

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

**April 9, 2014**

The meeting was called to order by Councilmember Lynn Stoner President of the City Council.

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Councilmember Jacobs.

The Pledge of Allegiance followed.

3. Approval of the minutes of the meeting held September 25, 2013.

The minutes of the City Council Meeting held September 25, 2013 were approved as printed.

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**ITEMS SUBMITTED BY THE MAYOR**

Mayor Bendekovic introduced Joel Gordon, Fire/Rescue Battalion Chief.

Mr. Gordon and Fire Chief Laney Stearns presented Life Safety Awards to the following people:

Paul Conti, Lieutenant Jermaine Gaspard, Paramedic Evelyn Gabor, EMT Chris Santillan, Captain Ezra Lubow

Mr. Gordon stated that on the morning of November 15, 2013, Rescue 25 responded to assist a man not breathing. Upon arrival, the crew found Mr. James Torpi (sic), a 77-year-old man, in cardiac arrest. They also observed the patient's son-in-law, Mr. Paul Conti, performing "textbook quality chest compressions". The crew assumed CPR and overall patient care. They initiated advanced life support and while rendering care the patient regained spontaneous circulation and began to breathe on his own. The crew continued care while transporting him to Plantation General Hospital. Twelve days later, Mr. Torpi was able to walk out of the hospital. Mr. Torpi wanted to be here tonight, unfortunately, he could not make the trip down from Ormond Beach. This

successful effort was due to a prescribed life saving chain of events that began with rapid delivery of effective CPR.

The Plantation Fire Department hereby recognizes Mr. Paul Conti with a Plantation Fire Department Civilian Citation Award for his life saving efforts.

Mr. Conti thanked the paramedics and EMT's and believes they are the true heroes.

The Plantation Fire Department recognizes the crew of Rescue 25; Lieutenant Jermaine Gaspard, Paramedic Evelyn Gabor, EMT Chris Santillan, and Captain Ezre Lubow for their life saving efforts, quick actions and effective patient care.

Mr. Gordon indicated that the Shift Captain is not always honored; usually it is just the crew. In putting this case together the family had such high praise for Captain Lubow for how he kept everyone calm and informed that he became a critical part of this operation.

From early CPR to rapid Rescue response, to early Emergency Department intervention, we are proud to illustrate that here in Plantation we not only have a system that is designed to save lives; we have a system that does save lives.

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

- Summer Camp applications are available at Plantation Central Park, Jim Ward Community Center, Volunteer Park and all of the Plantation Public Elementary Schools. The Summer Camp lottery begins on Monday, April 28, 2014 and camp begins on Monday, June 9, 2014. Camp will run from June 9, 2014 through August 1, 2014. There is also a two-week Kids Camp that runs from August 4, 2014 through August 15, 2014.
- PAL has online registration. They will still have one registration in person with PAL representatives at Plantation Central Park. Registration is daily at any of our recreational facilities for any PAL sports program.
- Relay for Life will be held at Plantation Central Park at the north end ball fields starting Friday, April 11, 2014 through Saturday, April 12, 2014.
- Little Legions Tennis Tournament will be on Saturday, April 12, 2014 through Monday, April 14, 2014 at the Frank Veltri Tennis Center.
- The Royal Easter Egg Hunt will be on Saturday, April 19, 2014 at 10:00 a.m. at the Pop Travers Field for ages 3 through 10.
- The Plantation Preserve Golf Course will have an Easter Sunday Buffet between 10:00 a.m. and 2:30 p.m.; reservations are required.

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Mayor Bendekovic made the following announcements:

- The Plantation Police Department is having a Prescription Drug Take Back event on Saturday, April 26, 2014 between 10:00 a.m. and 2:00 p.m.

- The Federated Road annual road closing will be on Saturday, April 19, 2014 and Sunday, April 20, 2014 between 12:00 a.m. and 12:00 a.m. Only emergency vehicles will be allowed access.
- The 33<sup>rd</sup> Mayor's Interfaith Prayer Breakfast will be at the Renaissance Hotel on Thursday, May 1, 2014 at 8:00 a.m.
- The Plantation Historical Museum presents the Plant Affair on Saturday, May 3, 2014 and Sunday, May 4, 2014 between 9:00 a.m. and 5:00 p.m. at Plantation Heritage Park.
- The Teddy Bear Picnic will be at the Helen B. Hoffman Library on Saturday, May 3, 2014 between 11:30 a.m. to 12:30 p.m.
- The Plantation Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.

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Mayor Bendekovic indicated that she needs Council to choose a delegate and first alternate for the Broward League of Cities. Currently, she is the delegate and Councilmember Zimmerman is the alternate.

Councilmember Stoner suggested leaving the designees as it is.

***Motion by Councilmember Levy, seconded by Councilmember Fadgen, to keep the delegate and the alternate the same with Mayor Bendekovic as the delegate and Councilmember Zimmerman as the alternate. Motion carried on the following roll call vote:***

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

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## **CONSENT AGENDA**

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 11.

Item No.'s 5 and 18 were pulled from tonight's agenda.

Item No. 7 was removed and discussed separately.

Mr. Lunny read the Consent Agenda by title.

4. Permission for Westfield Broward Mall to host a Traveling Mobile Event for Complimentary Refined Tailored Eye Brow Program in the parking lot near JC Penney on Thursday, May 1, 2014 through Sunday, May 4, 2014 from 11:00 a.m. until 6:00 p.m.

### **Ordinance No. 2499**

6. **ORDINANCE** Second and Final Reading pertaining to the subject of Finance; increasing various fees and charges of the City Fire Department for permits and inspections; providing a savings clause; providing an effective date therefor.

**Resolution No. 11860**

8. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period March 20, 2014 through April 2, 2014 for the Plantation Gateway Development District.

**Resolution No. 11861**

9. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period March 20, 2014 through April 2, 2014 for the Plantation Midtown Development District.

**Resolution No. 11862**

10. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period March 20, 2014 through April 2, 2014.

**Resolution No. 11863**

11. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period March 20, 2014 through April 2, 2014 for the City of Plantation's Community Redevelopment Agency.

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

Mayor Bendekovic voted on Item No. 11 affirmatively.

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Mr. Lunny read Item No. 7.

**Ordinance No. 2500**

7. **ORDINANCE** Second and Final Reading calling for and ordering a binding referendum to be held in the City of Plantation on November 4, 2014; to determine whether a majority of the electors voting in such referendum are in favor of certain proposed Charter Amendments that would require candidates for City Elective Office to have resided within Plantation for a minimum of one (1) year prior to the qualifying period opening; establishing the date of the referendum for the Charter Amendments to be held on November 4, 2014; requesting that the Broward County Supervisor of Elections conduct the Election in accordance with applicable laws and regulations; providing ballot language; directing that the Notice of Election be prepared and published; providing for severability; and providing an effective date therefor.

Councilmember Fadgen pulled this item so he could vote against it. He does not believe that we should legislate for problems that do not exist in the City.

***Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to approve Ordinance No. 2500 as presented. Motion carried on the following roll call vote:***

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

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## **ADMINISTRATIVE ITEMS**

Mr. Lunny read Item No. 12.

### **12. DISCUSSION PERTAINING TO TENNIS CENTER OPERATIONS COMPARISONS.**

A Memorandum dated March 25, 2014, to Mayor Diane Veltri Bendekovic and City Council Members, from James S. Romano, Director of Parks and Recreation, follows:

Attached for your review are comparisons of the operations at several local tennis centers, including the City of Plantation's Frank Veltri Tennis Center. The comparisons focus on terms of employment and/or contracts as well as the fees that are collected for memberships, lessons, tournaments, concessions, etc.

Please review and if you have any questions or concerns regarding this matter, please call me at 954-452-2513.

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Councilmember Stoner advised that this not about privatizing the Tennis Center. Approximately three years ago she had some questions regarding contracts that were in place regarding the Tennis Center. At the time, her colleagues felt like everything was fine. During the last budget session there was a consensus that we would like staff to review the model and compare it to other cities, municipalities and entities to see if the model from 1984 was still a valid model.

Mr. Romano indicated that staff looked at the different models throughout Broward County as far as how they operate their tennis facility. A lot of different information was provided. One was a graph that shows revenues and expenditures of some of the tennis facilities in and around the County. The chart shows that the expenditures in the majority of the facilities far outweigh the revenues they bring in with the exception of Broward County because they have a different contract under a different type of model. The County gives the facility to the vendor and the vendor is responsible for all of the maintenance and revenues. The vendor gives the County approximately \$100,000 for the two facilities. We were concerned that we have a gap of \$67,000 where the tennis courts were not being self sufficient in the manner that we are looking for our facilities to get to today. He can see how the discussion with regard to privatizing the tennis courts got misconstrued. Mr. Cooper is a hybrid instructor; he is partially contracted and partially a City employee. A couple of years ago the department recommended membership fee increases, which the tennis community adopted and accepted. By the numbers regarding the breakdown of the membership as it is today, there is a total of 480 members. We did not want to increase member fees since they just endured a fee increase so he met with Mr. Cooper, Sharon Kent and Lowell Kaufman, and discussed other ideas. He presented three things to increase the revenue back to the City from the tennis facility. One was to increase the contract for Mr. Saviano, who gives lessons. Another was to take an additional 10% from the Assistant Tennis Pros, who give lessons on a day to day weekly basis. The last was to have Mr. Cooper provide a rental fee or a permanent stipend of \$1,500 per month. When looking at these totals it generates an extra \$64,000 and closes that gap. It is their goal to have this facility at a

break even point. He received a few letters from the USTA, which were distributed. We have a lot of tennis tournaments and it is because of the great facilities that we have. Tennis is very important to this community. When the infrastructure was built and Mr. Cooper and Mr. Kaufman came on board they have grown the facility through leaps and bounds. The facility has a total of 26 tennis courts and it is by far the best tennis facility in Broward County. That is why people like the USTA want to come here for the Orange Bowl Event. When these people come to town there is a huge economic impact across the City; \$1.4 million from the Orange Bowl Event. He believes the economic impact from the 14 and under was \$1.2 million. These events are a great value to the City and the businesses in the community. They are hoping that Council will approve these suggestions. He is not going to recommend that they go into effect until October of the next fiscal year.

Councilmember Stoner mentioned that Mr. Cooper has willingly agreed. In reviewing the models, she questioned if the 10% seems to be consistent with what other cities do for their tennis pros.

Mr. Romano stated that some cities charge more; some charge up to 20% to 25%. We have not charged in all of these years so we felt like 10% was a fair number. Mr. Cooper and Mr. Kaufman both agreed.

Councilmember Stoner questioned the reason for waiting until October to implement.

Mr. Romano indicated that typically when we do a fee increase it usually starts in the beginning of the fiscal year. He felt it would only be fair to Mr. Saviano, to the Assistant Pros and to Mr. Cooper to give them time to adjust so they could get ready for the October 1<sup>st</sup> date.

Councilmember Fadgen mentioned that he did not get the breakdown. He stated that over the years he has used the tennis facility and it is an excellent operation. One way to judge the effectiveness of the program is by determining how many complaints we get.

