

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

March 12, 2014

The special 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 Lunny, Jr.

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2. The invocation was offered by Councilmember Zimmerman.

The Pledge of Allegiance followed.

3. Approval of minutes of meeting held August 14, 2013.

4. Approval of minutes of meeting held August 28, 2013.

5. Approval of minutes of meeting held September 12, 2013.

Minutes for the meetings held August 14, 2013, August 28, 2013 and September 12, 2013 were approved.

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ITEMS SUBMITTED BY THE MAYOR

Resolution No. 11847

6. **RESOLUTION** of Appreciation to Juliette Pedlar for 21 years of dedicated service to the City of Plantation.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Resolution No. 11847 as presented. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

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

- The Sectional Swim Meet will be held March 13 – 16, 2014.
- Auditions for the Tinsel Town Talent Show will be held at Volunteer Park on Saturday, March 15, 2014 between 9:00 a.m. and 2:00 p.m. and Wednesday, March 19, 2014 between 4:00 p.m. to 7:00 p.m. Selected acts will perform on Friday, May 2, 2014 at Volunteer Park.
- Spring Break programs will be held at Plantation Central Park, Share-A-Pony at the Equestrian Center and Tennis Camp at the Veltri Tennis Center.

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Mayor Bendekovic made the following announcements:

- Budget hearings will be scheduled July 9, 2014; there will be a regular Council meeting at 7:30 p.m. There will be one Workshop this year. The maximum millage rate will be set on July 9, 2014. The First Public Hearing will be on September 3, 2014 at the regular Council meeting at 7:30 p.m. The Second Public Hearing will be on September 15, 2014.
- Celebrate Plantation will be held at Volunteer Park on March 28, 2014 between 5:00 p.m. and 9:00 p.m.
- The Broward County Public Schools are inviting parents to participate in a District Annual Survey.
- Plantation General Hospital is having a Round Ball Rendezvous and that is Children's Health is No Playing Matter; Staying Healthy Starts Early. This will be on March 29, 2014 at Plantation General Hospital between 10:00 a.m. and 2:00 p.m.
- The week of March 17, 2014 to March 23, 2014 is Fix a Leak Week.
- The Garden Fest will be held on Saturday, March 22, 2014 and Sunday, March 23, 2014 at Volunteer Park.
- The Plantation Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.

Councilmember Fadgen mentioned the Second Budget Hearing on September 15, 2014 and questioned if she would be able to coordinate with Comcast to be sure that it will be televised.

Mayor Bendekovic advised that she would contact Comcast.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 18.

Item No. 8 was removed from the agenda by the Director of Parks and Recreation.

Item No's. 12 and 13 were pulled from the Consent Agenda to be discussed separately.

Mr. Lunny explained this portion of the agenda for the benefits of the Scouts in attendance. He stated that this portion of the agenda authorizes the payment of miscellaneous bills, which are done in the form of a written Resolution. The Council authorizes various contracts and leases and they also authorize the purchase of various equipment. It is a standing practice of the City that the agenda is read so that the public understands all of those

different kinds of authorizations. These are viewed in routine in nature and may have been discussed earlier and that is why it is on an agenda. They are all read once and voted on one time.

Mr. Lunny read the Consent Agenda by title.

7. Request for Temporary Road Closure/Special Use of State Road for Fourth of July Parade.
9. Request to approve \$18,480 to purchase ongoing maintenance for WebSense Security Software & Appliance. (Budgeted – IT).
10. Request to purchase a 2015 fuel/lube truck in the amount of \$167,202 from Lou Bachrodt Freightliner. (Budgeted – Utilities)
11. Request to approve a purchase order in the amount of \$29,744.81 to MSC Industrial to purchase a Vectrax 10” x 54” Axis computer numerical control (CNC) knee mill appurtenances. (Budgeted – Utilities)
14. Award bid for Stop Loss Insurance to Symetra in the amount of \$989,328.

Resolution No. 11848

15. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period February 20, 2014 through March 5, 2014 for the Plantation Gateway Development District.

Resolution No. 11849

16. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period February 20, 2014 through March 5, 2014 for the Plantation Midtown Development District.

Resolution No. 11850

17. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period February 20, 2014 through March 5, 2014.

Resolution No. 11851

18. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period February 20, 2014 through March 5, 2014 for the City of Plantation’s Community Redevelopment Agency.

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

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

NOTES: Councilmember Stoner abstained from Check No. 090298 to Stoner & Associates for \$500, which she may have a conflict with.

Mayor Bendekovic voted on Item No. 18 affirmatively.

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Mr. Lunny read Item No. 12.

12. Request to award RFQ Architectural Services for Plantation Community Center to Synalovski, Romanik, Saye LLC in the amount of \$170,000. (Budgeted – Design, Landscape and Construction Management)

A memorandum dated March 4, 2014, to Diane Veltri Bendekovic, Mayor, and the Members of City Council, from Danny Ezzeddine, AIA, Director of Design, Landscape & Construction Management, follows:

On October 9, 2013, the City of Plantation solicited a request for qualifications for professional architectural services for the Plantation Community Center.

On February 12, 2014, City Council had approved the ranking of the short listed firms for architectural services for the Plantation Community Center. The City has negotiated a contract price of \$170,000 with the top rated firm, Synalovski, Romanik, Saye, LLC. Therefore, I am recommending that the City Council award a contract to Synalovski, Romanik, Saye, LLC for the amount of \$170,000 subject to final evaluation and final review by Administration and Legal Departments.

Budgeted funding source; Note 2013

Should you have any questions, please contact me.

Councilmember Zimmerman pulled this item. He stated that in the future, if we get this kind of agenda item, he would like to receive the contract that goes with it. We only received a page and a half proposal and did not get to see a contract that actually accompanies the document. Upon requesting a copy of the contract from Mr. Ezzeddine, they worked through a couple of issues. One of the things in the contract is that there is \$170,000 for design services but we have a contract that reads that the construction value is \$2 million. Previously we put this out as a design build contract with a \$2 million budget for the project. He believes that it was the Council's recommendation that this is a \$2 million project and; therefore, the construction value should be \$1,830,000. He wants to be sure that Council agrees with what he thought was right and then direct Mr. Ezzeddine to adjust the contract accordingly.

Councilmember Stoner agreed. She indicated that when staff provides additional material to a Councilmember for an agenda item all Councilmembers need to be furnished with that information; it is not exclusive to one. She requested that this be kept in mind as we move forward. Had everyone seen the contract she believes that we would have come to a similar conclusion. She is in agreement with Councilmember Zimmerman.

Mr. Ezzeddine advised that the usual procedure is that he puts the proposal from the contractor or from the architect, gets approval from Council and then executes the contract. He will include the final negotiation of the contract to Council in the future. As for the amount of construction, we did the \$2 million at the time we proposed a design build and that was a couple of years ago. Remember, the construction costs are escalating.

Councilmember Zimmerman noted that we had budgeted \$2 million for the Community Center.

Mr. Ezzeddine stated that a few years ago we talked about the market value of \$2 million.

Mayor Bendekovic commented that she has Option 3, which was for \$1.983 million total cost.

Councilmember Stoner stated that even in the last couple of months when we discussed the refinancing of the bond this was specifically part of it for this specific dollar. Many months past the presentation of the \$1.983 million we were still at \$2 million a few months ago when we discussed the refinance of the bond. At no point and time did you ever present to Council that you believed the budget for the Community Center needed to be revised and updated.

Mr. Ezzeddine advised that we did not go through that but there is money in the budget of \$2.5 million; part of it is going to be furniture and there will be a contingency on part of it. The rest will be put in the budget for construction when we issue a bid for \$2 million. During a meeting with the architect it was determined that it might cost less than that.

Councilmember Zimmerman commented that we are contracting services now and that is an item that needs to go in the contract. We need to agree what that construction value is in order to execute the contract. He does not want to wait until later to decide.

Mr. Ezzeddine indicated that a contract for construction is usually an estimate and that can be put in the architectural services agreement but no one can guarantee that price; it will be within.

