. Topic Areas for Modernization

Over the years, topic areas relative to this subject have been collected. There may be other topics that the Council wishes to be addressed that are not listed below.

A. Topics that Relate to Sections of Resolution No. 1

The topics which correlate to Sections of Resolution No. 1 are:

Section 1. This needs to be updated with respect to the current twice monthly schedule at the new City Hall.

Section 2. How “Special Meetings” are “called” should be better detailed. The process is that when two or more Council Members submit a request in writing to have a Special Meeting about a subject, the Mayor is required to “call” a Special Meeting about the matter. To do so, the Mayor requests the City Clerk to contact Council Members to obtain different dates and times for when a quorum can be convened and to ascertain whether the subject of the Special Meeting requires any form of required, special advertising beforehand. The earliest reasonable date and time of the Meeting is established in consideration of both when any special advertising can be affected and when a quorum can be obtained. The fact that the Council Members seeking the Special Meeting cannot specify the date and time for the Special Meeting in their request for a Special Meeting, and obligate other members to attend for quorum purposes has caused friction, on occasion. The clarification to the Resolution would be to more clearly set forth the current procedure.

Section 3. No change.

Section 4. No change.

Section 5. Does the Council wish to revise its Order of Agenda Business as was recently suggested? Staff had planned on using the current Agenda Order of Business in Resolution No. 1A. Recently, however, the Council expressed a desire to revisit its Order of Business on the Agenda. Does the Council wish to advance public comment and quasi-judicial items before the Administrative and Legislative items? Staff would note that where legislation is needed to approve a quasi-judicial items dealing with the legislative topic first can afford the City’s governing body more latitude with proposed development.

Section 6. No change. However, in accordance with Fla. Stat. §112.3143 (3)(a), the City Clerk shall begin incorporating elected official voting conflict memoranda into the minutes.

Section 7. This section remains confusing to the layperson because of the last sentence, which creates a loophole that “swallows up the whole”. There is a difference between “reconsidering” the final vote or action that has occurred earlier during an advertised hearing (which what this Section is believed to address), as distinguished from re-hearing the matter (which means that the matter will need to be re-advertised, scheduled before the Council, a hearing conducted, and renewed participation of interested persons). The last sentence to Section 7 appears to allow the Council to exercise its inherent right to decide any time in the future to re-hear a matter it has previously determined (as distinguished from

reconsidering a matter at the same meeting). This distinction should be more clearly made in new Resolution No. 1A.

Section 8. Section 8 of the Resolution concerns how citizens “address the Council”. Over the years, some elected officials and citizens have expressed concerns (privately and publically) that the current gender-based method is outmoded and a gender neutral method such as “Council Member [Last Name]” or “Councilperson [Last Name]” should be employed.

Section 9. Sometimes the Council makes a motion early in its initial discussion of a matter and before the public has an opportunity to comment. The only suggested change would be to expressly allow the President to determine when this provision will be temporarily suspended, as is the Council’s current custom.

Section 10. The time limit for addressing the City Council under “Citizens Comments” seem to be a continued concern. While Resolution No. 1 states that a five (5) minute applies, I have advised the Council that the President of the Council’s Charter powers to “preside over [the Council’s] meetings” allows the President to establish a three minute rule, subject to the Council’s acquiescence, and this occurred several years ago.

It might be of assistance to have a clock visible from the speaker’s podium to allow citizens to gauge the delivery of their remarks. The standard speaking time should be rigorously enforced in a content neutral manner. If the time limit is not rigorously and uniformly enforced, eventually someone will believe that they are prevented from speaking to the Council because of the nature of their message.

Finally, the rule should apply to all portions of the Agenda except for the Council Member items and quasi-judicial items. Thus, if a citizen desires to address the Council for a longer period, perhaps the subject of the remarks can be agendaized in accordance with the processes set forth in Resolution No. 7374 (so that it is addressed under Council comments as an elected official sponsored item where the elected official asks the President of the Council to allow remarks to be extended).

Section 11. No change.

Section 12. Revise to make concepts enforceable pursuant to current law.