Mayor Bendekovic thanked staff, Bob Cooper and Lowell Kaufman for all of their efforts. We have something very unique in the City of Plantation; it is hybrid and it had never been done before. Bob Cooper and the former Administrations took it and made it into a royal class tennis center. The fact that when you have USTA coming out of Dade County and coming to our Tennis Center year after year says something. She commended Mr. Cooper and Mr. Kaufman, as well as all of the residents for supporting the Tennis Center. She does not think it is bad to close the gap and that means it will only cost us \$2,000 to run the Tennis Center.

Councilmember Levy commented that Plantation would not be Plantation without the Tennis Center.

***Motion by Councilmember Levy, seconded by Councilmember Zimmerman, that we accept the recommendations of the Parks and Recreation Director. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner

Nays: None

Councilmember Stoner thanked Mr. Cooper for being so gracious when he was here three years ago and she appreciates what he has done for the City; obviously the moral of the tennis players. Together with staff, she appreciates that they recognized an opportunity and also some compromises that appeared when everyone took a second look.

Mr. Cooper stated that he believes in the model that Frank Veltri set forth; they hybrid model that was put into place. He signed the first contract with the City of Plantation in 1981 and he had the offer of \$100 per week.

The Tennis Center was not open; there was nothing there but the courts. He thought that the genius of the idea was that in order to succeed the facility had to succeed. With that motivation it set him on a course of trying to create programming to expand to all of the people of the City of Plantation. He thinks that the hybrid model is by far the best way to go because everybody has an interest and their interests are being served. The City has an overview and makes sure that the courts are kept in good shape and he has an interest in keeping everyone happy, trying to find a balance between all of the different entities. There is a wide spectrum of services. He has been there 33 years and is willing to make any changes to the contract that would allow them to keep the hybrid going forward so that we can continue to keep the same kind of services, the same type of innovation that we have been doing and keeping the cost effective and affordable to his tennis family.

Councilmember Zimmerman thanked Mr. Romano for all of the information he requested. It is really good that we have the history and longevity of people here; it keeps what Plantation is alive.

Mark Morganstern (sic), resident, was present. In 2010 he brought an idea to Mr. Cooper with regard to doing something for military families. He suggested inviting children of military families to play free at the Tennis Center during Summer Camp. Since that time, children of military families have been playing at the Tennis Center free of charge. Plantation has been recognized by the USTA Military Outreach in Cali, North Carolina and through their websites this has carried all over the country. He mentioned Proclamations in 2011 and 2013 recognizing the City of Plantation. He also mentioned that a grant was written in the amount of \$18,000 which the USTA gave us and a second grant of \$5,200 to pay the City, pay for the courts and to pay the teachers to come out and play. They again funded this year in the amount of \$6,000. We now have people in wheelchairs playing at the tennis courts twice a month. He thanked the Mayor for the quality of the venue and for allowing them to go on.

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## **LEGISLATIVE ITEMS**

Mr. Lunny read Item No. 13.

13. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, RELATING TO ANIMALS BY AMENDING THE PLANTATION CODE OF ORDINANCES TO CREATE REGULATIONS FOR THE RETAIL SALES OF DOGS AND CATS; PROVIDING SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memorandum dated April 1, 2014, to Mayor Bendekovic and Members of City Council, from Quentin E. Morgan, Assistant City Attorney, follows:

This item is sponsored by the Administration.

As the elected officials may be aware, so called “puppy mills” and “kitten factories” have been around for decades. Unfortunately, the proliferation of these commercial ventures has created situations where these dogs and cats are subjected to shockingly poor conditions and severed inhumane treatment which has been documented by the USDA field reports. While it should be recognized that not all dogs and cats retailed in pet shops are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet shops as a “puppy mill” or “kitten factory”, it is probably that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet shops.

According to the Humane Society of the United States, the result of puppy mills and kitten factories is American consumers purchase dogs and cats from pet shops that the consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases or genetic disorders that present immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to the public. This has led to an increase in the number of abandoned dogs and cats placed in animal shelters. Many of these shelters are subsidized by the public.

The ordinance provides new parameters under which dogs and cats may be sold to help eliminate the documented problems of puppy mills and kitten factories.

The ordinance is ready for First Reading and discretion is sought to advertise.

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Mayor Bendekovic commented that the first items she brought to the Council was the non-specific breed aggressive dog act ordinance because we did have a rash of dog bites and aggressiveness with animals. She received a call from Hallandale Commissioner Michelle Lazaro and Plantation resident, Jennifer Cohen. Ms. Cohen had an unfortunate incident as a mother of twins in a parking lot and asked if we could possibly have different parking spots for mothers with babies. She does not believe that any of the Council agrees that puppy mills are an effective way to breed and that it is a form of animal abuse. We have been working on this since December. Some pet store representatives are present; however, there is only one that sells puppies. The others have animal rescue, which would be Pet Smart and Petco. The one that sells puppies would be given six months for their inventory to clear. They would also have to have a certificate and a photograph of the animals. We are not banning the sale of animals if they are rescued. She would appreciate Council approving this ordinance banning the sale of puppy mills. She received on letter from a representative for the Petland Stores and one e-mail supporting the ordinance.

Councilmember Levy disclosed that he had a discussion with Hallandale Commissioner Lazaro and informed her that she would have five minutes based on the policy that was set at our last meeting. He does not know if that creates a problem for her in whatever she had prepared.

Robert Sweetapple, Attorney, affiliated with Petland, was present. He is a trial lawyer and litigates throughout South Florida and all over the State. He has been brought in to represent a number of pet stores throughout the State. There is a movement sweeping the country and it is based on illogic. There are some puppy mills that the government is not regulating efficiently; there are hundreds of great breeders all over the country. What radical elements have been arguing is that there are puppy mills that breed puppies, there are pet stores that sell puppies; therefore, pet stores sell puppy mill puppies only. No attempt to define what a puppy mill is, just a broad banning of pet stores selling retail pets. Puppy mills should be regulated, not banning the sale of puppies and cats that come from very reputable breeders. He was before Delray last night and the Council, 4/5, recognized that you need to look at what is a puppy mill in the ordinance, not just ban it. Not only do you violate the Commerce clause, you also end up taking people's property. They have vested businesses and giving them six months to sell rescue animals only, not purebred, ends up taking their business. Last Monday the Federal Court in Phoenix, Arizona issued an injunction immediately stopping the enforcement of an ordinance similar to an ordinance people are passing. He applauds doing anything possible to stop abuse of animals and trying to prevent puppy mills but what is being done is you are sending these good business people, who work with a national company who take care to buy animals from reputable breeders. Statistics show that less than 4% of animals bought in pet stores never end up in rescue; there are people that want purebred animals. He implored Council to think about the rights of people that are brought to this City to do business and ask if the sale of healthy, well bred puppies and kittens should be banned. He questioned what has been done in

this City to investigate whether there is a problem; are there any complaints about any puppy mills and whether there have been any violations of his client. He implored Council to think about whether or not they are acting legally and responsibly. He suggested that the Courts will not tolerate what is happening throughout South Florida and the Nation on this issue and they are already showing that they are not going to tolerate it.

Councilmember Stoner questioned whether Council is on legal sound footing on this.

Mr. Lunny advised that this ordinance, if adopted, is presumptively valid. That does not mean that it cannot be challenged.

Councilmember Stoner mentioned that it was interesting that Mr. Sweetapple has gone City to City with the same issue as the ordinances come up and it has sort of taken on a snowball effect. She questioned whether he has met with any of our staff or our attorney to tweak the language that maybe needs to be a little more defined.

Mr. Sweetapple only learned that this was on the agenda two days ago. He has been to Davie where it is being tabled and perhaps removed and he has been to Delray where they are refashioning it. It is clear that you cannot have a phasing out; grandfathering is not a phasing out. A taking would take place if you stop people from doing what they are doing; it would put them out of business where 95% of their business is selling pets from breeders. He would be happy to talk with the City Attorney to try to make it more lawful, which is what they are going to do in Delray, which is define what a puppy mill is. Define the things you are trying to prevent; don't just say any puppy. He referenced a memo from a City Attorney in Sarasota County discussing how the ordinance violates the Commerce clause. The Commerce clause allows you to buy products from other states and sell them in your state.

Councilmember Stoner commented that he is basically adopting a Buyer Beware scenario.

Mr. Sweetapple stated that Palm Beach County has an ordinance that requires you to post on your crate the breeder name of the dog so you can google and investigate the breeder to see if it is a breeder you are happy with before you buy the dog. This ordinance basically says that selling dogs in a store is wrong unless they are rescue dogs. This is so overly broad.

In response to Councilmember Jacobs, Mr. Sweetapple indicated that there have been all types of allegations and litigation regarding puppy mills. He noted that the Federal Government regulates breeders. The City can regulate and make people aware of where they are getting their dogs. What you are doing with this ordinance is illogical; what you are saying is that all breeders of dogs are puppy mills. You are banning all dogs unless they are dogs that are rescue dogs. He questioned how someone makes money selling rescue dogs.

Councilmember Jacobs mentioned the hobby breeder.

Mr. Lunny stated that we elected not to do that. Some model ordinances do make a distinction for hobby breeding but our staff felt it would be very difficult to enforce the typical one litter a year definition restriction on what is a hobby breeder.

Councilmember Jacobs thought we allow the sale of a dog or a cat if it is sold from the place where it was bred.

Mr. Lunny replied yes and advised that is with or without the ordinance. A citizen can still buy any animal from a breeder with this legislation.

Mr. Sweetapple is requesting that Council give some thought and careful attention to what is going on. Puppy mill does not mean that the dogs that are sold from every breeder in America are puppy mill. We have a Commerce clause.

Michelle Lazaro, Hallandale Beach Commissioner, was present. She mentioned what was done in Delray; they gave direction maybe 4/5 to go back and research but Sunrise voted unanimously to pass it. Davie is still moving forward as far as she knows; they are just changing some things around and it passed unanimously. We are talking about saving lives and saving residents from the pain of purchasing sick puppies in Plantation. Change is never easy. Since when did a threat of an attorney lobbying on the pet industry dictate to Plantation officials what the best public policy is for their residents? If these ordinances presented any kind of legal concerns the lawmakers and attorneys in 50 locations in the United States and Canada would not have passed them. Just today, the second largest County in the United States, Cook County, Illinois, voted 15/0 to pass it. The law is not being challenged in large cities like Los Angeles or Chicago. She submitted documentation to the City Clerk. Petland is a franchise and CEO, Joe Watson, speaks for all Petland owners when he says they do not buy from puppy mills. This is an absolute falsehood. For the past three years, Petland, the same owners in Davie, have bought from the top 100 puppy mills in the country. In February, their Plantation store bought from a Kansas USDA licensed breeder named Lora Lee Thomas. At her last inspection in August 2013, she had 1,075 dogs on her property and she had multiple violations. They also bought from a Kansas USDA licensed breeder named Liz Ann Miller, who, while having 166 dogs on her premises, was told by a USDA inspector to give her dogs water and the dogs drank continuously for over a minute. These are not responsible breeders. Responsible breeders do not sell pets to pet stores; they do sell hobby breeders direct to the public. There is not a problem with anyone who wants to get a pure bred dog as long as they buy it from a place where they can see the mother and the father and the conditions that the animals are bred in. You cannot regulate from Plantation what is happening in Iowa, Kansas, or Missouri. No language tweaking will ever do that. She believes the ordinance is perfect; it achieves the goal that you seek, which is to stop commercially bred animals from being sold in Plantation. Just because it is legal does not make it ethical or right. She stated that there are only three things in Florida that have Florida Lemon Law protection and that is cars, appliances and puppies. As Elected Officials, we are expected to have a higher standard for compassion and morality and that is why she is requesting that Plantation move forward with the ordinance as written.