Councilmember Zimmerman mentioned that we design to a budget and if that means the building has to get a little smaller to meet the budget because we agreed as a Council on an overall project cost of \$2 million. The building cost would be \$1,830,000.

Mr. Ezzeddine advised that he would meet with the architect to work this out.

Councilmember Stoner stated that we need to see a revised contract before approval.

Councilmember Levy indicated that we can approve it to that amount so that the architect can move on it and has that as his budget.

Councilmember Stoner agrees to an extent but she found from day one that the marker keeps moving. We initially came up with the \$1.983 million and graduated to \$2 million because we rounded it off. Then, all of a sudden, we added \$500,000 worth of furnishings. We tore the building down immediately to save debt service yet we are incurring debt service through the bonds. The marker keeps moving and she is concerned that we are really not all on the same page as to the number, which was the whole reason for moving forward with the design so that we could get a hard number for the construction to see if we really want to move forward. She questioned if we are still on that same page. We need to understand that he is coming back with a hard estimate before we go the second step.

Councilmember Zimmerman commented that what was nice in the contract is that the architect will be coming back at design development so they can work through the first initial stages. It is also noted that the architect will present back to Council.

Councilmember Levy advised that we can move ahead with the design element and then bring it back so we can vote on a hard figure of the cost. We know what we have budgeted. He believes that Councilmember Stoner and Councilmember Zimmerman are asking that we get an idea of the cost so it can be managed properly that way.

Motion by Councilmember Zimmerman, seconded by Councilmember Levy, to approve Item No. 12 and the contract with the construction amount of \$1,830,000. 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. 13.

13. Request to purchase twenty (20) police vehicles in the amount of \$597,977.83.

A memorandum dated March 5, 2014, to Ms. Susan Slattery, City Clerk, from Captain Brian Pillado, follows:

I respectfully request the purchase of the following police vehicles to be placed on the Consent Agenda for the March 12, 2014 City Council meeting:

- 19 – 2014 Dodge Charger police rated patrol cars, white in color**
- 1 – 2014 Ford Interceptor police rated utility K-9 Unit, All-Wheel Drive, white in color**

The nineteen (19) Dodge Chargers and one (1) Ford Interceptor Utility vehicles are replacements for older, unreliable police vehicles that are costly to maintain. The vehicles, along with the necessary peripheral equipment (lights, sirens, graphic decals, etc.), will be purchased with the designated capital funds.

The breakdown of the vehicles to be purchased is as follows:

19 – 2014 Dodge Chargers (with accessories)	@ \$29,465.90 x 19 = \$559,852.10
1 – 2014 Ford Interceptor AWD Utility (with accessories)	@ \$38,125.73 x 01 = \$ 38,125.73

Total purchase price: \$597,977.83

The total amount budgeted for the twenty (20) police vehicles and accessories is \$684,000. As noted above, the lowest bid brings the total purchase price to \$597,977.83, which is a cost of savings of \$86,022.17.

The price quoted for the 2014 Dodge Chargers is from the Florida Sheriff's Association Bid Award winner, AutoNation Chrysler Dodge Jeep Ram in Pembroke Pines, Florida. The price quoted for the 2014 Ford Interceptor AWD Utility is from Plantation Ford. The price quotes for the vehicles were facilitated through our purchasing manager, Mr. Bacchi.

As always, thank you in advance for your anticipated consideration of this request. Please do not hesitate to contact my office at extension 2176 should you have any questions.

Dennis Conklin, resident, was present. He stated that this over half a million dollars and ordinarily it would be denoted as in the rest of the Consent Agenda as budgeted. He questioned if this was budgeted and omitted from the agenda.

Chief Harrison advised that this is a budgeted item; it was budgeted for the 20 vehicles. In efforts to reduce costs they actually saved \$86,000.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Item No. 13 as presented. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 19.

19. RESOLUTION APPROVING A CONTRACT FOR PROFESSIONAL SERVICES IN CONDUCTING A CITIZEN AND BUSINESS SURVEY BETWEEN THE CITY OF PLANTATION AND KERR & DOWNS RESEARCH 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.

In response to Councilmember Levy, Mayor Bendekovic advised that she brought this up. It is part of the strategic plan. It would support the goals because we would get input from citizens and businesses. This is not about a popularity survey; it is a survey about services.

Dr. Caravella sat on the Bid Review Committee. Five proposals were received. We were looking for a firm that had the soundest practices in being able to gather survey data. It was believed that Kerr and Downs indeed has that capability; they have a good sample size for both businesses and residents. As the Mayor said, as part of the strategic planning process we have citywide goals and operations goals in the departments and all of that supports the overall mission of the City. One part of doing a strategic plan is to get feedback from the stakeholders and one of our biggest stakeholders is our residents. A strategic plan without that input from our stakeholders would be unbalanced; it is very important as part of that process that we do survey our citizens and involve them. It may be decided, based on one of the areas that we survey, to engage in further workshops or focus groups to explore an area to come up with solutions to better serve one population or to provide some other service or change a service that we might provide for some of our stakeholders. Those are some of the benefits and intended uses for a survey like this.

Councilmember Levy commented that he has lived in Plantation since 1978. He returns calls every day to people who have called while he was at work and he deals with their issues. He does not think we need to spend \$31,000 for a survey to tell him what is going on in Plantation. If he is a Councilmember of any value he should know that already. When you run for office you hear from every single factor of the community what they are thinking as you go around on the different debates. He does not feel the need for an outside agency to come in and design a device at \$31,000 and whatever the costs are beyond that to tell him what the people of Plantation are thinking. He thinks that is his job and that is what he was elected to do. He is not in favor of this going any further.

Councilmember Stoner questioned an example of a question, possibilities and answers, and how it would be applied in the strategic planning.

Dr. Caravella indicated that one area often surveyed is the current level of service and whether they are willing to spend money for that level of service and what that means to them as either a business owner or a resident in the City.

Councilmember Stoner noted that most people do not understand the phrase "Level of service".

Dr. Caravella stated that they are crafted to the average reader and someone who is not knowledgeable in government services or government language. As to Dr. Levy's comments, she understands completely. This is just another way. Not everyone will come out to a Council meeting or may not recognize a Councilmember when they see them so the fact that this is random gives you a different population that might otherwise vocalize themselves.

Councilmember Stoner mentioned that the response percentage is usually 10% or less.

Dr. Caravella advised that the way they propose their model they do not stop; they have to meet their sample size so they continue to call and they have a random list. They try a certain amount of times and if they do not reach that respondent they move onto the next. They have to meet the number proposed in their proposal.

Councilmember Stoner commented that given the fact that the Council was not real fond of the strategic planning she is wondering how constructive this is at the end of the day. Ultimately it comes down to staff consensus and opinion as to what can be cut because you might want to cut a service but the person who does the services does multiple tasks in different areas. You cannot cut off part of a person; the staff still stays. She questioned if this was a budgeted item or if it just came up as something to be considered to develop the strategic planning further.

Dr. Caravella stated that it is something to be considered.

Councilmember Stoner questioned where the money would come from.

Dr. Caravella believes that we originally had a different contract with Tribridge for our GP services and because we went to an hourly rate with them and have not utilized them as much we realized there was a little extra money there this year and that is what were going to spend.

Councilmember Stoner understands that a new employee has been added to the Financial Services.

Mayor Bendekovic advised that there is no new employee. She got a media inquiry on that today; it is the Controller; it is not a new member. The Controller that was in that position transferred to the Utilities Department and the Controller is in charge of the CAFER and that is Mr. Vernon Paul; it was not added, it was a position filled because the Controller is an integral part of the department. She does not have an issue with Councilmember Stoner asking the question but she did have an issue with the media getting involved in with who we are hiring and who we are not hiring.

Dr. Caravella indicated that most organizations of this size do strategic planning and business planning. It is part of the organizational culture; it breeds professionalism, transparency, and lots of things we would want our staff to have.

Councilmember Levy commented that this City Council will drive it.

Councilmember Stoner stated that as the Mayor said, she thinks some concern has been voiced that it is a popularity self serving survey. She questioned how other entities have incorporated some of these things.

Dr. Caravella mentioned that you can take one issue and it can lead to all types of activities.