Section 13. Revise to make concepts enforceable pursuant to current law.

Section 14. Delete.

Section 15. Delete.

Section 16. No change.

Section 17. No change.

B. Additional topics that do not relate to current Sections of Resolution No. 1

The following are additional suggestions for inclusion into a new Resolution No. 1A:

1. The Council's quasi-judicial rules should be added to the new Resolution No. 1A. Additionally, the Legal Department recommends that for all of the Council's quasi-judicial items, a form "Order" be signed by the President of the Council that would formally conclude the action on the matter after the Minutes of the relevant meeting are approved.
2. The Council's Confidential Procurement Procedures should be added to the new Resolution No. 1A.
3. Since Comcast is the City's primary videographer, and since the Meetings are digitally streamed and recorded, the Council may want to consider adopting a provision that would apply to the administrative, legislative, and quasi-judicial portion of the Agenda (when public hearings are conducted) that restricts videotaping by citizens and news media to a portion of the meeting floor adjacent to the Comcast camera, on a first come, first served basis, and to the rear of the Chambers for overflow, so that citizens who might be interested in the Meeting would not be distracted.
4. Some time ago, the Council adopted Resolution No. 7374 that concerns how the Council will respond to certain requests from the floor that require substantive Council action. A copy of this Resolution is attached hereto as Exhibit "2". These rules should be incorporated into the new Resolution No. 1A.
5. Some time ago, the Council adopted a requirement that its Meetings would end at 11:00 p.m. unless a formal motion passes to extend the Meeting beyond such time. (See excerpt of Minutes of 8/5/98, page 4973, which is attached as Exhibit "3"). I recommend that this be added to new Resolution No. 1A.
6. Within the past few years, the City's Council Chamber communications systems became sufficient to allow Members to participate by phone; however, no rules have been established concerning this practice. Minimally, a new Resolution No. 1A should indicate that a Member who chooses to participate by phone will not be counted in the quorum required for the Council to conduct the Meeting, and that minimal advance notice to the City Clerk should be provided so that phone in arrangements can be accommodated. Finally, the Attorney General has advised that use of phone should be limited to unusual circumstances, and not be an accepted norm.
7. Does the Council wish to add a sunset provision to the Resolution governing its Meetings so as to force a complete re-examination of all of its Meeting procedures periodically?
8. Are there any more topics suggested by the Members of the Council?

This item is ready for Workshop consideration.

Mayor Bendekovic informed Council that when she was first elected as Mayor she looked at different ways that the City was doing things. This Resolution No. 1 seemed to keep coming up and people kept going back and referring to it. She reviewed it with the City Attorney and there are some suggested changes, one of the changes has to do with making it gender neutral. She explained that Mr. Lunny would explain the changes that needed to be done section by section and for Council to input as needed.

Section 1. :

Mr. Lunny explained that he has kept notes about problems that have been encouraged. He believed that pertaining to Section 1 the only update is really the current place and current bi-weekly schedule.

Councilmember Jacobs suggested that it reads “not less than once a month” that way twice a month is not locked in.

Section 2. :

Mr. Lunny continued with the next subject. On occasion an issue will come up and a councilmember will ask for a special meeting at a certain date and time. The requirement is that it takes two councilmembers to ask for a special meeting. It was his suggestion that they clarify the process so that Council knows how it works because how he stated it in the memorandum is how it currently works. The fact that the Mayor calls a meeting is really a direction to the City Clerk to call all of the Council to get the fastest possible quorum and that happened on a couple of occasions as opposed to two members saying “we want a meeting, we want it at this time, make everybody else show up.”

Councilmember Jacobs suggested that it be changed so that it reflects that a Special Meeting can be called by the Mayor or by a majority of the members of the City Council.

Mr. Lunny explained that the Mayor has the majority authority to address the Council at any time, so she has the authority to call a meeting regardless.

Councilmember Jacobs asked for a higher standard by the majority of the Council (three members versus two), a minimum of a 24 hour notice to each member, and he believed that the meeting shall pertain to only a single subject, no other subject shall be brought in front of the Council.