Councilmember Stoner went to the Plantation store and the service people seemed to be fine. They offer a one-year vet follow up, which is more than it used to be. Approximately 18 years ago she bought a dog from a pet store. He jumped off of a stool and broke his leg as a result of being left in a cage for an extended amount of time and the bones were weak. She spent the money to have the dog's leg fixed and the pet store did not back it. She never felt bad about rescuing that dog no matter what the situation was. She believes that once you get a pet you are committed to the pet regardless of the physical condition. When she heard that they were offering the one-year vet follow up she thought it was a little bit of reassurance.

Ms. Lazaro indicated that she bought her dog at Puppy Palace in Hollywood and he was sick. He has a congenital defect and costs medicine of about \$50 per month. He has a very poor quality of life. This is coming down to if we want to support a business that purchases their products from places mentioned above. Where these dogs are bred is inhumane.

Councilmember Stoner commented that the USDA, who enforces that, does not shut those places down.

Ms. Lazaro stated that it is very hard to shut down a breeding operation; there are 10,000 licensed puppy mills in the country. It is extremely hard to get a direct violation; most of what she read is indirect violations. Not giving a dog water is not considered a direct violation.

Councilmember Stoner questioned if we have in the food industry and the restaurant industry where there are violations issued for things and yet people continue to eat the food. There is a whole myriad of things that we think are being policed and they are not but we continue to have them in our lives and we do not shut them down. She questioned how to really enforce this as a City.

Mr. Lunny advised that the Police Department and Code Enforcement enforce the law. When and if this adopted, they would have to obtain proof that an animal for sale at retail is sourced from some place other than a rescue operation or the Humane Society.

Councilmember Stoner questioned if Code Enforcement, a division of the Police Department that is already under staffed, is going to be required to basically train to new staff in this particular aspect so they can add to that to their enforcement detail.

Mr. Lunny replied that ultimately it will be Mayor Bendekovic's call as the Chief Executive Officer and who she directs to do what. He would anticipate that yes that would be the case. He does not perceive this as being a Zoning or Engineering type of issue; it is not within the disciplines of any other department other than Code Enforcement.

Mayor Bendekovic stated that presently we are understaffed but that is due to people moving out of state and retirement. Once we are staffed the way we should be staffed she does not see a problem with it.

Ms. Lazaro indicated that you will not have to do that because the people who are in rescue will be doing that for you. You will not need to send people into your pet stores; we will be able to go in as people who love dogs as we did when we found the pet store in Plantation by the name of Puppy Love. One of the neighbors who worked at the Hair Cattery called Ms. Levin and said that the people are leaving the dogs in the pet store for days without any supervision; they are barking and they can be heard through the wall. The County came out and confiscated eight dogs and the store was deplorable.

Councilmember Stoner commented that what is being described is almost a vigilante thing.

Ms. Lazaro is suggesting that when people see cruelty or they go into a store and see them selling dogs they know they are not supposed to. If we know, as a County or a City, that we are not supposed to be selling certain kinds of dogs people going into the store will know. She is not saying that she is going to actively go out. Everybody knows about this; this is not a secret. She knows a lot of people who will not shop at certain stores because they sell dogs. They encourage Petland to stay here; they are not trying to close anyone down. They want to help and are not looking to hurt anyone. They encourage any other types of sales or businesses or accessories they would like to have; they just do not want to see them sell commercially bred puppy mill dogs.

Don Anthony, Communications Director for the Animal Rights Foundation of Florida, was present. He spoke in favor of the ordinance. He noted that the First Reading passed unanimously in Sunrise and the Second Reading passed unanimously in North Lauderdale. Tiny towns and larger cities also passed similar ordinances. The reason they support this ordinance as written is because it will increase the number of animals adopted from local shelters, Animal Control and rescue Organizations; it will stop supporting puppy mills and protect local consumers. As written, this law will have no effect on local hobby breeders. These are people who must be licensed by the County and sell animals directly to the public, not to pet shops. That will not change; hobby breeders will remain exempt and absolutely nothing changes for them.

Andrea Rivera, resident and business owner, was present. She spoke against the ordinance. She works with Rescue Organizations and specifically with the pet store and she sees the care that they put into their pets. She knows that not all of the puppies that come from Rescue are for all families. She believes that Petland is doing a great job. This is a great store in Plantation and people want to buy puppies. People that breed in their homes do not give vaccines to the dogs and Petland makes sure there is a vet examining the puppies every week and given them their vaccines. If there is a condition the puppy is isolated. She mentioned the pet store Pet Love and noted that they made the same complaint. She believes that the people doing something right should not be stopped.

Carrie Nuff, Humane Education Coordinator at the Humane Society Broward County, was present. She spoke in favor of the ordinance. She thinks the ordinance will benefit the Humane Society and will help place more of a focus on pet adoption, which will help reduce the number of animals that shelters are forced to euthanize. This ordinance will help people to make a more informed choice when they do go to get their pet so they can have an educated choice and rest assure that they are not supporting puppy or kitten mills. The other way the ordinance will benefit the Humane Society is by hopefully reducing the number of puppy mills that exist in America.

Councilmember Stoner questioned how many dogs, cats or animals are taken in every year and what percentage is adopted.

Ms. Nuff replied that they take in approximately 20,000 animals per year. They are known as an open door shelter, which means they accept all animals that are brought to them regardless of their health, temperament or condition. With regard to what percentage are adopted is not a black and white answer; not all of the animals received are adoptable.

Councilmember Stoner questioned what percentage of the 20,000 animals are euthanized.

Ms. Nuff stated that about 35% of the animals are euthanized every year. It is a problem that is caused by the community; irresponsible pet owners who do not make a lifetime commitment to their pets, people who allow their pets to have litters of puppies and kittens, etc.

Councilmember Stoner questioned how many days they keep the animals before they are euthanized.

Ms. Nuff indicated that there is not a time limit. Some animals are lucky and find a home within a day or so. As long as the animal remains healthy and friendly they will do everything in their power to rehome the animal. More than 40% of the dogs received are pure bred and all of the animals from their shelter were owned animals. They are all friendly and were pets that lost their home due to owner issues.

Councilmember Stoner questioned how it is said that they are unadoptable.

Ms. Nuff clarified that some of the animals have physical issues.

Jennifer Cohen along with her daughters, Sydney and Alexandria, residents, were present. They spoke in favor of the ordinance. Sydney advised that they have been volunteers for Broward County Animal Care and Adoption for many years. With their parents help they have fostered many dogs and cats including litters of puppies with mother dogs and others who were orphaned. They have spent countless hours caring for homeless animals and finding them all loving homes. If pet stores would stop selling puppy mill puppies and start selling shelter animals this would make their work easier since there would be fewer animals in the shelter. Every day

healthy adoptable animals are killed in the shelter because there is no more space. We are asking that you please stop selling puppy mill dogs; they are kept in terrible conditions and are often sick. We are doing all we can to help animals in our community and we need your help.

Vicky Siegel, Petland owner, was present. She spoke against the ordinance. She advised that Plantation recently welcomed her with a welcome letter that said they are happy to have businesses such as ours in the City and she does not feel very welcome right now. She explained that they had to go through a special assessment prior to coming into the City of Plantation and the people spoke and said that it was all right that we were coming. She believes that the people of Plantation have agreed that it is okay that they are in the City. They agree with the activists; they had to do a 30-day special assessment and they even had to pay a special fee. A letter was sent to anyone within 300 yards on the outside skirts of The Fountains to be sure that no one was against them coming to Plantation. They worked on coming into the City of Plantation for months and months and this is not a very warm welcome. They agreed that substandard breeders should not exist. To say that they are part of the problem and not part of the solution is extremely hurtful. She is a good person and takes very good care of the animals in her care and she is the person responsible for talking to the breeders and getting the puppies they have. Lora Lee who Ms. Lazaro referenced has turnout yards and she does not have violations. She explained that there are direct violations and indirect violations. There are 19 inspectors in the State of Missouri. When they go to the breeders they do surprise visits and they usually spend about four hours at that location. Their corporate people go to all of the breeders as well. They have never seen anything like what Ms. Lazaro and her team keeps showing pictures of. Don't take the checks and balances out of the system; don't make buying a puppy a black market thing; don't force people who want to purchase a pure bred puppy or even a designer breed to have to do it via internet and have it shipped to their home because they can't meet the animal first. All puppies are microchipped. Over 300,000 puppies are brought into the United States every year; they are imported. Some of the puppies that end up at the Humane Society are from the 300,000 that are imported. If there is a problem with puppy overpopulation then maybe we should look at where Broward County is getting the puppies from and if it is backyard breeders, she questioned how that becomes her fault. By saying that all of her puppies are from puppy mills is insulting and she thinks that you are consulting your consumer by saying it is not enough to just post where the puppy is from; only Ms. Lazaro is smart enough to look up a breeder or make the right decision for everybody. The people of Plantation and the 5,000 customers they have helped in Davie over the last eight years are not all too stupid to think for themselves. This business is already regulated; the USDA regulates the State in which the breeders are regulated and the State of Florida has the strictest Lemon Law of all of the nations and it is the only state in which you need a Florida Health Certificate before you send a puppy home. With regard to the one-year vet visit, they also have a lifetime replacement. As long as you keep the puppy in good standing in our program they will replace the puppy. She thinks that this ban is ridiculous and she hopes that you would rethink it. She distributed some literature.

Councilmember Stoner questioned when the shop in Plantation opened and how many puppies have been sold.

Ms. Siegel replied that she opened her shop on February 1, 2014. During that time she has sold 124 puppies; she sells two a day on average.

Councilmember Stoner questioned whether that is similar in her other store in Davie.

Ms. Siegel indicated that it is similar. Yesterday no puppies went home and today two puppies went home.

Councilmember Stoner questioned the number of puppies kept in the store on a regular basis.

Ms. Siegel stated they probably have about 40 puppies in each store.

Councilmember Stoner commented that the inventory continually changes. She questioned if a different variety is brought in and switched so there are not always the same breeds in the store.

Ms. Siegel agreed. They do change the variety; it depends on what is available. She added that putting her out of business is not going to put a single puppy mill out of business. They are part of the solution and have helped to close down many of the substandard breeders and they only deal with the best. They have a three-year health warranty against any hereditary or congenital and they have not turned away a single person. They work very well with the public. She does not think they would have been in business for eight years if they were doing a bad job.