Councilmember Stoner agreed with Councilmember Levy with regard to money. At the same time the City has come a long way in the last few years by making hard choices. She does not necessarily want to tie someone's hands by trying to get to an answer and present something that may be positive in the end. She has mixed feelings but does not want to completely dismiss it.

In response to Councilmember Levy, Mayor Bendekovic advised that she has been here since 1955 and she feels that ever since she was elected in 2001 she does not know too many who can compete with what she has done as far as attending all of the Homeowner's Associations and feeling the breath of what is going on in the City. When she can get further information to improve all of the knowledge she needs to have or to improve on listening to 370 businesses and to get the response of 300 to 600 residents she would really like to see that move forward. We have never done this before; this is not a popularity contest and has nothing to do with the job the Mayor or Council is doing. This has to do with services.

Councilmember Fadgen mentioned GP and questioned if that is where the dollars are coming from.

Dr. Caravella stated that Great Plans is our operating system.

Councilmember Fadgen believes that spending \$29,000 is probably not necessary. He agrees with Councilmember Levy that we are all out in the community and we hear things. He does not see the cost benefit analysis; he does not see why something that was not budgeted is so urgent and important that it has to be done now. He is not in favor of proceeding with this. He mentioned the question by Councilmember Stoner about the Controller. A couple years ago when the question about the advancement of the person from Public Works into an inspector, right after that all Administrative and Executive position changes stopped at the Council level. The Press probably would not be talking about this is we continued to get it; he personally would like to know when there are personnel changes. He noticed that on disbursement lists there are probably at least a half dozen items that we approved that are less than \$10; one is even 60 cents, but yet we do not get an opportunity to look at the resume for someone being hired or promoted and who they are replacing. He thinks we should go back to the way it was for at least the 16 years he served on the Council prior to the last election so we might not have those embarrassing situations because we are not aware of promotions; we should know. In his opinion, we should demand that we revert back to getting that information.

Councilmember Zimmerman questioned this a long time ago. There are two companies that submitted on this; the costs are very similar and seem to break down to be not extremely different depending on which sampling you take and some of the services provided. He questioned whether any completed reports have been seen from another City in the County of what they have done.

Dr. Caravella indicated that samples from all of the companies have been reviewed. There were a couple of proposals received that had not done that much work in Broward County and that goes into the Committee considerations.

Councilmember Zimmerman reached out to Davie and Coral Springs who used both of these companies. The cost they are reporting back to him with the sample reports they provided are about in the \$22,000 range. He thinks we are getting a higher cost than we should and perhaps that can be negotiated lower if we want to proceed. He believes it might help the whole Council if full copies of whatever reports were done could be provided. He thinks the reports answer some of the concerns rather than guessing. He thinks he can support what they do; however, he cannot support the cost we are currently paying. It might behoove us to table this, get those reports to Council so there is an opportunity to look at what might benefit and then have an educated discussion on what this might or might not provide.

In response to Councilmember Stoner, Councilmember Zimmerman stated that Coral Springs did a report in 2013 and they have actually done this for several years. He noted that the report from Davie was 2010. He shares some thoughts that maybe we need to do this but perhaps we can save costs.

Dr. Caravella believed that ETC gave a quote in the \$40,000's.

Councilmember Zimmerman suggested reaching out to other Purchasing Departments and maybe piggyback on something.

Motion by Councilmember Zimmerman, seconded by Councilmember Fadgen, to Table Item No. 19. Motion carried on the following roll call vote:

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

Councilmember Jacobs mentioned that when an item is tabled that means it is gone indefinitely; it is up to Administration to bring it back. It could also be continued to a date certain to make sure it comes back.

Councilmember Zimmerman believed it would be all right to table it.

In response to Councilmember Fadgen, Mayor Bendekovic clarified that we have responded to you before; therefore, she does not think she is required to provide a response to your concerns; it is the daily operations of the City.

Councilmember Levy advised that a motion to table takes precedence.

Councilmember Jacobs stated that a motion to table means that no one else can talk.

Councilmember Fadgen commented that he was expressing his continued interest in having information about any personnel changes of Administrative nature. These are people that are leading our City in the department level and they are key positions. He believes that Council should be given the opportunity to see it like we have since at least 1995.

Mayor Bendekovic advised that she will continue what she is doing. Any change of grades will be provided at budget time. We have not increased any personnel; however, there are some grading changes because of certifications and replacements.

Councilmember Zimmerman indicated that he would like to hear Councilmember Jacobs' comments on the item we were just discussing. He did not know that froze comments.

Councilmember Jacobs stated that if the item ever comes back he will make his comments.

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 20.

20. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES; CREATING SECTION 14-136 TO INCLUDE DEFINITIONS FOR SOLICITORS AND CANVASSERS AND ROADWAY SOLICITORS AND CANVASSERS; CREATING SECTION 14-139 TO BE ENTITLED "ROADWAY SOLICITORS AND CANVASSERS ON PUBLIC ROADS"; PROVIDING IN SECTION 14-139 FOR A PROHIBITION FOR SOLICITORS AND CANVASSERS ON CERTAIN ROADWAYS AND RIGHTS-OF-WAY WITHIN THE CITY; PROVIDING A FINDING AND STATEMENT OF INTENT; PROVIDING FOR A PENALTY AS SPECIFIED IN SECTION 1-13; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A memorandum dated March 4, 2014, to Mayor Bendekovic and Members of City Council, from Melissa Zelniker-Presser, Police Legal Advisor, Municipal Prosecutor; follows:

The City of Plantation is continually assessing the safety of our driver and pedestrians that travel throughout our City. Their health, safety and well-being are always of the utmost importance. For the last several years, the issue of roadway solicitors and canvassers as it relates to their safety and the safety of the motoring public has been of paramount concern. As recently as October 26, 2013, a solicitor was struck by a careless driver at the intersection of Sunrise Boulevard and University Drive. This accident resulted in serious injury to the solicitor who was standing in the median at the time of the accident. It is incidents such as these that require us to take further action in protecting solicitors and the motoring public alike. This proposal seeks to amend Chapter 14 as currently written to include provisions that will restrict the location of solicitors and canvassers in the most dangerous roadways in our City. A team of City Staff including the Police Department and Engineering Department have come together to study, gather data and then analyze the public roadways in the City to determine the least restrictive means in which to accomplish the above mentioned goal.

As requested by the Mayor, this ordinance serves to amend Chapter 14 of the City of Plantation Code of Ordinances to do the following:

- Include a definition for solicitors and canvassers and also roadway solicitors and canvassers.
- Create a new section entitled "Roadway Solicitors and Canvassers" which would prohibit anyone who meets the criteria under the newly created definition section from soliciting or canvassing on the following roadways (including any intersection): State Road 7, University Drive and Pine Island Road.
- Provide for the penalty to be the same process as utilized in Section 1-13 of the City Code. Once a citation is written for a violation of this ordinance, at the discretion of the Municipal Prosecutor, an information would be filed and a case would be prosecuted on behalf of the City in County Court. Currently, the cost associated with filing an information is a ten dollar (\$10) filing fee assessed by the Broward County Clerks' Office.

This ordinance is now ready for consideration.

Mayor Bendekovic requested to have Chapter 14 of the City of Plantation's Code of Ordinance to be amended. She introduced Melissa Presser, Police Legal Advisor, and Police Chief Harrison, because they have been monitoring this and they will indicate why we have chosen this avenue to contain solicitors within the roadway. She stated that it seems that we have had an influx with solicitors on our roadway and it is not getting any better. We have received a considerable amount of calls from residents. Unfortunately the solicitors are walking down the middle of the street.

Chief Harrison indicated that at the direction of the Mayor and for the safety of the motoring public as well as the pedestrians that is paramount in what they do. They assess that from time to time. As early as October there was an incident at Sunrise Boulevard and University Drive that involved a solicitor who was involved in an accident. This is seen in the intersections. We have done our best from a law enforcement standpoint from trying to keep the solicitors out of the roadway. In order to have an ordinance, it would give them more ability to address these situations. He believes that Ms. Presser has done an excellent job in researching and there was a lot of help from Brett Butler, City Engineer. A lot of work has gone into this ordinance; there is a lot of statistics and information that had to be gathered.