Councilmember Fadgen believed that the standard of two Councilmembers were sufficient. Councilmembers are currently prevented from talking to each other so they can't express to each member individually what the significance is for the purpose of the meeting.

Councilmember Stoner agreed on the Special Meeting only having a single subject.

In response to Councilmember Jacobs, Mr. Lunny explained that to giving certain notice is a requirement in some circumstances so there are some occasions where you cannot say that Council is just going to meet at a time. This type of situation rarely comes up and he believed that the Mayor as a duty should call the meeting and when the elected official/councilmember writes to the Clerk and states that they want to call a meeting, he/she advocates why and that will be distributed to the councilmembers. The problem is that there has been confusion over the years when the councilmember wants a meeting the next day or a date where the City Clerk could not obtain a quorum, then it becomes an issue between the councilmembers'.

In response to Councilmember Levy, Mr. Lunny explained that there is a general Sunshine Law that will require reasonable notice of a meeting and there are general guidelines as to how that is. Mr. Jacobs would like at least 24 hour in advance notice to give a response. Once the member were to say yes and two were received, the Clerk would have to post the meeting, but it would depend on the subject matter.

Councilmember Jacobs asked to define an emergency as an issue regarding life or property. In that instance he suggested only a three hour notice.

Mr. Lunny explained that the Mayor had a charter of authority to handle emergencies.

The consensus was to have two councilmembers to call a special meeting and that whenever possible only limited to one subject being heard.

Section 5. :

Mr. Lunny remembered that in the past it has been brought up that the order of business be revised.

Councilmember Levy suggested that it should remain as a decision of the Council President.

Mr. Lunny stated that no matter what Resolution No. 1 says about the regular order of business, the Chairman³ has the charter authority to deviate from that at any given meeting. The issue that this is addressing is the way the meeting is set up: Items by the Mayor, the Consent Agenda, etc. Does the Council want to re-order that.

Councilmember Levy states that sometimes there are awards that last for an hour and half or so, by the time they get to the meeting it would be two hours or more before it is started. He believed if they break it up, they can still change it if a particular councilmember had a specific need for Public Comments to be moved.

Councilmember Zimmerman suggested moving the Public Comments to the front of the agenda.

Mayor Bendekovic reminded Council that public comments should only be about municipal affairs.

Councilmember Jacobs believed that they shouldn't change the order of the agenda.

In response to Councilmember Stoner, Mr. Lunny explained that the Council President has the authority to change the order of the meeting whenever they see fit.

The consensus was to leave the agenda the way it was for now and keep the decision up to the Council President on how they wish to run the meeting.

Section 6. :

Mr. Lunny explained that this section is just informative, the City Clerk shall begin putting in the conflict memos in the minutes.

Section 7. :

Mr. Lunny tried to clarify this section of the Resolution. He proposed to write the section in the way it is being presented so that the reader will understand because it is currently confusing.

Section 8. :

Mr. Lunny explained that this was an issue that has been raised many times by the City Council. When he writes the code and he refers to the councilmembers' positions he may say "councilperson" or "councilmember" and it really isn't uniform. He asked Council to discuss this and come to a conclusion about how they would like him to refer to them in legislation and how would they like citizens to refer to them. Historically Council did not want to be referred to as commissioner because the word "commissioner" in a legal sense means that you are commissioned to oversee an office such as a Police Commissioner, Tax Commissioner, etc. In an antiquated way there was a legal difference between a commissioner and a member of a five person common council. In the past some of the colleagues did not want to use "Commissioner" because it connotated a responsibility that the present seats do not have. The concern was if the connotation of responsibility was there so would the connotation of liability. The charter refers to the Council as a "Five Member Common Council".

Councilmember Levy stated that they have been trying to keep it gender specific.

Councilmember Fadgen believed that this was an issue about political correctness. He preferred the use of "Councilman".

Councilmember Stoner believed that they need to be referred to in the same manner. The county has changed all of their titles to make it gender neutral so it is based on equality. Pertaining to past language, we are currently in a new time element and she believed that they should be called "Councilmember" or "Commissioner". She believed that the reason why you shouldn't see professional titles used was to keep it an even playing field.