Robert Siegel, Petland owner, was present. He spoke against the ordinance.

Councilmember Stoner questioned how the retail part of the store is dollar wise.

Mr. Siegel advised that 90+% of their business are the puppies at the Davie store. They would not exist selling pet supplies. We need to work together to change this ordinance. If they are unable to come to an agreement with the City of Plantation his attorneys will have to discuss the liabilities to the City associated with passing this ordinance. In this ordinance you are discussing taking away the Freedom of Choice. This ban insults our customers' intelligence and is a declamation of their character. His Petland franchise is part of the solution not part of the problem with substandard breeders. To unjustly enforce this ban would reverse all of the hard work they have accomplished improving this industry. You would be allowing breeders to go uninspected and this industry to become a black market commodity. They belong to several animal welfare groups and because of their team effort they will bring the best results to continue to hold the breeders responsible. He requested that this ordinance be abolished as he can see that there are no benefits to passing this ordinance.

Councilmember Stoner questioned the franchise fee to Petland.

Mr. Siegel stated that their franchise fee to Petland is 1½% of the total sales. They employ about 25 people between the two stores.

AJ Vargas, attorney, was present. He spoke against the ordinance. He indicated that he spoke at the City of Sunrise last night and he clarified that no ordinance has been passed in the City of Sunrise. There was a First Reading and they agreed to have a date set for a Second Reading, which is April 22, 2014. At the end he requested that he be allowed to submit to the City of Sunrise a Memorandum of Law with some accompanying documents to educate the City on what he believes are the threshold issues of law that will be applicable to these types of cookie cutter ordinances that are being presented in front of all of these municipalities. He requested that he could do the same for the City of Plantation. He believes that the ordinance, as is, is unconstitutional on its face and as applied. It is his understanding that there is no legal definition of the phrase puppy mill and the ordinance does not define what a puppy mill is. That causes some vagueness with respect to the enforceability. No all puppy mills are illegal. The ordinance also talks about concerns for lack of veterinary care but does not define the appropriate level of veterinary care. He believes that the ordinance violates the Congress Clause. Recently Sarasota County was in the process of voting on a similar ordinance that would restrict the sale of puppies at retail stores. Various arguments were presented before Sarasota County, one of which was the Commerce Clause. After an extensive argument about the Commerce Clause, Sarasota County decided not to proceed forward. He believes that the points of law articulated to Sarasota County are instructed to this ordinance. The Commerce Clause says that you cannot favor local economic protectionism at the expense of out of state breeders. If enacted, this ordinance gives preferential treatment to breeders within the City of Plantation, the animal shelters and the hobby breeders and it automatically kicks out the ability for retail

pet stores to purchase puppies from out of state breeders. It would be their perception that this would be unconstitutional pursuant to the Commerce Clause. He also believes that ordinance, if enacted, would be unconstitutional as applied, which is based on a vested rights doctrine. That doctrine says that if you have expended a certain amount of time, money, effort, and labor into a business that a municipality cannot just enact an ordinance that folds you out and shuts you down. It may not shut them down in the literal sense because the ordinance has language about getting puppies from animal shelters, etc. but Mr. and Mrs. Siegel just said that 90% to 95% of their business involves purchasing puppies from out of state breeders. He believes there would be an argument for vested rights. He requested that the City of Plantation table this issue and allow him seven to ten days to provide the Memorandum of Law with some case law, which he believes is instructive. He thinks that this ordinance has to be crafted in a much more precise and much better way. He would be happy to work with the City Attorney and Council. It is equally important to know the law as it is to know the facts.

Councilmember Stoner commented that Mayor Ryan's email is almost verbatim of what was just said. He specifically indicated "the Vested Rights argument" and that we do have, as a City, the ability and the authority to regulate our existing stores.

Mr. Vargas stated that he will try to educate each municipality in what he believes is the controlling law in these issues.

Mayor Bendekovic quoted Mayor Ryan as saying, "Last night our commission passed a puppy mill ban. We are confident we are on solid footing with this ordinance and we have our Second Reading on April 22, 2014. The Phoenix ordinance imposed criminal penalties and had different definitions and restrictions. We do not find that the order is sufficiently persuasive to table this matter nor did they find the Phoenix ordinance sufficiently similar to cause them any concerns regarding their legal authority to act." She also believes that the City of Plantation is on solid grounds in what we are doing.

Mr. Vargas indicated that based on the research and the law he has done, which is embodied in his Memorandum of Law, that a Federal Court would issue an injunction irrespective of whether the sanctions from the ordinance are criminal and civil.

Mayor Bendekovic commented that he would have to take Chicago and everybody else to Court.

Mr. Lunny stated that philosophically there is no problem in getting the Memorandum of Law and looking at it. There is something to be said about the regulatory approach that the model ordinances employ and whether a more targeted means might be practical. The reason why we do not define a puppy mill in this ordinance is precisely because of the observations of Council. We do employ a practical and efficient approach in terms of saying this is the only young cat or young dog you are going to be permitted to sell at retail but you can buy them at other means other than retail. If the Council is all right with it he would like to read the Memorandum. He is very familiar with the Commerce Clause litigation. Regardless of that, he would like an opportunity to see whether some more targeted approach, if it can be practically done, it might be able to more appropriately strike a balance in this case than the means that other people are using. He would like an opportunity to read the Memorandum and perhaps meet with Mr. Vargas and discuss this a little more. If Council would be interested in that he thinks that might be productive. If not, we can go forward as written. He cannot do this by next week.

Councilmember Stoner advised that she sees both sides very clearly; however, she would prefer to air on the side of caution and pass this. If you want to work together as a follow up she is all for it but she does not want to kick the can on this. She thinks they have had some very valid points. It is a very passionate and emotional subject and she does not want to table or defer it.

Councilmember Fadgen commented that he understands Mr. Sweetapple just became aware of our ordinance less than a week ago. He believes we should afford him and his firm some opportunity to provide the Memorandum of Law and fashion it to a point if he thinks it might work and maybe not. He thinks it would be prim and short for us to pass anything without taking the opportunity of looking at the Memorandum of Law.

Councilmember Stoner disagreed. He may have just become aware that this City had this on the agenda but he has known; it has gone all over the country and all over Broward County. If any other person came up here and had not done their homework in advance we would not ever give them an advantage and tell them to come back, we will give you another shot. They are here for a reason and should do their homework in advance; not for us to give them the opportunity to do their homework and talk to the attorney.

Councilmember Levy suggested that we vote on this at First Reading and between First and Second Reading they have the opportunity to send in the information and to meet with the attorney. The Second Reading will not be scheduled until there has been an opportunity to do so. If we want to amend anything from today's reading we can do it at that time.

Mr. Lunny stated that he has a very good understanding of what the law is; he is looking whether there is any practical balance that might be proposed that might be found satisfactory.

Councilmember Levy noted that if there is anything it can be heard at Second Reading. He does not want to harm the business; we encourage business in Plantation. Certainly a proper qualified business should be encouraged in our City; however, he has spent his entire adult life working on the cause of Rescued Greyhounds and he is not going to do anything that would in any way jeopardize that for all breeds. Between now and then he requested that we look at the suggestions that will be made and see if this Council will review them and look at them under Second Reading. He feels that we should move forward on First Reading.

Councilmember Zimmerman agreed that we have time to review before Second Reading.

Councilmember Jacobs indicated that he is very uncomfortable with putting businesses out of business and he would like to see if we can come up with something more refined. He has two Rescue dogs himself.

Mayor Bendekovic agreed.

***Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to approve on Item No. 13 First Reading and not to bring it back until we have investigated working it better. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Jacobs, Levy, Stoner

Nays: Fadgen

\* \* \* \* \*

Mr. Lunny read Item No. 14.

14. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, PERTAINING TO THE SUBJECT OF RETIREMENT; AMENDING THE COMPOSITION OF THE BOARD OF TRUSTEES FOR THE GENERAL EMPLOYEES RETIREMENT SYSTEM SO AS TO NOT RESTRICT THE MAYOR'S APOINTMENT PRIVELIGE TO MEMEBERS OF THE CITY COUNCIL; AUTHORIZING THE MAYOR TO APPOINT TO SUCH BOARD TWO (2) MEMBERS WHO ARE LEGAL RESIDENTS OF THE CITY; CLARIFYING TERMS OF OFFICE FOR TRUSTEES OF SUCH BOARD; PROVIDING A SAVINGS CLAUSE; AND PROVIING AN EFFECTIVE DATE THEREFOR.

A Memorandum dated April 2, 2014, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

### 1. Background

This discussion is sponsored by the Administration, and is calendared by the Legal Department in anticipation of many elected officials' terms of service as Trustees of the Retirement System expiring on September 30, 2014. For some time, some elected officials have publically expressed a desire to continue to evaluate no longer serving on the City's Retirement System Boards of Trustees.

### 2. The Code

The City Council has the prerogative of appointing two (2) members of the Board of Trustees to the Police Officer's Retirement System and the Volunteer Firefighters' Retirement System who must be legal residents of the City. These Trustees serve at the pleasure of the City Council. The composition of these Boards is established by statute, given that state taxes funds part of the System liabilities. If ever any of the elected officials desire to cease service as Trustees of either the Police Officers Retirement System or the Volunteer Firefighters Retirement System, no Code amendments would be needed.

Currently, the Mayor has the prerogative of appointing two (2) members of the Trustees to the General Employees Retirement System who *must be* Members of the City Council. Thus, if elected officials decide they no longer wish to serve on this Board, a Code amendment is necessary.

This attached ordinance amends the Code to allow the Mayor the prerogative of appointing two (2) members of the Board of Trustees to the General Employees Retirement System who are elected officials, general employees, or legal residents of the City. These appointments would serve at the pleasure of the Mayor.

### 3. Topics for Further Discussion

Service as a Retirement System Trustee is a fiduciary position that requires some knowledge, skill, expertise, and sound judgment. One reason why elected officials served as Trustees to the City's Retirement Systems in the past is because they were invested in the overall governance o the City, and thus, were well suited to supervise how the Retirement Systems were being administered. Over the years, some elected officials received education and training from attending seminars concerning the role of Retirement System Trustees. Trustees who are beneficiaries of each System (be they police officers, volunteer firefighters, or general employees) are similarly invested in the System and the City, and have the confidence of their peers that they will suitably execute their Trustee duties.

If elected officials desire to cease service as Trustees to the City's Retirement Systems, the City may wish to consider the following in order to attract qualified persons to such service who may not be resident System beneficiaries:

1. Establishing experience (i.e. a background in finance or pensions) as a pre-requisite for service; or
2. Establishing a per-meeting stipend to compensate Trustees for preparing for and attending meetings.

The City may also wish to establish and fund a mandatory training program paid for by the City that would be in addition to any discretionary training each Board offers its Trustees as part of each System's administration. For the General Employees Retirement System, the Council may wish to allow the Mayor to appoint non-residents, provided they have some sort of experience or background. There may be other ideas of the Council Members as well that should be discussed. These matters, if desired, can be promulgated in a Resolution.