Ms. Presser stated that she does a variety of things as the Legal Advisor. She mentioned a case that was Homeless Voice versus Pembroke Pines where the ordinance was challenged. A lot of feedback she received from the Federal Court was a lot of what went into the ordinance. When the action was brought they were challenging it on First Amendment grounds; that it was not content neutral and not a reasonable time, place or amount of regulation. A lot of what the Federal Court discussed was getting statistics in terms of the safety, which is the paramount concern. From a practical standpoint, when the solicitors are in the median they cannot be cited under 316 unless they actually step foot in the median, which we do not want them to do. The City Engineer, a Crime Analysis Unit, a Lieutenant and a Traffic Unit were sent out there to see what was going on. What is going on is very dangerous. The case previously mentioned in October was a solicitor who suffered injuries. In that particular case there was a careless driver who spilled his drink and ended up going into the median right into this gentleman. This ordinance is all about safety. In looking at the situation, most of it had to do with the analysis and how many traffic crashes there were. Exhibit A shows some of the problems they are dealing with in the intersections. In looking at the statistics and making sure this is not going to be an issue in the future, this gives the Police Department another enforcement mechanism when the officers go out there to issue a Notice to Appear, at which point she prosecutes the case and files it in County Court. She has already spoken with a few people in the community who do regular solicitation so they are aware of the ordinance. It has been a trend within the cities. This ordinance is 100% about safety; it has nothing to do with a group; it has nothing to do with an organization. This applies across the board to everybody for not only the motoring public but also to the safety of whoever is soliciting in the roadway for their own protection. The roadways they are actually talking about are the intersections located at State Road 7, University Drive and Pine Island Road. It is not a very big percentage, which was a big point of contention, which the Federal Judge looked at in the Pembroke Pines case because her point was that it was such a low percentage that the solicitors did have other places to go and they were not restricted. Looking at the percentage in our City, it equates to approximately 1.5% of the 239 total miles of public roadways within the City.

Councilmember Jacobs mentioned the medians and stated that there is no legitimate reason why a pedestrian should be on a median. He has noticed a trend to engineer these medians so people are either unable to or it is difficult to walk on them. Perhaps we should have in our ordinances a standard to have medians designed to that configuration, at least in these locations.

Chief Harrison advised that he has seen the medians that slope and people have been out there for hours going back and forth and it is not good to walk that way for a long period of time.

Councilmember Jacobs clarified that he was saying if we are ever working on a median that it could be sloped so it would be difficult for someone to stand on.

Councilmember Stoner thanked Chief Harrison and Ms. Presser for bringing this forward and all of the hard work involved. She mentioned paragraph G and noted that all of the supporting data is from 2009 to the end of 2013 and thinks it is a narrative going back 14 years. She thinks it is not necessary in this ordinance but other than that she supports the ordinance.

Mr. Lunny questioned if the data can remain in the ordinance. As much as possible, he would recommend that the fact predicate be kept in the ordinance and maybe next time Ms. Presser can produce a little more evidence on what the Police Department did and what they consider, explaining the factual predicate a little more. All of those findings are important because you are permitted to rely on findings that have been judicially accepted in cases and you are permitted to rely on evidence even if it is that old.

Councilmember Stoner commented that she understands case law and what Mr. Lunny is saying. She stated that we have 2002, 2003 and then ten years to 2013. There is a ten-year gap.

Ms. Presser advised that they were under a time deadline and did the best they could in a short amount of time in terms of the data. Some of the prominent data has been used and tested in cases.

Councilmember Stoner mentioned that the exhibits are correct.

Mr. Lunny believes what happened with paragraph G is if you see the semi colon right before "Justice Recently"; perhaps that should have been a separate paragraph. The first part of G references the newspaper article and then the section in question is our own recent experience, which is a separate concept.

Councilmember Stoner stated that it should be made a new paragraph.

Councilmember Zimmerman mentioned Exhibit A and in looking at some of the data it says that Nob Hill Road has three intersections in the top ten with over 100 incidents. He questioned why that road was not included as one of the roadways. The concern is that they will move to the other intersections.

Chief Harrison indicated that they have not had the traffic they have had on the other roadways. That can be amended in the future but currently the traffic does not show the need.

Ms. Presser commented that once we see the result in terms of the solicitors moving that can be reassessed.

Councilmember Fadgen indicated that the emphasis of this ordinance is safety so regardless of what the solicitor is doing this would trump that. He believes it is the right time to move on with this.

Ms. Presser stated that there is a legitimate interest there in terms of our government looking at the safety aspect. That is what was litigated in the Homeless Voice case.

Councilmember Levy clarified the discussion for the Boy Scouts. At one point the people that give out or sell the Homeless Voice Newspaper in various intersections had the right of the First Amendment, which is free speech, and they could do this anywhere in Broward County without any rules or regulations. The City of Pembroke Pines questioned that and said that they are causing motorists to be distracted and creating a safety problem including accidents and a safety problem for the people who are soliciting because they are walking between rows of cars while motorists are focused on the light and making directions. This is the issue being discussed. The issue is that the First Amendment to the U.S. Constitution, which says everybody has the right to say what they want and free speech versus the safety of the people in this community who are being hindered or and sometimes injured because of the people who are using their right of free speech that are creating a hazard on our roadways. He thinks it is important to understand that Council is being asked to decide tonight on First Reading and ask the public to also give comments to try to put together something that focuses to where the people selling the newspapers or doing whatever solicitation they are for any organization have a right in the City to have free speech in certain intersections but we are saying they cannot do it at those intersections that are the most hazardous and the most dangerous.

Jeff Skinner, resident and Boy Scout Master of Troop 497, mentioned that when the Scouts come to the meetings they are here working on two merit badges; they are working on Citizenship in the Community merit badge or Communications merit badge, which both require them to go to some type of public meeting and hear a debate. He thanked Council for allowing them to participate in the meeting.

Councilmember Levy stated that Council appreciates the Scouts being here and getting a first hand look at we do.

Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to approve Item No. 20 on First Reading. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

Mayor Bendekovic advised that the reason this did not come back sooner was because we wanted to have the data to support and we were waiting on the response in the Courts with regard to the Pembroke Pines case so we would not have to be challenged in the Court.

* * * * *

Mr. Lunny read Item No. 21.

Ordinance No. 2496

21. **ORDINANCE SECOND AND FINAL READING PERTAINING TO THE SUBJECT OF COMPREHENSIVE PLANNING; AMENDING THE CITY OF PLANTATION COMPREHENSIVE PLAN; AMENDING POLICY 1.6.8. OF FUTURE LAND USE ELEMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A memorandum dated March 12, 2014, to Mayor and Members of City Council, from Laurence Leeds, AICP, Director, PZED, and Peter S. Dokuchitz, AICP, Principal Planner, follows:

Background and Discussion

On December 6, 2012 the Broward County Planning Council granted the City provisional recertification of the Future Land Use Element of the Comprehensive Plan. The Planning Council recertified the Future Land Use Element with the exception of Policy 1.6.8., which regulates penal, correctional and re-entry facilities. Specifically, the Planning Council objected to the blanket prohibition of penal institutions in “Community Facilities” land use designations.

After discussion with the Planning Council staff, City staff and the City Attorney revised Policy 1.6.8, prohibiting penal facilities in “Community Facilities” land use (except county-owned facilities) located within 1,000 feet of residential land use. Please see attached Exhibit A for precise language.

Previous Action

On December 3, 2013, the Planning and Zoning Board sitting as the Local Planning Agency (LPA) unanimously recommended approval.

On December 18, 2013, the City Council passed on First Reading an Ordinance approving the text amendment for transmittal to the State agencies.

The City has received acknowledgements from all State agencies citing no objections.

Request: Approval.

Attachment: Ordinance with Exhibit A.