The consensus was to use the title "Councilmember".

Mayor Bendekovic suggested that legally the word "Councilmember" can be used but when we are verbally referring to a person we can say "Councilman" or "Councilwoman".

Section 9. :

Mr. Lunny stated that the Council President can determine when this provision will be temporarily suspended.

Section 10. :

Mr. Lunny explained that the Council President has the authority under the charter to change this issue concerning the time limit for addressing the City Council under "Citizens Comments". He suggested that the Resolution indicates a minute and then say "subject to the Presidents discretion". The other issues about clocks are capital items.

Councilmember Levy stated that the County and School Board uses clocks.

Mayor Bendekovic offered to look into getting clocks and bring the information back.

The consensus was to change the language to reflect one minute and then "subject to the President's discretion".

B. Additional topics that do not relate to current Sections of Resolution No. 1

Items No.'s 1 - 3

Mr. Lunny stated the balance of the items are either no change or incorporate some modern statements such as the Quasi-Judicial Rules, Confidential Procurement Procedures, Item No. 3 is a new issue. Right now the Council is streaming live over the internet and there is one recorder for public television. From time to time the press will come in, or have one or more citizens filming which they have the right to do, so one question would be has the City grown enough where you have a rule whereas you have one camera in the general area and all other cameras in the rear so that the citizens can observe the meeting without distraction.

Councilmember Levy believed that it would be better to set a rule now than when it happens.

Mr. Lunny suggested that Council has an area designated on a plan where there will be one recorder in the front and one more camera in another area towards the front and all additional cameras in the back.

The consensus was to only allow the official recorder in the front and all other standing cameras in the rear.

Councilmember Jacobs inputed that it would be a fire hazard if they were to set up along the sides.

Mr. Lunny stated that he will speak to the Safety Chief about it being a safety concern and bring this topic back to Council.

Item No.'s 4 - 5

Mr. Lunny explained that they have a process on how Citizens requests come to the Council, there is a separate resolution for that. He wanted to fold that Resolution into the new one so there is one for both. By motion there was an 11:00 p.m. rule, he believed that rule was still in effect but it's not often followed. Rather than have it in the minutes, he asked if Council would like him to add the 11:00 p.m. rule. It would be helpful to have it and would be considered an "expectations management" so that people understand that the meetings typically end at 11:00 p.m. unless it is extended.

The consensus was to add the 11:00 p.m. rule.

Item No. 6

Mr. Lunny explained that the attorney general had a very specific view of when elected officials can appear by phone or by video appearance, such as Skype. The attorney general indicates that the Council can be the judge of whether an extraordinary type of circumstance has arisen to warrant an appearance by phone or by video (Skype). The first thing to remember was that there are cases in the law where the law requires unanimity of action or super majority of action. Because of the nature of the matter and the desire of the City to get business done, that will drive whether or not you can appear by phone regardless of where you are. Secondly is the issue of a periodic disclosure. Consider a rule where the Councilmembers' advise each other when they will be gone and make arrangements for certain subjects not during that period of time. Some standards have to be agreed upon as to when and how you're going to appear publicly and their ought to be a discussion when they notice to the Clerk that they request to appear digitally then before that meeting occurs they should hear why that person wants to appear digitally then decide whether the Council will allow that.

Councilmember Fadgen suggested that the Council President be delegated the authority to allow or not allow subject to the approval of the rest of the Council.

The consensus was to leave the decision up the President of the Council.

Mr. Lunny strongly recommended that Council only allow one member at a time to call/dial in unless there is an issue where a unanimous vote is required.

Item No. 7

Mr. Lunny asked Council if there needed to be a sunset provision.

The consensus was no, there need not be a sunset provision.

Item No. 8

Councilmember Levy suggested that when Mr. Lunny writes the Resolution to add "the council did this or that", it may be only one member of the Council that made the suggestion.

Mr. Lunny responded that he would try to be more specific with the language.