#### 4. Conclusion

The attached ordinance is now ready for consideration at First Hearing.

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Mr. Lunny advised that the title will be amended to indicate that the Mayor's appointment privilege will also extend to General Employees. This is something that the Council discussed the last time that Retirement Board members were seated. It has been an ongoing topic for many years. He has indicated that as Trustees of the Retirement Systems your responsibilities are to administer the written plan and to determine claims with respect to that plan and as Elected Officials of Plantation your responsibility is to legislate and write the plan. There is not a legal conflict between the two. Over the year many of you have indicated that it is a practical or uncomfortable conflict from time to time because of the fact that when you are administering a plan part of that involves making recommendations for improvement and sometimes you think about a recommendation and later after going through the public hearing process you might determine it was not such a good idea after talking to your colleagues and it creates an appearance and a personal conflict in terms of trying to do the right thing. A few years ago all of you decided to keep serving. Some of you are coming off this September according to his calendar. If some of you no longer wish to serve in this capacity the only ordinance change will be for the General Employees, which is the one he wrote for the Mayor. He thinks we wanted to ask what you thought about topics for further consideration in terms of historically the Elected Officials have been resident appointees to the Board and if you are not going to serve a concern is how to attract qualified and experienced individuals to serve in a fiduciary capacity. When serving in a fiduciary capacity that creates insurable exposure, which all those Trustees are covered under our insurance plan but sometimes that might develop into a need for offered compensation to sit there. The other day the Mayor asked what was being done about it and when it is coming forward and he advised that it was calendared. He questioned what Council desires to tell Administration about the matter and what he can do to help.

Councilmember Levy stated that he has brought this up as a concern for a few years. He believes that there is a conflict. He sits on the Police Retirement Board. Some of the issues were difficult during the recent negotiations due to the contract. While dealing with the Police to benefit and help them with their retirement and if they have a disability and on the other hand he was also representing the City making sure of fiscal integrity and the resultant contract are also good for all concerned too. Sometimes it was tough sitting there when people were waiting to ask all kinds of questions and get him in a stranglehold after the meetings. There are some issues that come up; sitting as a Councilman is a little different than sitting as a Trustee for the Police Pension Board. He sometimes feels it is difficult in making those decisions and whether he is supposed to make

those decisions. When we had an opening at one point we had a number of very qualified applicants with years of experience for the Police Pension Board. The conflict between the Pension Board and this body was if the Pension Board could select someone who was not a resident of Plantation. Now that we have expanded that border we have a gentleman who comes from Hallandale to all of our meetings. He thinks that we would have some very qualified numbers people to help the Pension Boards.

Mr. Lunny explained that the State Law says as to the Police and Firefighters that two are appointed by the governing authority and must be legal residents, two must be Police Officers or Volunteer Firefighters and those two select a fifth and that is the person who does not have to be a resident. He clarified that the two they choose have to be residents. It is a Chapter 185 plan. He is proposing for the Mayor, because it is not a regulated plan, that the Mayor does not have to appoint you, she can appoint a legal resident or a General Employee.

Councilmember Levy questioned if the Mayor has to appoint a resident.

Mr. Lunny stated that under the ordinance as written, no, because she has the prerogative of appointing a General Employee that may not be a resident. It could be made the same. When he first wrote it we were going to make the Mayor's appointment limited to legal residents of the City and that could be an Elected Official or legal residents of the City.

Councilmember Levy questioned if we could write some language for Police and Fire that allows a Councilmember to be appointed if the Councilmember wanted to or a resident.

Mr. Lunny replied yes, because all of the Councilmembers are legal residents. There is no change that needs to be made; the only law change needed is to the General Employees Pension Board, which says the Mayor must appointment a Councilmember.

Councilmember Levy commented by October 1<sup>st</sup> there would be an option for those of us who wanted to be on the Board or did not want to be on the Board and if some of us did not it would go to any resident to apply.

Mr. Lunny advised that those who serve on the Fire and Police are resident appointees.

In response to Councilmember Levy, Mr. Lunny indicated that it is not a policy decision, it is a legal decision as to one and if you want to get off Administration would like to know so a process can be started of trying to find someone.

Councilmember Levy indicated that this Board would set a policy and then the Administration would follow it within the legal parameters that the State requires.

Mr. Lunny stated that it depends on what Council wishes. Council has the right to set that policy.

Mayor Bendekovic commented for compensation and qualifications; that was the consideration requested because we have found out that we can compensate individuals who are serving because they are giving up their free time. There also needs to be some sort of qualifications because that is a fiduciary responsibility and you do not want just anyone serving on those Boards.

Councilmember Levy assumed that a Councilmember would not get additional compensation.

Mayor Bendekovic replied no.

Councilmember Stoner believes that is extra and if you are going to compensate Board members and you are a Board member within that definition you are entitled to be paid. She does not believe that anyone should be paid but she thinks they should be reimbursed for going to the FPPTA conferences and that type of thing.

Councilmember Levy noted that his point is that he would like it as an option and to set a policy that allows any member of the Council that wants to be on a Board to have the privilege and if that is not enough it can go to a legal resident of the City under certain qualifications.

Councilmember Stoner thought the point was to take Council off of it completely.

Councilmember Levy stated that he would like that but he is willing to compromise by allowing individuals to make their own decision.

Councilman Fadgen commented that he has served on the General Employees Pension Board, the Firefighters' Pension Board and the Police Pension Board over the years he never felt uncomfortable and did not feel like he had a conflict. He thinks with a City our size unless there is some exceptional reason he thinks we should be able to get a resident of the City appointed and limit it to that. He is not in favor of any compensation for the moment. As far as Councilmembers and compensation, he does not think they would get additional compensation for that service.

Councilmember Jacobs thought we were talking about General Employees and that we were not going to touch Police and Fire.

Mr. Lunny advised that we are not going to change any of the legislation that applies to Police and Fire; we do not need to.

Councilmember Jacobs questioned if the Mayor appoints the two under Police and Fire. If not, he questioned how the two are selected.

Mr. Lunny indicated that the two are selected by the Council.

Councilmember Jacobs noted that the Council has to take an affirmative action. If nothing is changed and a Councilmember requests to be appointed then it is up to the Council to decide. We don't need to change any policy; just leave it the way it is.

Mr. Lunny replied yes. We do not need to change Police and Fire.

Councilmember Levy stated that the interpretation changes. Up until now it has been required that two members of the Council be on each of the Boards.

Councilmember Jacobs commented that it has been encouraged; not required.

Mr. Lunny advised that there were some people who desperately wanted to get off and others that wanted to stay on so it was done as a group because no one wanted to be different than the rest.

Councilmember Jacobs stated that with regard to General Employees the Mayor has to appoint.

Mr. Lunny clarified that the current law says that the Mayor must appoint one of the Councilmembers.

Councilmember Jacobs noted that was changed and the Mayor can appoint a resident.

Mr. Lunny stated that it can be a legal resident or a General Employee.

Councilmember Stoner indicated that is in addition to the other General Employees. She is not okay with that. She thinks the General Employees are already on there so they are represented; there should always be a mix. She questioned why another General Employee would be added. She believes that the ratio and the mix are appropriate if you go out to the residents.

Mr. Lunny stated that is what he was asked to do.

Councilmember Jacobs mentioned that there may be a General Employee who is well versed and very knowledgeable.

Councilmember Stoner commented that they are already on the Boards.

Councilmember Jacobs likes having the flexibility for the Mayor to make that decision instead of restricting it.

In response to Councilmember Levy, Mr. Lunny stated that he would like two things. If the Council wishes to have flexibility on the General Employee's Board he needs to have this law passed to provide for that. If some of you no longer wish to serve then he would like to know that rather than wait until October so we can try to handle the Administrative business of trying to assist in finding candidates or we can just completely not assist and have Council find candidates that you are interested in and discuss those amongst yourselves at a public meeting. If you want this change and might not want to be on those Boards we might need 60 days to try to find some residents.

Mayor Bendekovic questioned if we are permitted to post this on the Internet on our website for employment. Instead of wasting time, have some qualifications and experience. She thinks that they could do it online and get it to us.

Mr. Lunny advised it is up to the Council to decide how they want to fill those appointments. All we need is whatever a reasonable time is to get it done.

Councilmember Jacobs stated that he is willing to serve the balance of his term.

Ms. Slattery believed that Fire was up on September 30, 2014. The General Employees were just put in for three years; it was three years last October so it would be until 2016.

Mr. Lunny noted that you can resign if you wish.

Councilmember Fadgen joins Councilmember Stoner to make the appointment excluding an additional General Employee. Councilmember Stoner explained it well; we need a broad base of talented people. The employees have a representation and he does not think we want the employees to have the majority.

Councilmember Jacobs thinks that the Mayor understands these dynamics and would choose based upon what is the best for the Board.

Councilmember Stoner questioned what happens if the Strong Mayor item passes in favor of a City Manager.

Mr. Lunny advised this ordinance would have to be rewritten.

Mayor Bendekovic stated that she wants the most qualified person. The most important thing is the qualifications that we need to put forth so we can post it. Whether it is a General Employee or resident, it is their qualifications. She has no preference; it is whatever Council wants. She feels that we need someone with a financial background, accounting background or investment background or who has a business of their own.

Councilmember Jacobs questioned if that is up to her discretion as to the way the ordinance is written.

Mayor Bendekovic indicated that if Council wants her to put on the qualifications she would be more than happy to. She feels that is what needed.

Mr. Lunny advised that it is up to the Mayor for the General Employees Pension Board but we are also making that recommendation for the Council appointments. One thing to think about is that this is a Defined Benefit Plan and there is a certain way those systems need to run. If someone comes in that is philosophically opposed or does not appreciate their role it could be quite traumatic to the people who are otherwise trying to execute their duties. The Council has always been able to execute those duties well and the concern is that if you all are not going to serve we are encouraging you to try to develop some list of qualifications so that you get appropriately skilled people.

Councilmember Jacobs commented that is separate as to whether or not the ordinance should allow two General Employees to be appointed by the Mayor. He does not have a strong feeling either way. If two Councilmembers have a strong feeling about it he will amend the motion.

Councilmember Fadgen requested clarification; there are five members; two of which will be employees and the other two will be residents, one of which could be an employee.

Councilmember Jacobs noted two legal residents.

Mr. Lunny replied yes. That is what we have done in reverse for the other Boards where we said two legal residents because there has always been an Elected Official.

Mayor Bendekovic requested that the information be provided to her if you still want to serve because if you do not want to serve we need to get this back to you because of the fact that you do the appointments for the Police and the Fire.

***Motion by Councilmember Jacobs, seconded by Councilman Levy, to pass this ordinance on First Reading with the Mayor appointing no more than two legal residents. Motion carried on the following roll call vote:***

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

\* \* \* \* \*

Mr. Lunny read Items No. 15 and No. 16. Note: These items were heard in tandem.