Mr. Lunny explained that they are trying to react to the Planning Counsel and their comments on wanting some refinements to the policy. Mr. Leeds has discussed this with staff and it is his understanding that these refinements will be acceptable to Planning Counsel staff and they are being recommended for Council.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Ordinance No. 2496 as presented. Motion carried on the following roll call vote:

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

* * * * *

Mr. Lunny explained to the Scouts that an Ordinance is a piece of legislation; it is a law that is passed by the City’s elected officials; it requires two hearings and two affirmative votes of these elected officials. A law is something that you have to abide by or else you are not performing your civic responsibilities.

Mr. Lunny read Item No. 22.

22. 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 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 March 12, 2014, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

I. EXTENSION OF MORATORIUM

As the Council may recall, the City is in the process of writing a comprehensive Telecommunications Ordinance. When the Moratorium was last extended after the policy discussion, the Legal Department advised that it would likely be necessary to further extend the Moratorium beyond its current expiry date of March 31, 2014. This has turned out to be the case.

In order to finalize the Telecommunications Ordinance, the Legal Department believes at least the following is reasonably necessary:

1. One or two more Industry Group meetings will be needed.
2. One final workshop by Council will be needed.
3. The draft Ordinance will need to be finalized for enactment considerations.
4. The Ordinance will need to be considered by the Planning and Zoning Board.
5. The Ordinance will need to be considered by the City Council at two public hearings.

I am hoping the above can be accomplished by May 30, 2014, and; therefore, attached, please find a Moratorium extension until May 30, 2014. The Ordinance contains the same relief provisions as the current Moratorium.

II STATUS OF THE TELECOMMUNICATIONS ORDINANCE

At the November 20, 2013 City Council meeting, the elected officials spent several hours discussing policy considerations underlying the Ordinance. While good consensus was received on some policy considerations, fewer consensuses were received on others.

The Legal Department and Special Communications Counsel have reviewed Industry comment, and are ready to receive additional direction. Attached for reference, please find a working draft of the Ordinance that is footnoted to give everyone an idea of the status of the matter. The Members of the Council desire to know “who added what” to the working draft, and in this regard, every effort has been made to accurately reflect this information. To orient the Members of the Council, blue text in Section 1 (pages 1-44) reflect Industry suggestions. Green text is language of the City that was relocated by the Industry. Turquoise text was proposed by FPL. In response, yellow highlighted text is Staff/Legal response to Industry suggestions or new language proposed by Staff/Legal. Green highlight is intended to reflect the Council’s perceived consensus on matters previously discussed. Blue highlighted text reflects Special Counsel areas of further work.

A.

The policy considerations that seemed to have good consensus were:

1. “Deactivation” as an option for addressing public safety concerns and public safety interference, and adding a requirement of notice and an opportunity to cure in acknowledgements that require enforcement (page 12-13).
2. No right of “appeal” to the City Council from PAC decisions, but including an elected official “call up privilege” (page 15-16).
3. Allowing the Board of Adjustment not to require a “hardship” finding prior to granting a variance, if certain factors are considered (pages 17 and 34).
4. Allowing an applicant to seek variances of the right-of-way installation regulations (page 43).
5. Height and setback requirements for Towers on private property that are different for different classes of property (pages 21 – 23). In this context, the only place the one half foot (1.5’
6. Keeping the “one generator – one above-ground fuel tank per site” rule intact (lines 968-970).
7. Allowing PAC to make landscape waivers with written advice from the Landscape Director. (Lines 1008-1016).
8. Keeping the mandatory co-location requirement for proposed poles in municipal rights-of-way that are five hundred feet (500’) from existing poles. (Lines 1587-1591).
9. Trying to keep new antenna/poles in residential areas looking like streetlights. (Lines 1611-1619).
10. Keeping non transmission main pole heights limited to the lesser of fifty feet (50’) or one hundred twenty percent (120%) of the existing pole height. (Lines 1621-1624).

B.

Areas of prior discussion where consensus did not seem as solid, or where no clear direction was given, are as follows:

1. What regulations should apply to antennas on buildings? (Pages 28-29). In this regard,
 - a. The draft defines a stealth installation that can always be approved. (Lines 252-255).
 - b. Staff suggests the following standards:
 1. Antennas be located only on buildings at least fifty feet (50') high.
 2. Antennas be set back from the closest roof edge one-foot (1') for each one-foot (1') in height above the roof.
 3. No antenna shall be closer than five feet (5') to the closest face of the building.
 4. Antenna shall not exceed a height measured from the roof base more than the lesser of twenty feet (20') or fifteen percent (15%) of the height of the building.
2. How high should FPL transmission poles be permitted to extend to accommodate additional antennas? FPL's request that existing transmission pole heights be allowed to be extended by one hundred thirty percent (130%) to accommodate two (2) antennas or up to one hundred thirty feet (130') to accommodate three (3) antennas is reflected in this draft. However, the draft minutes for the November 20, 2013 meeting do not reflect consensus that this would be acceptable. The language appears in lines 1624-1629 and 104-1709.

C.

Other significant areas under consideration:

1. The Legal Department and Special Counsel recommend the City retain the half (1/2) mile rule for private property Tower installations to assist in preventing a proliferation of Towers on private property. This concept is reflected in the current Ordinance "on the books" and has been transferred and re-written to appear at lines 1036-1037.
2. Special Counsel is reviewing options for the City to evaluate as to whether to treat tower installers who do not actually provide E-911 service to Plantation residents differently from such service providers.
3. Should the "500 Foot" separation requirement (written as a mandatory co-location requirement) which applies in municipal rights-of-way, be made applicable to County and State rights-of-way? Alternatively, should some other separation standard be proposed?
4. Should all non-conforming structures in the City be simply "grandfathered" and not treated as "non-conforming" structures, or should they be treated as non-conforming, with or without an amortization period?

Any comment the Council wishes to make on the revised draft at this time would be helpful to this process.

III. Conclusion

The Moratorium Ordinance is now ready for consideration at First Reading.

Mr. Lunny advised that this moratorium is necessary in order that staff and the industry can finish their collaboration to the point that we can on this ordinance. As reported in staff's cover memorandum, he believes there needs to be two more industry meetings and another Workshop by Council before it is ready to start the enactment process. He included in the agenda package the current draft of the moratorium, which shows his comments to the industry comments. He tried to reference who said what; however, he would like not to do that next time because it is becoming very difficult to electronically keep that because there are too many commentators in the document. Perhaps next time he can show a clean version of how this looks. He thinks the policy considerations that Council decided last time are accurately reflected in this ordinance. There was one that he was not entirely convinced about, which is #5 on Page 2. This was discussed in November 2013 and draft minutes were done. Some of the Councilmembers were thinking that the 1 ½-foot setback might apply outside of residential areas. Everyone seemed to indicate that the 1.5-foot should be included and 1 ½-foot setbacks to any residential zoning line. Some expressed desire to think about this a little more so he wrote this to say that the 1 ½-foot setback would apply only in residential districts. Part B on Page 3 are areas where staff made suggestions and he did not think the consensus was as strong on these subjects, particularly on staff's suggestion concerning antennas. There was no real good direction on how that might look. The industry's suggestion was not well received but the Council indicated to try to come up with a percentage rule and this is Mr. Leed's suggestion with respect to that. A number of you heard from the general counsel for FP&L and wanted to think a little more about whether you wanted 130-foot high transmission poles, which would accommodate three antennas. Those transmission lines are through four corridors that run north and south of our City; he knows that is not settled but he wrote it the way FP&L presented it. If Council wishes to give direction that is fine and if not, they will meet with the industry and work on that. Finally, Item C is significant areas that Special Council, Mr. Leibowitz, and he are recommending or working on. If Council wishes to give any thought as to whether that sounds like something you would be interested in and including for discussion they would welcome it at this time. Otherwise, they are here to give a status report on where we are; what we have done and we need to finish this process and would like to extend the moratorium until the end of May to do so.

Mr. Lunny indicated that there is one issue that Mr. Leibowitz has been focused on concerning access for pass through providers and he believes that was resolved on Monday. Mr. Leibowitz is recommending that we continue this half mile rule for private property and has some other suggestions.