In response to Councilmember Fadgen pertaining to Section No. 1, Mayor Bendekovic explained that the meetings are set according to what the agenda dictates. There has been time where there would have to be a third meeting in a month because there was so much going on.

Councilmember Fadgen asked if it would be difficult to call a third or fourth meeting if need be.

Mayor Bendekovic stated that goal was to respect the time of the City Council.

No vote required, some changes made and the resolution will be brought back to another agenda for final approval.

Dennis Conklin, resident, asked about Section No. 1 and 2. He suggested that the City Council Meetings go back to Thursday nights. He also mentioned Section No. 5.

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LEGISLATIVE ITEMS – None.

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

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QUASI-JUDICIAL CONSENT AGENDA

Councilmember Levy read the item into the record.

Resolution No. 11795

16. RESOLUTION TO APPROVE THE OLIVER SITE DATA RECORD.

A staff report dated November 13, 2013, to Council, from the Planning, Zoning and Economic Development Department follows:

SUBJECT: PP12-0026: Site Data Record – Oliver Site Data Record

ADDRESS: 11480 NW 8th Street

LOCATION: Located on the south side of NW 8th Street approximately 950’ west of Old Hiatus Road

REQUEST: Approval of site data record.

LAND USE/ZONING: Estate (1 du/ac) / RS-1EP (Residential)

WAIVER REQUEST:

From: Section 20-75, which requires approval by City Council within 9 months of the Review Committee recommendation.

To: Allow City Council consideration 12 months after the Review Committee recommendation.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division Report; subject site map; Site Data Record application; and Review Committee Meeting minutes of November 27, 2012.

REVIEW COMMITTEE RECOMMENDATION: NO OBJECTION to the project moving forward for further review (November 27, 2012).

ANALYSIS:

The subject property is zoned RS-1EP and consists of approximately 1.33 gross acres and 1.22 net acres after right-of-way dedications associated with NW 8th Street. The site data record application indicates the proposed use is one single family residence.

The lot meets the minimum lot size requirements of the RS-1EP zoning district and is consistent with the Estate (1 du/ac) Residential land use designation on the adopted Future Land Use Map.

STAFF COMMENTS:

PLANNING AND ZONING:

1. The proposed site data record appears to be consistent with the Estate (1) Residential future land use designation on the adopted future land use map.
2. This proposal requires a clearing permit from the Building Department to determine wetland resource impact and consequent mitigation prior to City Council consideration (Sec. 5-205).
3. Review the 10' drainage easement (OR Book 49788 and Page 916) along the north property line with P.A.I.D. prior to issuance of a building permit. The easement is within the right-of-way dedication.

TRAFFIC CONSULTANT: No objections.

ENGINEERING DEPARTMENT:

1. Please provide copies of any OR Book and Pages for existing easements.
2. Please call out the 25 R/W dedication and include the OR Book and Page on the SDR.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: Staff has no objection to the request for site plan record.

1. Trees and/or palms may need tree removal permits if they are to be removed in the future. Permits are required directly through the department of Design, Landscape & Construction Management.
2. At the time of development the property will be required to comply with City codes 13-50 required tree planting and buffering in RS-1EP zoning districts.

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT: No objection to this site data record.

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

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

1. Prior to a Building Permit or Occupational License being issued, the following must be provided:
 - \$500.00 review fee must be submitted to the Utilities Department
 - Water and Sewer Utility plans must be submitted to the Utilities Dept. for review and approval.
 - BCHD and BC EPD Permits must be approved
 - Utilities Agreement must be executed
 - Utilities Performance Bond must be posted
 - Utility Easements must be executed
 - Utility Inspection fees must be paid
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions (954)797-2159

2. Offsite and onsite improvements and equipment may be required at proponent's expense to support project.
3. Show all existing water and wastewater facilities on site plan
4. Show all new and existing water and sewer lines and easements on landscaping and drainage plan
5. Maintain all utilities and utilities easements for water and wastewater system access.

Full Utilities Plan review & approval is required prior to permitting. No plans are for construction until marked "FINAL".