15. PUBLIC HEARING AND FIRST READING OF A ZONING ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, REZONING 10.39 PLUS OR MINUS ACRES FROM “CF-P” (ZONING USE DISTRICT) TO “PRD-6Q” (PLANNED RESIDENTIAL DISTRICT 6-DU/AC); IN ACCORDANCE WITH THE CITY OF PLANTATION COMPREHENSIVE ZONING ORDINANCE, CHAPTER 27-687; AND ASSIGNING 31 FLEXIBILITY RESERVE UNITS TO THE FOLLOWING DESCRIBED PROPERTY LOCATED IN FLEX ZONE 76 SO AS TO PERMIT THE CONSTRUCTION OF 62 TOWNHOMES WITHOUT AMENDING THE CITY COMPREHENSIVE FUTURE LAND USE PLAN; PROPERTY LOCATED AT 12700 WEST BROWARD BOULEVARD, PLANTATION, FLORIDA; LYING IN SECTION 2, TOWNSHIP 50 SOUTH, RANGE 40 EAST, AND DESCRIBED AS TRACT “A” OF FIRST PRESBYTERIAN CHURCH OF PLANTATION, AS RECORDED IN PLAT BOOK 150, PAGE 19, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; GENERALLY LOCATED ON THE SOUTH SIDE OF BROWARD BOULEVARD APPROXIMATELY 1/3 MILE WEST OF FLAMINGO ROAD; PROVIDING FINDINGS, PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

#### QUASI-JUDICIAL ITEMS

##### **Resolution No. 11864**

16. **RESOLUTION** APPROVING 62 TOWNHOUSE DWELLING UNITS (THE COVE AT LAGO MAR) AS A CONDITIONAL USE TO BE LOCATED WITHIN A PRD-6Q ZONING DISTRICT ON PROPERTY LYING IN SECTION 2, TOWNSHIP 50 SOUTH, RANGE 40 EAST AND DESCRIBED AS TRACT “A” OF FIRST PRESBYTERIAN CHURCH OF PLANTATION. ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 150, PAGE 19, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA (LOCATED AT 12700 WEST BROWARD BOULEVARD); PROVIDING FOR CONDITIONS AND LIMITATIONS OF THE ALLOWED USE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR. –AND- REQUEST FOR REZONING, FLEX ASSIGNMENT, CONDITIONAL USE, SITE PLAN, ELEVATION, AND LANDSCAPE PLAN FOR THE COVE AT LAGO MAR.

A Staff Report dated April 9, 2014, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

- REQUEST #1:** Rezoning from CF-P to PRD-6Q.
- REQUEST #2:** Assignment of 31 flex/reserve units.
- REQUEST #3:** Conditional use approval to allow 62 fee-simple townhomes.
- REQUEST #4:** Site plan, elevation, and landscape pan approval.

#### WAIVER REQUESTS:

1. From: Section 27-688(d), which requires that portion of the PRD perimeter abutting a single-family residential district (located to the west/northwest) to be planned and developed with the same adjacent unit type.

To: Allow townhouse units to abut single-family residential units.

*Staff has encouraged the applicant to work with adjacent residents to assure a quality and compatible development.*

2. From: Section 27-689(c), which requires the building to be setback from the north and west property line a distance equal to 45.8' (1 ½ times the building height).  
To: Reduce the required setback from 48.8' to 38.8' along the west property line; and  
To: Reduce the required setback from 48.8' to 26' along the east property line.  
*Staff has encouraged the applicant to work with the adjacent residents to assure that setback reductions are generally adjacent to mitigating open space (i.e. canal or offsite retention).*
3. From: Section 27-742(e), which requires two-way access aisles to be a minimum of 25 feet in width.  
To: Reduce the access aisle width to 24'.  
*No objection from Engineering.*
4. From: Section 27-743(1)(b), which requires townhouses having three or more bedrooms to have a two-car garage measuring 22' in width and 20' in depth.  
To: Reduce the garage widths to 17.3'; and  
To: Reduce the garage depth to 19.3'.  
*The City Council initiated the code change to increase garage size 18 months ago.*
5. From: Section 27-747(d)(2), which requires two off-street loading zones.  
To: Eliminate the requirement for off-street loading zones.  
*No objection.*
6. From: Section 27-742(b), which requires each parking space to be a minimum of 9' in width.  
To: Allow a 16' driveway width for two-car (townhouse) parking.
7. From: Section 27-637(8)(a), which requires fencing not to exceed 6' in height in residential districts.  
To: Increase the wall height to 8' on the south property line.  
*No objection subject to resident agreement.*
8. From: Section 13-41(a)(b). Pedestrian zones along building facades.  
Landscape pedestrian zones shall extend the full width of each façade that abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.  
To:
  - a. 15' required along the western façade of buildings 1 thru 8 – 0' provided.
  - b. 15' required along the eastern façade of buildings 9 thru 15 – 0' provided.*LDCM staff does not object to waiver requests; the lack of required area is in relation to the individual parking spaces (driveways) and associated garages. Staff requests the proposed trees in the planting islands in these areas be planted at a minimum height of 14'.*

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; Ordinance; subject site map; Conditional use/site plan application; Planning and Zoning Board meeting minutes of December 3, 2013; Landscape Planning Review Board meeting minutes of December 3, 2013; and Review Committee meeting minutes of November 1, 2013.

**PLANNING AND ZONING BOARD RECOMMENDATION: APPROVAL** subject to staff comments. (6/0; December 3, 2013).

**LANDSCAPE PLANNING REVIEW BOARD: APPROVAL** (60; December 3, 2013).

**REVIEW COMMITTEE RECOMMENDATION: NO OBJECTION** to the project moving forward for further review. (November 1, 2013).

**ANALYSIS:**

The subject site is approximately 9.4 acres in area, zoned CF-P, and currently developed with a 7,517-square-foot house of worship. The site is bound by Broward Boulevard to the north, State Road 84/I-595 to the south, and single family residential uses to the east and west.

The applicant is processing a concurrent rezoning, flex unit allocation, conditional use, site plan, elevation and landscape plan application requesting approval to demolish the existing house of worship and develop the site with 62 townhomes (comprised of fourteen four-unit buildings, and one six-unit building).

A swimming pool with a cabana will be located at the northwest corner of the site, just west of the community entrance. Construction of a new 6' wall along Broward Boulevard and an 8' wall along the south side of the site is planned together with repair of the existing 6' wall along the west side of the property. A 50' wide canal abuts the east property line. Gated access from Broward Boulevard with a call box is also planned.

Required parking based on 32 three-bedroom units and 30 four-bedroom units is 171 spaces with 235 spaces provided. The three-bedroom units will have an oversized single car garage and the four-bedroom units will have two-car garages. Both units will have two-car driveways. Nineteen guest spaces are provided in various locations throughout the community.

If approved as submitted, the building colors, materials, and models will be the same as those previously approved for the Riverwalk project currently under construction by Centerline Homes and located just west of the subject site.

A rezoning request must be accompanied by responses to criteria indicated in Policy 1.16.1 of the City's Future Land Use Element of the adopted Comprehensive Plan, which has been submitted (See Exhibit A). The applicant has provided responses to the Flex Utilization Criteria found in Section 19-67 of the City Code. (See Exhibit B).

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

**Planning:**

1. The applicant has requested an assignment of flexibility and/or reserve units to allow greater density within the residential land use category. There are currently 89 reserve units in Flex Zone 76 available to increase residential density. The applicant has requested 31 units.
2. Ordinance 2485 requires the payment of City impact fees prior to permitting. Multi-family impact fees are \$1,833 per dwelling unit. Impact fees must be paid for the entire project (all 62 dwelling units) prior to issuance of any development permits.

**Zoning:**

**In General:**

1. See Engineering Department comments regarding the proposed access drive to the Lago Plantation community.
2. Prior to the issuance of a building permit, amend the restrictive note on the plat.
3. Prior to the issuance of a building permit, the Homeowner's Association documents must be approved by the City Attorney.

**Site Plan:**

4. Section 27-688(d) requires that portion of the PRD perimeter abutting a single-family residential district (located to the west/northwest) to be planned and developed with the same adjacent unit type to allow townhouse units to abut single-family residential units. *The applicant has requested a waiver to construct townhouses.*
5. Section 27-689(c) requires buildings to be setback from the property line a distance equal to 1 ½ times the building height. Building 1, 2, 3, 7, 8, 12, and 13 do not meet the required setback. *The applicant has requested a waiver to reduce the setback.*

**Parking areas and loading zones:**

6. Section 27-742(e) requires two-way access aisles to be a minimum of 25 feet. *The applicant has requested a waiver to allow a 24' width.*
7. Section 27-743(1)(b) requires townhouses having three or more bedrooms to have a two-car garage measuring 22' wide and 20' deep. *The applicant has requested a waiver to reduce the garage size.*
8. Section 27-747(d)(2) requires two off-street loading zones. *The applicant has requested a waiver to not provide loading zones.*
9. Section 27-742(b) requires each parking space to be a minimum of 9' in width. *The applicant has requested a waiver relating to the driveway width at each unit.*

**Details:**

10. Section 637(8)a. Limits walls to a maximum height of 6' within residential zoning districts to construct an 8' wall on the south side of the site abutting State Road 84. *The applicant has requested a waiver to construct an 8' wall on the south property line.*

**Signage:**

Signage is not part of this review.

**TRAFFIC CONSULTANT:** Please see Engineering.

**ENGINEERING DEPARTMENT:**

Access from Broward Boulevard to the existing residential development adjacent to and west of the proposed development must be maintained at all times. Only after the proposed new separate access to the existing residential development has been constructed, permit(s) finalized, and authorized by the City to be placed into operation, may the existing access connection servicing the existing residential development be removed.

1. 11-22-13: The proposed signage and marking is incomplete in several locations and will require revisions to the site plan. Please contact Lisa Bernstein at 954-797-2636 to discuss. 03-20-14: Please change the pedestrian sign to a W11-2, not W11A-2; this is not a school crossing. The cul-de-sac has no markings, please sign and mark appropriately.
2. 11-22-13: Please label all proposed curb radii on Sheet 2 of 4 of the Site Plan. 03-20-14: Please include the radii at the access points to both developments.
3. 03-20-14: Please provide control radius information for both access points.

4. 03-20-14: Please provide more details for the revised gated entrance for the existing single family homes.
5. 03-20-14: Please include all signing and marking on the Site Plan.
6. 03-20-14: Sheet C1. Please dimension the proposed new access drive for the existing residences.
7. 03-20-14: All easements and right-of-way will need to be vacated prior to the first CO.

**Traffic Engineering Comments:**

The Engineering Department principally concurs with the conclusions as reported in the traffic study as currently submitted. However, please address the following comments in the final document:

1. Please provide the queuing analysis using the Institute of Transportation Engineers (ITE) formula with the 95% probability that the queue will not be exceeded. Please contact Engineering to discuss.
2. Please provide the back up for the ITE trip generation rates used.
3. The 18 Single Family Homes would use the Single Family Detached Housing Land Use Code (LUC) and not the Townhomes LUC. Please revise.
4. Please provide figures with the existing traffic, future traffic, future traffic with project, and project distribution. The tables do not detail how the numbers were arrived at.
5. The two closely spaced residential access points (existing and proposed) were analyzed using the SYNCHRO software. Were the two intersections analyzed together or separately? Please contact Engineering to discuss.
6. The SYNCHRO analyses have an error message at the bottom of the reports. Please correct.
7. There is no traffic count data for the existing homes. How was the analysis done without counts?