In response to Councilmember Levy, Mr. Leibowitz stated that his expertise is in telecommunications and in this case, wireless. His job is to work with the City Attorney in developing a draft ordinance subject to the input and policy directions they receive from the Council. They go through this process by working in tandem with the City Attorney; they meet with industry; they meet with individual members of the Council; and try to come to a consensus for the ordinance and present the final ordinance to the Council for its adoption or modification.

Mr. Leibowitz commented that in dealing with the Florida Statutes many of today's technology and some of the issues are raised as a result of that technology. Business models being used by telecommunications groups were not fully developed or understood. When reading the Florida Statutes they are very confusing. Pass

through providers is a perfect example. There is a definition and a concept for someone who provides telecommunication services; AT&T, Verizon, and those types of groups, and they are granted access to the rights-of-way. The City has the right to manage that process but they have a right of access. In contrast, the Legislator chose to put in a concept of pass through provider and provided a definition of pass through provider. That is someone or an entity that is building a telecommunications facility and who does not pay the telecommunications tax. They do not provide right of access to those people; however, they do limit the amount of compensation the City can receive to \$500 per lineal mile. That makes sense when thinking about underground fiber or overhead wires but it does not have any applicability to placement of a pole or a tower at any given location. The difficulty is that the telecommunications industry, whether it is telephone companies, wireless companies or broadcasters, have decided that in deploying their capital they really do not want to spend a lot of money on these towers and would rather somebody else build it. A lot of these companies have sold their towers to these individual companies; Comcast and American Tower being a few. They also look to these tower companies that are really dealing in vertical real estate to build the towers and then lease them space on those towers. The definition or pass through provider accommodates that but the Statute does not grant a right of access; it is just a definition. In the Federal Statute, years ago they did this for something called an information service, which the FCC, years later, interpreted as internet and decided that they did not want jurisdiction over the internet; now they regret that decision. Crown Castle is clearly not a service provider in the City of Plantation and may or may not be a communications service provider in other locations. They may or not be a pass through provider but even if they are, there is no specific right of access. In conversations with representatives of Crown Castle, we have had these discussions. There is a movement within the industry and in the communities to look at FP&L poles and light poles as a way of providing service and not putting more towers or poles throughout the City. During discussions, we are exploring those ideas. For example, a company would buy the light pole from FP&L; replace the light pole with a like facility that would accommodate one or more transmitters on top of the pole. In some cities the proposal is that they would then give that pole or sell that pole at a nominal cost to the City and retain the rights to have an antenna on top and pay the City the \$500 per pole instead of per lineal mile for a right to place the antenna on the pole. There are no simple answers to some of these questions and no answers to others. The half mile separation came from our discussions. When looking at wireless service, when the initial systems were built they were built using 150-foot poles and were very high power with the signal going out 15 miles on a radius. As the poles and the power came down as the systems grew the amount of coverage was reduced. In many of these systems you arguably have at most a 900-foot radius and perhaps less for the initial design and as the system is built out you actually decrease it. When looking at the technology and balancing the City's interest to not clutter or interfere the use of the rights-of-way sidewalks, we discussed with the industry, representatives and engineers what a reasonable compromise would be in terms of separation and we came up with the half mile concept. Preliminary indication seems that the industry seems comfortable with that. In terms of the 911 service, there is a special Statute adopted by the Florida Legislator for the companies that provide 911 service. Those are largely the carriers, not the tower companies. Someone who provides the 911 service has an additional right of access to the rights-of-way but not the tower companies. Those items are included in our discussions with the idea of meeting the need for wireless service, which we all recognize that the community and residents want and need and the industry's desire for an economic model that works for them and then counter balance that with your needs to regulate and oversee the rights-of-way and make sure that people can walk down the sidewalk without having to go in between towers, generators, cabinets, etc. We are trying to meet an equilibrium that would best serve the City and its residents.

Councilmember Stoner mentioned that cities such as Weston have most of their infrastructure underground. She questioned how they are addressing all of a sudden having all of these towers in their City.

Mr. Leibowitz indicated that he could not speak for Weston but it is different technology. Where possible, whether it is the power lines, the cable lines, the fiber optic lines, the cities have an interest in putting as much as possible underground. You cannot have wireless underground; it has to be above ground. Comcast announced a concept that would eliminate the need for poles by making each one of their consumers' houses a wifi hotspot, not only for that particular resident but for the community surrounding the house. It raises all kinds of interesting questions as to whether or not a secure private network can be maintained while also serving your neighbor. Until this technology, wireless must be above ground.

Councilmember Stoner stated that this affects the portion of communication tax that the City receives as revenue. She read in the most recent Florida Trend that the State is looking to possibly reduce that by another 2%, which cuts into the City's revenue.

Mayor Bendekovic noted that we would be reduced approximately \$94,000 for this coming year.

Councilmember Stoner commented that her observation is that in looking to accommodate the providers who are financially benefitting and the City's revenues continue to decrease not only by the 2% and the \$94,000 but most people do not have landlines anymore. She recalled that at the end of our last discussion she was going along with the initial presentation of Administration and the City Attorney that she thinks we need to take this very slowly; she does not think we need to be the leader in this. Perhaps we need to absorb a little more as to the trends.

Mr. Lunny advised that our current ordinance is defective because it was done long prior to everybody having little phones and doing all this streams and long prior to the phasing out of landlines. Part of the issue we do not have is that we want to make sure that we can get 911 service and find people with cell phones and the Federal people are saying that streaming is great and we need to facilitate that and have all of these towers. He is concerned that our existing regulatory framework is ineffective to prevent entry, which is why we have done the moratorium and why we are embarking on this process.

Councilmember Stoner agreed with Mr. Lunny's assessment. She is saying to be cautious, which is how you are approaching the structure.

Mr. Leibowitz stated that Mr. Lunny is correct, the ordinance on the books is seriously flawed; times have changed. A number of communities in South Florida have already adopted ordinances. He noted that some have missed the boat by a long shot and shame on them.

In response to Councilmember Stoner, Mr. Leibowitz indicated that they are misinterpreting their Statutes; they are not exercising their management rights; they are allowing access to the rights-of-way in a manner he thinks they will regret some day. We are reading a lot of them on a daily basis to make sure that we pick up any good ideas and to make sure that we do not make the same mistakes. We are being very cautious.

Councilmember Stoner commented that the ones who missed the boat are the early adopters, which goes to her comment about being cautious.

Mr. Leibowitz assured that he and Mr. Lunny are reading the ordinances on a regular basis as they are adopted to make sure that we do not make the same mistakes. In terms of the communications services tax, the history of that is that the telecommunications industry is very powerful in Tallahassee. In the wisdom of the Legislator, they stripped the cities of franchise fees and instead put in a communications services tax over the opposition of the cities and it cost us money then. The notion that they are proposing to reduce it even further speaks for

itself; they have more lobbyists up there than we do. The number of towers do not relate directly to the number of users in a direct sense but it does increase the capacity of the system. Capacity could be existing users watching a video instead of making a telephone call. New users translate into more communications services tax but there is no direct relationship that he can figure out to the new poles we are talking about any increase to the communications services tax. That is why he and Mr. Lunny have been looking at what rights we have as a City to impose fees for these other people, non communications services providers, to try to make up some of that. Legislator has tied our hands in some respects and may or may not have in some of the new ideas we are trying to explore.

Councilmember Fadgen stated that it was mentioned that over time the tower heights have come down and the power also and that the normal range of service is about 900 feet. With a placement of a half mile between these towers there would be a gap about 800 feet. He questioned how you adjust for that gap.

Mr. Leibowitz advised that the technology concept that the industry is moving into will have two different levels of service. The higher service; platform; wireless will be from the taller towers and will be designed to pick up the mobile traffic. It is important that they are high because they are a greater distance so when you are driving on I-95 the computer can pass your call on from one tower to another and you are not dropped. The idea of this lower canopy is that a great deal of the new service being demanded is fix service and you can accommodate the fix service from the lower height and shed some of the demand from the top canopy down to the bottom. There is a sharing between both canopies. In looking at the two canopies and the 900-foot service areas, they seem to getting agreement from the industry that it will work. As these systems mature they are going to want more towers or poles at different heights so we have to be somewhat flexible but also want to protect our rights-of-way.