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

WASTE MANAGEMENT: No objection.

Richard Levy was present for the applicant.

Councilmember Levy stated for the record that he does not know Mr. Levy and he is not related to him.

Motion by Councilmember Jacobs, seconded by Councilmember Levy to approve Resolution No. 11795 as presented. Motion carried on the following roll call vote:

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

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 17.

17. REQUEST FOR SIGN SPECIAL EXCEPTION FOR PLANTATION PROMENADE LOCATED AT 10001 CLEARY BOULEVARD. (PUBLIX)

A staff report dated November 13, 2013, to Council, from the Planning, Zoning and Economic Development Department follows:

SUBJECT: PP13-0036: Special Sign Exception – Publix #342

ADDRESS: 10065 Cleary Boulevard

LOCATION: Located on the northeast corner of Nob Hill and Cleary Boulevard

LAND USE/ZONING: Commercial/ B-2P (Central Business District)

REQUEST:

- 1) From: Section 22-35(g), which limits wall sign area to 1 square foot for each lineal foot of establishments storefront (not to exceed 60 square feet);
To: Increase the allowable sign are from 60 square feet to 74.4 square feet.
- 2) From: Section 22-20(f), which limits subordinate messages to 15% of the allowable sign are (9

square feet);
To: Increase the subordinate sign area from 9 square feet to 17.7 square feet.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division Report; subject site map; aerials; Sign Special Exception application; and sign details.

ANALYSIS:

The Plantation Promenade shopping center is located on the northeast corner of Nob Hill Road and Cleary Boulevard. The site encompasses 14.5 acres and is developed with a 144,146 square foot shopping center with multiple tenants including a grocery store anchor. The center site is currently under renovation.

The Applicant, Publix, has recently remodeled the interior of the store to add a pharmacy component. The applicant, as part of the renovation, requests approval to replace the existing 43 square foot “Publix” sign with a new “Publix” sign at 56.7 square feet. With the pharmacy addition, the applicant also requests approval to provide subordinate signs indicating “FOOD” and “PHARMACY” at 5.9 square feet and 11.8 square feet, respectively.

The sign code applicable to center establishments allows 1 square foot of wall signage for each lineal foot of storefront subject to a maximum area of 60 square feet (for the front sign). Subordinates are limited to 15% of the allowable sign area (9 square feet for a 60 square foot allowance). Overall, the cumulative sign area (including the subordinates and “Publix” is 74.4 square feet. The subordinates will total 17.7 square feet cumulatively.

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code, attached hereto as Exhibit “A”.

STAFF COMMENTS:

PLANNING AND ZONING: No objection.

EXHIBIT “A”

SPECIAL EXCEPTION:

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code, attached hereto. The applicant required to identify the following:

- (1) That special conditions and circumstances exist such as, but not limited to, building orientation, vehicular circulation or vision obstructions (not to include landscaping) that are peculiar to the land, structure, or building that create a site specific justification for the exception;

Applicant: The special conditions that exist at this location came about doing our renovation and reconstruction of our amenities at this location, simply our efforts to upgrade the appearance and advertise about the newly installed Pharmacy.

- (2) That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other property of lands, structures or building of similar character with identical special circumstances (nonconforming signs shall not be grounds for issuing sign special exceptions), or alternatively, that a special exception from the provisions of this Chapter is warranted and justified to

protect, preserve, or enhance the City's tax base or to prevent or eradicate conditions of economic blight;

Applicant: The literal interpretation of the provision of this Chapter will deny the applicant the opportunity to advertise the Pharmacy at this location. Code only allows sub copy in this zoned district at 9 square feet. We feel 9 square feet of Pharmacy signage would not be visible to the general public and would add a sense of unbalance to the overall appearance to the storefront. The addition to a Pharmacy at this location would serve and greatly benefit the citizens of the community and greatly enhance the City's taxpayers.