**Permit Comments**

**Note:** A detailed review of the civil drawings has not been performed at this time. If the site plan application is approved by City Council, a thorough engineering review will be performed at the time of application for construction permits. The following will apply at time of permit review:

1. An erosion and sedimentation control plan will be required.
2. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
3. Drainage calculations signed and sealed by a professional engineer registered in the State of Florida complying with Chapter 9 of the City Code will be required.
4. Provide a copy of the surface water management permit(s) through the Broward County Environmental Protection Department (EPD) and/or SFWMD.
5. An executed Developer Agreement and form of security for all engineering and landscape related improvements will be required.

**DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:**

- All site plan and planting plan comments from the Department of Design, Landscape and Construction Management must be responded to in writing at time of permitting. When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
- The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at time of permitting.
- Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.

**Site Plan:**

1. A 15' landscape buffer is required along West Broward Boulevard; if the proposed abandonment of the right-of-way is not obtained a *waiver will be required*.

2. Code requires landscape pedestrian zones (lpz) to extend the full width of each façade abutting a parking or vehicular use area; the minimum width shall be half the height of the proposed of 10' (paved areas in the lpz may not constitute more than 5' of the required lpz):

**Planting Plan:**

1. All proposed trees to be removed or relocated require ISA appraisals based on the Checked Trunk Formula Method, Guide for Plant Appraisal, 9<sup>th</sup> edition, 2000.
2. Performance bonds are required on all trees to be relocated as per City codes.
3. All proposed trees to be removed must be mitigated for as per City codes; tree mitigation will be above and beyond code required trees on the property.
4. City staff will verify all trees proposed "to be removed or relocated".
5. All landscape areas shall be provided with an automatically-operating underground irrigation system; with a minimum of 100% coverage, with 50% minimum overlap in ground cover and shrub areas. The rain sensor must be installed as well as a rust inhibitor if applicable. Irrigation plans must be submitted at time of permitting.

**BUILDING DEPARTMENT:** No objection.

**FIRE DEPARTMENT**

1. No objections as to the rezoning, assignment of flex or reserve units, conditional use, and site plan with the understanding that the requirement that every building shall be protected by an automatic fire sprinkler system will not be enforced as long as the 150' hose reach to any point in rear of building is maintained at all times. To assist in the enforcement of this issue, the applicant and/or owner have provided approved working that will be placed in the "Declaration for the Cove at Lago Mar" (HOA documents) that will prevent any added structures to the exterior of the building and rear yards; additional wording that will prevent any changes to approved landscape plans will also be included along with an approved Fire Hose Deployment Plan.

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

1. Complete Water and Sewer Utility Plans were not provided with this submission.
2. Prior to a Building Permit being issued, the following must be provided:
  - \$500 review fee must be submitted to Utilities Department.
  - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
  - BCHD and BC EPD Permits must be approved.
  - Utilities Agreement must be executed.
  - Utilities Performance Bond must be posted.
  - Utility Easements must be executed.
  - Utility Inspection fees must be paid.
  - Capacity Charges must be paid in FULL.
  - Contact: Danny Pollio if you have any questions; 954-797-2159.
3. Offsite and onsite improvements must be installed, tested, certified and accepted by City of Plantation Utilities prior to first CO.
4. Water and Wastewater Utilities plans are considered conceptual and not for construction.
5. Show all new and existing water and sewer lines and easements on landscaping and drainage plans.
6. Maintain all utilities and utilities easements for water and wastewater system access.
7. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".

**POLICE DEPARTMENT:** No objection to the conditional use request, site plan, and rezoning with the understanding of the following conditions:

1. Security lighting must meet IESNA security lighting requirements.
2. All access must be granted to the Police Department, any access control device will be coded with Patrol Units.
3. Future parking enforcement will need to be included in the HOA documents.

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

**WASTE MANAGEMENT:**

1. Contact Jim Padovan, Senior District Management via email at [jpadovan@wm.com](mailto:jpadovan@wm.com) or at 954-935-2327 for review comments.

## **Exhibit A**

### **Changing the zoning classifications for a parcel of property Comprehensive Plan Policy 1.16.1**

The City shall consider the following policy considerations, in addition to all other appropriate policy considerations, in addition to all other appropriate policy considerations stated elsewhere in this Plan, when making a decision on whether to change the zoning classifications for a parcel of property or change the future land use designation on a parcel of property:

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

#### Applicant Response:

*A portion of the subject property contains a church that has been open for many years. The church, for economic reasons, has chosen to move elsewhere and sell the property. A number of non residential uses were considered. Although the property is presently zoned CF (community facilities) the allowed uses are not compatible with adjacent residential development. A residential use will continue the recent pattern established by the Riverwalk townhome development.*

#### Staff Comment:

The townhouse application provides an alternative to current CF Zoning. CF zoning allows (subject to special exception approval) governmental administration or maintenance facilities, house of worship, police and fire protection facilities, public utilities, and schools (public/charter or private).

The property could potentially be developed for small lot single family or zero lot line homes. The form of development is associated with limited open space and reduced (15' - 25') perimeter setbacks.

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

Applicant Response:

*The proposed 62 fee simple townhomes will not adversely impact public facilities and services in the area. Both traffic and utility studies have been undertaken by the applicant to ensure this.*

Staff Comment:

Both Utility and Traffic comments are addressed in earlier in the report.

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

Applicant Response:

*Adjacent property to the north and west are zoned PRD as well. For sale residential development exists on three sides of the site, with a canal and limited access roadway on the south side.*

Staff Comment:

Townhouses are generally compatible with single family if proper buffers or landscaping is provided. Applicant has been encouraged to work with the adjacent residents.

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

Applicant Response:

*This tract is the last undeveloped or underdeveloped parcel along the west Broward Boulevard corridor. The success of the Riverwalk development which is identical in design concept and character has been recently approved just west of the subject site. Issues of overall density, building heights, landscape buffers and "for sale" housing were carefully reviewed by the City's professional staff during the approval process.*

Staff Comment:

The applicant has not listed the specific goals, objectives and policies of the Neighborhood Design Element that are supportive of this development proposal.

Applicant Response:

*The property is located in flex zone 68 that largely deals with Plantation Acres. The goal is to preserve, protect & enhance the character of this area. Policy 1.1.1 will be met by providing pedestrian controlled access to the linear park along the canal. Policy 1.1.4 is met with larger setbacks and extensive landscape screening along Broward Boulevard.*

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

Applicant Response:

*As set forth in #4 above, this parcel provides compatibility with the neighborhood and will be a component of furthering the goals, objectives and policies of the City's adopted Comprehensive Plan.*

Staff Comment:

The applicant has not listed the specific goals, objectives and policies of the Comprehensive Plan that are supportive of this development proposal.

Applicant Response:

*The Following Goals, Objectives & Policies of The Comprehensive Plan are being met in the following sections:*

**Housing Element**

*Goal 1, Objective 1.1, Policy 1.1.1, Policy 1.1.2, Policy 1.1.3*

**Future Land Use Element**

*Goal 1, Objective 1.1, Policy 1.1.1, Policy 1.1.2, Policy 1.1.2a, Policy 1.1.2b, Policy 1.1.3, Objective 1.5, Policy 1.5.1, Objective 1.6, Policy 1.6.1, Policy 1.6.1a, Policy 1.6.2, Policy 1.6.2a, Policy 1.6.2b, Policy 1.6.3, Policy 1.6.4, Objective 1.7, Policy 1.7.1, Policy 1.7.2, Policy 1.7.8*

**Infrastructure Element**

*Goal 1, Objective 1.1, Policy 1.1.1, Policy 1.1.2, Policy 1.1.3; Goal 2, Objective 2.1, Policy 2.1.1, Policy 2.1.4, Policy 2.1.5, Objective 2.4, Policy 2.4.; Goal 4, Objective 4.1, Policy 4.1.1, Policy 4.1.2; Goal 6, Objective 6.1, , Policy 6.1.1; Goal 7, Objective 7.1, Policy 7.1.1; Goal 8, Objective 8.1, Policy 8.1.1, Policy 8.1.2*

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

Applicant Response:

*The present non residential use did not, nor was it required to address design related matters such as open space, recreation, buffering, or vehicular and pedestrian access and circulation. The proposed plan creates a user friendly design with a pedestrian way linking Broward Boulevard to the pathway along the New River Canal. In addition an excess of guest parking is distributed throughout the community. On site amenities include a cabana and swimming pool with mail kiosk. Buffering to the west will include the existing masonry wall augmented with additional trees and shrubs. The residents to the east will be separated by the existing 50' wide canal and landscaping. The narrow rectangular shape of the site reduces the number of reasonable site planning solutions to that which is proposed.*

Staff Comment:

The proposal provides benefits not otherwise available had this property been developed for community facility use. Prior proposals included a school with the primary driveway along the west side of the property adjacent to Lago Plantation.

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

Applicant Response:

*For sale housing at the anticipated values will clearly exceed that of a church. Employment will be increased during the time of site development and construction.*

Staff Comment:

Residential use would add to the tax base of the City.

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

Applicant Response:

*Once again the unusual shape of the site limits the use as a community facility. Be they public or private the larger question is compatibility with the neighborhood.*

Staff Comment:

The property could be developed as Community Facility. However, the size and narrow width of the site would limit buffering options for more intensive community facilities. The property could potentially be developed for small lot single family or zero lot line homes. The form of development is associated with limited open space and reduced (15'- 25') perimeter setbacks.

9) The future land use and zoning needs of the community; and,

Applicant Response:

*Demand for housing has gone through a very difficult time in the recent past. With virtually no new housing for 6-7 years, the existing stock is nearly absorbed and demand has returned, particularly for market priced product.*

Staff Comment:

There appears to be a demand for quality townhouse product in western Plantation.

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

Applicant Response:

*The location of a specific land use is largely governed by two factors, existing surrounding development and concurrency levels of service. Adequate roads, schools, drainage, parks, utilities and public services are available to this property. As stated above each of these has been considered in the final design layout proposed.*

Staff Comment:

See Traffic and Utility comments later in this report.

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

Applicant Response:

Staff Comment:

Engineering and Utilities have not indicated this is an issue.

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

Applicant Response:

Staff Comment:

See Utility comments.