Mr. Lunny commented that the half mile rule applies to private property not to right-of-way. The right-of-way is the 500-foot rule that is a separate part of the ordinance. The half mile rule is designed to prevent antennas from being mounted on stand alone towers. It would not apply to antennas on tall buildings or in other spots where you are not building a separate tower that has a different aesthetic impact than putting a small antenna on a larger building. All of these considerations have been discussed at the first policy consideration meeting that was given. The 500 feet is for right-of-way because that is where a lot of our stand alone structures already exist and we are encouraging collocation and we do not want new poles there. The half mile rule is for the larger towers and private property that are not in right-of-way.

Mr. Leibowitz stated that the difference of the distance, the 500 feet versus the half mile, is intended to reflect the different canopies and the different usage.

Councilmember Jacobs mentioned that in prior discussions it was learned that the industry wanted a power backup device for each antenna that was on a tower. We decided no; one backup per tower. He questioned if there is any reason that decision should be reconsidered.

Mr. Leibowitz advised that the advice given to him from a number of engineers is that you can accommodate more than one provider with one generator. A lot of the companies do not like to share for a number of competitive reasons. The single generator and the smaller gas tank will supply less power in terms of duration. In the normal course of events many of these locations have no generators at all. It is believed that one generator should be sufficient.

Mr. Lunny indicated that it was a safety consideration by the Fire Chief. To the best of his knowledge, he has not changed his view and we are still saying underground tanks are not limited to the 250-gallon rule and the Chief has stated that one portable above ground generator for everyday use and during storms can be brought in.

Councilmember Jacobs commented that they could use natural gas if it is available.

Mr. Leibowitz commented that is new technology and a different piece of equipment would be needed.

Councilmember Zimmerman expressed concern about poles being sold back to the City. He does not know that we want to be in the position of owning poles.

Mr. Leibowitz clarified that some of the cities and some of the industry members are talking about taking existing light poles that may be owned by the City and in some cases owned by FP&L and essentially replacing those light poles with a new light pole that would accommodate a transmitter on top of it. The economics that are being discussed in some locations is that ultimately the light pole would be owned by the City. In every case he is familiar with, they are not looking for the City to pay for it; however, there are maintenance costs and other issues.

Councilmember Zimmerman is concerned about maintenance costs or if a pole goes down and they are out.

Mr. Lunny advised that there is a pole attachment agreement that he believes covers those. The idea was that we did not want our staff, who are not experts, to try to figure out what kind of technology is on this particular type of pole and depending on what kind of antenna it is it can fall within this regulatory classification or this one. Their mission was to say to someone who was not exactly 100% covered by the preemptive law that they can have access; however, you will pay \$500 per lineal mile for the fiber net and pay for the pole too. The City is being paid for the ground space for the pole. At that point they said they will fight to the death on that and that they are not going to do that under any circumstance. We said that we would give them the pole and while they will not lease real property from us the City will execute a pole attachment from them at \$500 a year. That gave us some ability to be compensated for the use of the right-of-way, not have litigation with a defendant over the nuances of the type of antenna that is put on there. This satisfied Mr. Leibowitz to some extent but he is still pushing for more and Mr. Lunny is trying to keep it simple for staff, trying to have a reasonable compensation that is the best that we are getting from the industry on this subject. The industry, while firm, has been largely represented by Plantation residents in many cases. He thinks they have been fair and measured and it has not been overly adversarial in our approach.

Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to approve the extension of the moratorium on First Reading. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 23.

23. DEFERRED REQUEST FOR PARKING WAIVER AT LA VAN & NEIDENBERG LOCATED AT 7067 WEST BROWARD BOULEVARD.

A letter dated March 10, 2014, to Susan Slattery, from Rod A. Feiner, follows:

Dear Ms. Slattery,

As you are aware, I represent LaVan & Neidenberg. I have watched what occurred at the last City Council meeting after the matter was continued.

Please be advised that I would like to continue this matter until the April 9, 2014 City Council meeting. I know that this is a request at the discretion of the City Council. Please know that I am prepared to go forward and this is not some type of tactic. I will be present at the meeting on March 12th.

With this being said, on Friday my clients received notice that they have to be out of town the night of the City Council meeting for business. Both partners have to be out of town and this was not expected. In fact this date was originally clear. At the time of my last hearing this scheduling conflict was not known. In addition, based on the discussions at the last hearing the property owner now wants to attend the hearing. That person plans on flying into town for the hearing. He also needs a little more notice in order to both clear his calendar for the travel as he has other commitments. By continuing this matter it gives both the applicant's representative and the owner's representative time to adjust their schedule and clear their schedule. They will also put a block on their schedule to ensure that the April 9th date is the date and no more continuances can occur.

I know that the owner of the daycare may have an issue with such a request. I have already contacted the owner earlier today via e-mail and I attempted to reach him by phone to let him know of this request so he can plan accordingly. I also had a hand delivered notice that I would be requesting this continuance to the business itself. Thus, it will not be last minute. I also asked him to confirm that the date was acceptable and if the date was not acceptable to propose another date. I have requested the April 9th City Council meeting because it also gives him the time to prepare. Thus, it is fair to everyone involved.

In addition, my client is willing to give written notice to every other business in the shopping center of this occurrence and the new hearing date. Such notice will be hand delivered this week. An April 9th date gives plenty of time for people to adjust their schedules and is fair to everyone involved.

I just wanted to inform you of this fact prior to the meeting.

Mr. Lunny explained that this is a waiver to reduce the required on-site parking to accommodate expansion of an existing law office call center in the Winn Dixie Market Place Shopping Center from 17,086 feet to 37,968 square feet. The waiver, as stated by staff, is to reduce the required parking from 1,175 spaces to 1,015 spaces; a 160-space or 12.9% reduction.

Attorney Rod Feiner was present.

Mr. Feiner is aware of what occurred during the last hearing; however, his clients, who are attorneys, were summoned to go out of town for depositions. Also, the owner of the shopping center wanted to come to his meeting but could not change their schedule to come in. He is prepared if needed, but requested that this item be postponed one final time. He is proposing that it not be continued for two weeks but to the next meeting, April 9, 2014, or even six weeks after that, which will give them more than ample time. He was aware of one person, Alex from Kiddie Ridge childcare center, and he communicated to him what he was going to request and the reasons why. He sent him an e-mail on Monday morning, called a number he got from the landlord and left a voicemail message and when he did not get a response to either message he had the email hand delivered. The other thing he would do so members in the shopping center are fully aware is that we will, this week, by Friday or before, we will hand distribute a memorandum telling them there is a parking waiver that has been rescheduled for this date and time. This is not a delayed tactic. They will also offer a public forum at 5:30 p.m. if any tenant wants to come at 5:30 p.m. in the LaVan & Neidenberg's conference room.

Alex Ortega, resident and owner of Kiddie Ridge daycare center, was present. He apologized to Mr. Feiner for not returning his call or not responding to his letter. He is very leery of the delay tactics. This has gone on long enough and he has a list of all of the tenants that are against the waiver; he also has signed letters and maps. He understands Mr. Feiner's position wanting to have his clients present.

Councilmember Levy questioned if Mr. Ortega would have an objection to allowing this other deferment especially when they have promised to contact every single tenant of the Center and everyone involved. It would be great if the issues could be worked out before coming to Council.

Mr. Ortega stated that there are a lot of issues that would be addressed but he cannot speak for all of the tenants. He is agreeable to another delay.

Martin Jaffe, tenant in the Center, was present. Their store is Uniforms for America. If it was not for Mr. Ortega they would have never been notified, which he completely does not understand. He thinks that a hard date should be set. He also believes that every tenant is entitled to a letter or a registered letter sent beforehand with enough time to make sure they are all here.

Councilmember Levy indicated that the applicant is in agreement.

Mr. Feiner advised that he just spoke to Mr. Ortega and asked if April 9, 2014 was good. The meeting after April 9, 2014, whatever that date is, would be good. He will make sure nothing gets scheduled. They will distribute the Notice to all of the tenants in the Center. They will meet with the tenants two weeks from tomorrow at 5:30 in the LaVan and Neidenberg conference room will be the date put on the Notice.