- (3) That the special conditions and circumstances do not result from the action of the applicant;

Applicant: The special conditions and circumstances we feel are up to the City's interpretation of this section of the code. We have been a long time neighbor of this community and by the addition of a Pharmacy to this location has been done to better serve the citizens of this community. Our request to increase the overall square footage of this one sign is the minimum needed to address our concern.

- (4) That the sign special exception to be granted is the minimum measure needed to address the special conditions and circumstances that justify the special exception; and,

Applicant: As stated previously, we are only asking that one (1) sign at this location be increased 11.78 square feet where only 9 square feet is allowed.

- (5) That the sign special exception will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood, or surrounding property, and will not otherwise detrimental to safe and convenient use of nearby rights-of-way;

Applicant: The general purpose and intent of this chapter gives each retail tenant the ability to advertise goods and services that are offered to the general public. Each of the surrounding properties have signage which is similar in style and characteristics to that which we are proposing for this store. The proper advertisement of a Pharmacy at this location would not be detrimental in any way, but would add signage at a size that is legible and greatly needed. It is our intent to add signage that will be architecturally please and gives the storefront a sense of balance in its appearance.

- (6) That all other signage on the property is in substantial compliance with this Chapter, as applied.

Applicant: Yes this location like others in the Publix family bears signage that is compliant with Publix design and overall appearance.

Gregory Davis, for the applicant, explained the request.

Councilmember Fadgen asked why this request was needed at this location compared to the other Publix locations.

Mr. Davis advised Council that Publix is trying to install pharmacies at the majority of their locations. In this particular instance because of the allowable square footage of 9 sq. ft. it is difficult to add the word "pharmacy" to the sign.

Councilmember Fadgen asked if there was any reason pertaining to the property or is it just the space on the sign.

Mr. Davis stated that this location has been here for a long time and has been remodeled several times. During those times the City's Code has changed. They have lowered the letters to only 12 x 13 inches, they want to illuminate the letters. The storefront is 243 ft. and what they are proposing for signage as far as best intentions on the overall side of the façade it's impossible identify the pharmacy with 9 feet. They are trying to balance the store front and the façade by using the signage that Publix is well known and trade marked for.

In response to Councilmember Fadgen, Mr. Davis explained that Publix has had a pharmacy at this location but the signage changed. The previous signage was larger than the current allowable limit.

Councilmember Stoner asked Gayle Easterling about the size of the signage. She stated that the request is from 9 ft. to 17.7 ft. and the other is additional 10%-15%. In reviewing the responses for the special conditions and applicants responses, they all seem to come back to indicating the City's interpretation of the sign code. Their request is a person preference. She asked if there is something special that she is missing.

Ms. Easterling, Planning, Zoning & Economic Department, explained that part of the increase in square footage overall the Publix sign itself is increasing from 43 sq. ft. to 56.7 sq. ft. The only reason there is a square footage increase is because the letters are being spaced out between letters so the sign height is the same but the length of the sign is longer. The Publix sign technically isn't getting any larger than it is currently, it's just getting longer. The increase has to do with this ordinance limited to 15% of the allowable sign area which is 60 sq. ft. The store does sit at the far back of an "L" shaped center, it's visibility is somewhat limited from Cleary Blvd. She explained that the code prior to 2005 would have based on the square footage of the store. Anchor stores had 60 sq. ft. plus a multiplier times their square footage, so prior to 2005 the applicant would have been allowed a lot larger square footage. This sign would have been code prior to 2005. They have many older signs in the City that are larger because they were installed prior to 2005.

Councilmember Stoner asked if there was a different requirement for illuminated letters versus non-illuminated letters.

Ms. Easterling answered that no there was not a different requirement.

In response to Councilmember Jacobs, Ms. Easterling explained that exposed neon tubing is not permitted.

In response to Councilmember Stoner, Mr. Davis explained that the letters are new. The code does not allow them to box off each letter, they have to box the entire letter and space in between. The channel letters will be the standard in which Publix has used for years. They cannot get the word pharmacy in the minimum 9 sq. ft.

In response to Councilmember Stoner, Ms. Easterling has explained that the Publix on Peters and University was the last sign to be added. Given the size of the store and the sign looks like it exceeds 60 sq. ft. She believed that it did require a special sign exception but could not confirm at this time. Signs that were installed after 2005 may have had special sign exceptions. There has been several other large stores in the City that have been granted special sign exceptions.

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

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

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NOTE: This item was voted on during Items Submitted by the Mayor before Item No. 3

18. REQUEST FOR CONSIDERATION OF A SITE PLAN MODIFICATION WITH WAIVERS FOR SCRATCH GOLF COMPANY LOCATED AT 9200 W. BROWARD BOULEVARD AND ZONED S-GC (GOLF COURSE).

Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to Defer Item No. 18 to the December 11, 2013 City Council Meeting. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic made the following announcements:

- The City Council meetings are scheduled for November 20, 2013, December 11, 2013 and December 18, 2013
- Plantation Tram money collections will start November 15, 2013.
- The City is starting to schedule meetings with State and Federal Legislatures.

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Councilmember Stoner followed up regarding the Plantation Tram. She believed that the County Commission passed something that veterans do not have to pay to ride the buses. Since the tram is partially funded by the County, would we extend to that savings to tram riders.

Mayor Bendekovic answered that it would be up to the City Council to allow that. She would bring back more information from staff pertaining to this subject.

Councilmember Stoner informed Council that she has received calls regarding banners at the schools. The schools basically sell the banners to parents and businesses for support. Whatever funds they get go directly to the students at that school and a lot of schools have raised a significant amount of money to purchase a lot of extras. She believed that the City Code says that the written verbage on the banner cannot face the street, it has to be turned inward towards the school which defeats the purpose of the banners. Some schools fences are set back from the street others have their fences right on the street. The schools have been approached by Code Enforcement to turn the signs around. She suggested that the schools are allowed the opportunity to raise funds that they keep in the schools.

Mayor Bendekovic advised that they have tried to speak to the schools pertaining to these banners. The schools want the City to make exceptions to them. Legal will provide an explanation on why the reasons for the City Code pertaining to the banners.

Mr. Lunny suggested that the Mayor send out the policy response and that might answer the question without the expenditure of legal effort. Perhaps an administrative response is really what the Council might need.

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Councilmember Levy stated that it has been great to live in the City of Plantation for these past few weekends between the Barbeque, the Art in the Park and all the different events, it has been great to be a resident. He has received comments and emails about the events so he was glad that it was a great success.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Bill Laystrom stated that he was present about a unified control issue. He represents Related Group which is Veranda Building No. 2 of the apartment project which is about completed. One of the comments that staff had in their staff report was that they put together an amendment to the unified control satisfactory of the City Attorney. They have unified control on the entire site which includes the office building. When they did the original unified control they has a site plan attached to it, they made some very minor changes to the north entrance road of the site and they are in the process of amending the unified control to change out the site plan and legal description of the roadway. He has been able to get the office building which is adjacent and the only user of that road to sign off on the unified control but he hasn't been able to get the shopping center because they are no longer related to any of the companies that they represent. He is asking that Council allows him to not obtain the signature for the CO of the shopping center as it relates to the amendment of the unified control.

Mr. Lunny explained that there was a standard staff comment, he has been aware of this issue for months. Mr. Laystrom has kept him informed as to his efforts to try to get the final signature. The building is coming for CO. He requested a consensus from Council to make a decision changing the developmental order.

The consensus was to give permission to allow the paperwork to continue without the signature.

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Dennis Conklin, resident, reminded Council that next Tuesday is the 150th anniversary of the Gettysburg address. He urged Council to urge State Legislators to take the actions of Article 5 of the Constitution to recommend amendments to the Constitution by convening an assembly. He also spoke about Obamacare.

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Mr. Lunny addressed those councilmembers who have not responded to the City Clerk's request as to the meeting for the Resource Recovery Board case. He asked Council to please respond because they have to tell the other cities whether they will have a quorum or not, many cities have responded but the City of Plantation has not yet.

The consensus was for the Mayor to attend on behalf of the City.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOP – None.

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Meeting adjourned at 9:58 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