Councilmember Jacobs noted that meeting is April 23, 2014.

Councilmember Stoner questioned when the first time they were scheduled was.

Mr. Leeds indicated that the first meeting was scheduled for February 12, 2014; the second date was February 26, 2014 and then today.

Councilmember Stoner commented that the last two dates were specifically requested by the applicant.

Mr. Leeds stated that the February 12, 2014 meeting was established based on when the applicant submitted their application. The first deferral was requested by the applicant and the second deferral was requested by the applicant for a family emergency; this is their third request.

Councilmember Stoner mentioned Mr. Feiner's comment that he does not normally do this with meeting tenants. She noted that attorneys she has seen present here for the last three years go out of their way to meet with tenants, neighbors, etc. and do not present that they did a special favor.

Mr. Feiner clarified that he meant that normally he does not request a third continuance. Normally they do speak to tenants. If they are aware that someone objects they do meet with them. No one was present at the Planning and Zoning meeting; therefore, they had no idea about this. He was aware of Mr. Ortega at the last meeting and this is the first time he heard of an issue with Uniforms of America. That is why they want to meet with them beforehand.

Councilmember Stoner indicated that there was an issue two weeks ago and during that time a meeting was not scheduled. Because you are requesting another deferral now you are saying that you will meet with the tenants.

Mr. Feiner stated that when they were aware that it was one person in the shopping center it was not thought that a meeting was overly necessary but now that he sees there may be more he thinks that is why they are offering the meeting now. He understands the comments and noted that it is based on what they were aware of; they had no idea there were other tenants in objection.

Councilmember Stoner questioned what notification would have been given to these tenants regarding this exception. Technically the owner of the property is the applicant.

Mr. Leeds advised that the notification by the landlord is at the landlord's option. The City does not notify the tenants; the City notifies property owners. They would not have received any notification from the City. He noted that there are some letters of support in the backup but we have also received calls from three tenants who are individuals. The applicant can discuss it with the tenants or not; it is done differently every time this happens. This is probably the first time since he has been here where other tenants have said they have an issue with this application to the City. This is very unusual.

Councilmember Fadgen mentioned that the City did post a sign on Broward Boulevard.

Councilmember Stoner commented that is a very good point to the tenants; the sign is very visible.

Mr. Jaffe stated that the sign does not tell any idea what it is all about.

Councilmember Stoner indicated that if the City had to do a sign for every specific issue that was being changed it would be cost prohibitive.

Mr. Jaffe stated that when the manager of the shopping center does not let the tenants know what is going on in the shopping center there is a problem.

Councilmember Stoner noted that the shopping center has a communication issue.

Mr. Ortega disagreed with Mr. Feiner. The law firm has known for months and months that he has had issues with their proposed waiver or expansion. It has been a nightmare. We are talking about one tenant requesting over 59.4% of the parking. It boggles the mind that one tenant can ask for and possibly receive one half of every parking space and always with the looming threat that the spaces directly in front of his daycare, which are of utmost importance because of a safety issue, are going to be taken away. He has letters from the landlord that the spaces belong to the law firm; the City gave them to the law firm and if you do not remove the signs they will be cut and thrown away. There is no negotiating.

Mr. Lunny advised that the Council is treating this matter as a Quasi-Judicial matter and there is less discretion to deny things when the Council sits as a Quasi-Judicial body. The applicant has submitted a traffic study and has an engineer in the audience ready to testify to night, who is an expert. There is some evidence that calls into question; some observations by the City Planning Department, those conclusions. You might use this time for a deferment and if you really do oppose this you might want to consider retaining such experts or Council so that you can participate in the matter and present evidence that will support your conclusions. The case law is that lay observations and near lay opinions are not sufficient to warrant a denial of the application. While you are agreeing to the deferment, he pointed out that the applicant is ready with experts, use this time to better advance your position in a way that gives the Council some latitude. They cannot simply say they deny this because we do not like it; they have to have evidence and a position that supports that. He does not want anyone to walk away misunderstanding the extent of discretion here because when the Council sits as a Quasi-Judicial body they have to respect the rights of all owners and act in accordance with competent evidence that is presented before them.

Mr. Ortega understood and appreciates the advice. He stated that they live and work there and see the mess that this has created; there are no parking spaces available.

Councilmember Levy indicated that someone needs to be brought in who can say that this is creating a hardship and will create a hardship to the tenants of the shopping center and this is why. It must be a credible person who can provide expert testimony to this regard.

Councilmember Jacobs commented to treat it like a court of law.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to Continue this item to the April 23, 2014 City Council Meeting. Motion carried on the following roll call vote:

Ayes: Jacobs, Zimmerman, Fadgen, Levy

Nays: Stoner

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COUNCILMEMBERS' COMMENTS

Councilmember Jacobs mentioned ridership on the trams are still down 50% since a fee was added.

Mr. Consaul stated that Route B was 7.4% and Route A was 7.9%.

In response to Councilmember Jacobs, Mr. Consaul noted that it was 7.4% ridership per revenue hour. It was half of what it was before adding a fee. He clarified that the ridership is down 50%.

Mayor Bendekovic commented that it is down but we still meet the criteria for Broward County.

Councilmember Jacobs questioned how long before we lose the money.

Mayor Bendekovic stated that it has to be below 7.1% for six months.

Mr. Consaul indicated that we were at 7.1% and 6.9% last month so it went up a little.

Councilmember Jacobs noted that we are all right because it went above 7.1% because it has to be a contiguous six-month period.

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Councilmember Fadgen advised that he had a request to light the interior of the park at SW 59th Avenue and SW 16th Street. The park is extremely dark at night and a light would help prevent derelicts or others from sleeping or hanging out there.

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Councilmember Fadgen stated that he received a request that we consider a recommendation to the State Legislature to change the Daylight Savings Time to be year round.

Mayor Bendekovic indicated that she has addressed that during the legislative meetings because Mr. Lord has brought that to their attention. Senator Soto is presenting that at a State level.

Councilmember Fadgen is suggesting that we encourage that with a Resolution.

There was a consensus to do a Resolution.

Mr. Lunny read the title as follows:

Resolution No. 11852

RESOLUTION OF THE CITY OF PLANTATION, FLORIDA, URGING THE FLORIDA LEGISLATOR TO ADOPT SUCH LEGISLATION AS IS NECESSARY TO MAKE DAYLIGHT SAVINGS TIME A YEAR ROUND EXPERIENCE AND SUPPORTING SUCH SENATE BILLS OR HOUSE BILLS AS ACCOMPLISHED THIS EFFECT; PROVIDING FINDINGS AND PROVIDING A SAVINGS CLAUSE THEREFOR.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Resolution No. 11852. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

Councilmember Levy mentioned a Bill to be entitled; an act relating to Daylight Savings Time providing a short title requiring that the State of Florida and its political subdivisions observe Daylight Savings Time year round and providing an effective date. The section may be cited as The Sunshine Protection Act.

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Councilmember Zimmerman stated that a few months ago he asked that we take a second look at the Local Preference Ordinance to include professional services and he has not heard anything back. Right now it is just for vendors and it does not cover professional services.

Mayor Bendekovic advised that she would look at this.

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Mayor Bendekovic wished everyone a happy St. Patrick's Day.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS – None.

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SEALED COMPETITIVE SOLICITATIONS

Mr. Lunny read Item No. 24.

24. REQUEST TO AWARD BID FOR SODIUM HYDROXIDE.

Pursuant to Laws of Florida chapter 2011-140 the backup to this item is not public record at this time.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to authorize to execute a contract as per the recommendation in the memorandum provided. Motion carried on the following roll call vote:

Ayes: Jacobs, Stoner, Zimmerman, Fadgen, Levy

Nays: None

Mr. Lunny advised that Council authorized a contract with **Allied Universal Corporation** to furnish and deliver sodium hydroxide 25% (less than truckload quantity) for \$1.45 per gallon.

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WORKSHOPS – 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