**Exhibit B**

**Utilizing flexibility**

**Code of Ordinance Section 19-67**

The City has only a limited amount of flexibility available pursuant to its comprehensive plan; the Broward County Comprehensive Plan, and the Broward County Planning Council Administrative Rules document. In a substantially developed city such as Plantation, once flexibility is consumed, it is no longer available and generally cannot be replaced. The advantage to utilizing flexibility is to encourage development in the City deems desirable in terms of increasing employment, raising the tax base, arresting blight, or providing other benefits. The chief advantage to utilizing flexibility is that it shortens the time otherwise needed for regulatory review and approvals needed to obtain building permits. If a project meets the limitations of subsection (b) above to qualify for flexibility, the following are the factors that the City will consider in deciding whether to allocate or utilize its flexibility:

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

Applicant Response:

*A portion of the subject property contains a church that has been open for many years. The church, for economic reasons, has chosen to move elsewhere and sell the property. A number of non residential uses were considered. Although the property is presently zoned CF (community facilities), the allowed uses are not compatible with adjacent residential development. A residential use will continue to development pattern along both sides of the west portion of Broward Boulevard. Land values are such that an increase in density is necessary to achieve a reasonable use of the property as residential. The very peculiar shape does not lend itself to single family homes.*

Staff Comment:

The townhouse application provides an alternative to current CF Zoning. CF zoning allows (subject to special exception approval) governmental administration or maintenance facilities, house of worship, police and fire protection facilities, public utilities, and schools (public/charter or private). The property could potentially be developed for small lot single family or zero lot line homes. The form of development is associated with limited open space and reduced (15' - 25') perimeter setbacks.

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

Applicant Response:

*The present non residential use did not, nor was it required to address design related matters such as open space, recreation, buffering, or vehicular and pedestrian access and circulation. The proposed plan creates a user friendly design with a pedestrian way linking Broward Boulevard to the pathway along the New River Canal. In addition an excess of guest parking is distributed throughout the community. On site amenities include a cabana and swimming pool with mail kiosk. Buffering to the west will include the existing masonry wall augmented with additional trees and shrubs. The residents to the east will be separated by the existing 50' wide canal and landscaping. The narrow rectangular shape of the site reduces the number of reasonable site planning solutions to that which is proposed.*

Staff Comment:

The townhouse application provides an alternative to current CF Zoning potentially allowing for increased open space, greater perimeter landscaping, and less parking. Community Facility uses (governmental administration or maintenance facilities, house of worship, police and fire protection facilities, public utilities, and schools) require parking fields and less open space. The property could potentially be developed for small lot single family or zero lot line homes. The form of development is associated with limited open space and reduced (15' - 25') perimeter setbacks.

- c. The extent to which the project contributes to the tax base, adds employment of other positive impacts;

Applicant Response:

*For sale housing at the anticipated values will clearly exceed that of a church. Employment will be increased during the time of site development and construction.*

Staff Comment:

Residential use would add to the tax base of the City.

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

Applicant Response:

*As the site plan has been submitted, the proposed 62 fee simple townhomes will not adversely impact public facilities and services in the area. Both traffic and utility studies have been undertaken by the applicant to ensure this. A school concurrency determination will also be obtained.*

Staff Comment:

No odors, fumes, or significant noise is associated with residential development. See Police and Traffic comments earlier in this report.

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

Applicant Response:

*It has been stated before that non residential uses on a site of this size and shape would find it difficult to provide adequate buffering, traffic and pedestrian circulation. It simply limits the use as a community facility. Be they public or private the larger question is compatibility with the neighborhood. The charter school that was previously proposed met with neighborhood resistance.*

Staff Comment:

The property could be developed as Community Facility. However, the size and narrow width of the site would limit buffering options for more intensive community facilities. The property could potentially be developed for single-family homes, albeit on much smaller lots than adjacent property due to the narrow width of the property.

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

Applicant Response:

*Adjacent property to the north and west are zoned PRD as well. For sale residential development exists on three sides of the site, with a canal and limited access roadway on the south side. The proposed residential redevelopment will be far more compatible than non residential uses.*

Staff Comment:

Townhouses are generally compatible with single family if proper buffers or landscaping is provided. Applicant has been encouraged to work with the adjacent residents.

- g. Specific goals, objectives or policies of the city comprehensive plan that are consistent or inconsistent with the development proposed;

Applicant Response:

*Goals, objectives and policies dealing with compatibility, buffering, open space, concurrency and community need have all been considered.*

Staff Comment:

The applicant needs to list the specific goals, objectives and policies supportive of this development proposal.

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

Applicant Response:

*The site plan proposed will use a portion of the flex units available in the City. The 31 units requested bring the gross density to just below six units/acre. Other residential development plans could be considered but it is doubtful that they would address neighborhood compatibility as well as this plan.*

Staff Comment:

The proposal appears to address these criteria.

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

Applicant Response:

*Health, safety and welfare are addressed by concurrency and City design standards. Building heights, buffers, open space, architecture, amenities and pedestrian/vehicular circulation have all been considered in the proposed site development plan.*

Staff Comment:

The use of flexibility provides an alternative to potentially more intensive Community Facility Use.

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

Applicant Response:

*Demand for housing has gone through a very difficult time in the recent past. With virtually no new housing for 6-7 years, the existing stock is nearly absorbed and demand has returned, particularly for market priced product.*

Staff Comment:

There appears to be a demand for quality townhouse product in western Plantation. Such other policy considerations that may not be set forth above but, which are nonetheless considered by the City governing body to be reasonable and appropriate under the circumstances.

Applicant Response:

*The location of a specific land use is largely governed by two factors, existing surrounding development and concurrency levels of service. Adequate roads, schools, drainage, parks, utilities and public services are available to this property. As stated above each of these has been considered in the final design layout proposed.*

Staff Comment:

The proposal appears to address these criteria.

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Mayor Bendekovic disclosed that she probably spoke with everyone who is going to speak because of some of the circumstances. If she has the opportunity to vote that will not influence her decision.

Mr. Leeds explained that this project is the same company that built the Riverwalk; it is quality townhouse units. We have no objection to any of the Planning and Zoning waivers; however, we have one concern. The parking waiver mentions reducing garage widths to 17.3'. These are really one and half car garages and for purposes of counting required parking we only counted them for one space. The 17.3' is too tight for a two-car garage. Half of the units are three-bedroom and have a one-space garage; 32 units are four-bedroom and they have a two-space garage. The City Council issued a Code change some time ago to create requirements for garages. It was not applicable to their first project.

Councilmember Stoner commented that there were some adjustments to the one on the northwest corner.

Mr. Leeds stated that those two projects preceded the Code. Now the Code is adopted. The only thing they would suggest is that the garage depth is 20 feet, which is the standard depth for a parking space. If it is increased from 19.3' to 20 feet that means their 22-foot long parking space, which is outside the garage, is reduced to 21'3". The only reason for a 22-foot deep garage is that it will increase the percentage of vehicles, particularly trucks that will fit inside of the garage. There is more than enough parking but we cannot support less than a 20-foot depth in a garage.

Councilmember Stoner noted that we need to keep the 22-foot width.

Mr. Leeds indicated that he is not as concerned about the width. When this ordinance change was adopted he expressed that 22 feet may be a little more than we need.

Councilmember Stoner stated that 22 feet is a standard garage. You cannot get two cars in a 17-foot wide garage.

Mr. Leeds advised that those garages were not counted for purposes of the parking code; this project is substantially more than the minimum requirement and that is based on counting the 17'3" garages as one-car garages. They cannot be used for two cars. They used to be called the one and a half garage where you could park your car and the rest of the area would be for storage. We do not expect people to try to park two cars in these 17 feet wide garages.

Councilmember Jacobs commented that you do not need to park two cars because there is plenty of parking.

Mr. Leeds stated that there are two driveway spaces for the three-bedroom units plus the one-car garage so there are three spaces for the three-bedroom. It is believed that is sufficient based on the amount of guest parking provided. The four-bedroom units have four parking spaces; however, they would like the interior parking spaces, which are the garages, to meet the minimum 20 feet. That is his only issue with this project.

Jonathan Keith, representative of the Cove of Lago Mar and Centerline Homes Investments, Inc., was present.

Mr. Keith indicated that the Riverwalk at Lago Mar was done about two years ago. They think that project is a jewel in that area of the City and they plan to do the same thing with this project.

In response to Councilmember Stoner, Mr. Keith stated that it sold out in probably six to eight months. They anticipate the same with this project. With regard to the garage depths, they have no objection to increasing the garage depths. They have read all of the staff comments and agree.

***Motion by Councilmember Levy, seconded by Councilmember Jacobs, to approve the request for rezoning, flex assignment, conditional use, site plan, elevation and landscape plan for the COVE AT LAGO MAR, based on the waivers presented as well as the flex units with the only caveat that the depth of the garages be 20 feet instead of 17 ½ feet. Motion carried on the following roll call vote:***

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

In response to Mr. Lunny, Councilmember Jacobs clarified that they were granting the waiver on the width and not on the depth.

In response to Councilmember Stoner, Mr. Keith stated that the total construction costs are \$3 million to \$4 million. As far as the anticipated sales prices, they anticipate them in the mid \$300,000's. The total cost of the project is \$20 million.

***Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Item No. 15 as presented. Motion carried on the following roll call vote:***

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

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

\* \* \* \* \*

**QUASI-JUDICIAL ITEMS**

Mr. Lunny read Item No. 17.

17. REQUEST FOR EXTENSION OF SITE PLAN, ELEVATION AND LANDCAPE PLAN APPROVAL FOR AMICUS JUST FOR KIDS LOCATED ON THE EAST SIDE OF STATE ROAD 7 JUST SOUTH OF NW 5<sup>TH</sup> STREET FOR ONE (1) ADDITIONAL YEAR.

A Memorandum dated April 9, 2014, to Mayor and City Council, from Gayle Easterling, AICP, follows:

**REQUEST:** Site plan approval extension for one (1) additional year.

**BACKGROUND:**

The subject site is located on the east side of State Road 7 just south of NW 5<sup>th</sup> Street, 0.62 acres in area, zoned SPI-2 (Auto Mall), and currently vacant. The site is bound by office uses to the north and south, residential uses in the City of Fort Lauderdale to the east, and commercial uses to the west.

City Council approved a site plan, elevation, and landscape plan on July 11, 2013, to allow construction of a 3,600-square-foot medical office with a contemporary design of stucco finishes and aluminum details. Twenty-five (25) parking spaces were to be provided with 20 parking spaces required after utilizing the 15% parking reduction allowed in accordance with Section 27-613A(2).

Section 27-6(b) of the code indicates site plan approval has an initial period of validity of one year from the date of the decision. It also allows the City Council the ability to grant an additional six-month extension for good cause. The applicant is requesting a site plan approval extension for one (1) additional year. If the one-year extension is granted, the applicant will have until July 11, 2015 to apply for a building permit.

**STAFF COMMENTS:**

**Planning and Zoning Department:**

1. If the City Council chooses to approve the extension, staff recommends all prior site plan approval conditions remain in effect and applicable to the extended site plan approval.

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Mr. Leeds explained that this is a site plan that was approved on State Road 7. It was Phase II, which is the Amicus Medical Office Building that is caddy corner from the entrance to Plantation General Hospital. This is the property directly to the south and it was called Amicus for Kids. It was sort of an interesting modern design. They have requested a one-year extension; they are not ready to build at this time.

Councilmember Jacobs questioned what the ordinance allows.

Mr. Leeds advised that the ordinance allows for a one-year extension and possibly a second one-year. This is the first one-year extension.

***Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve subject to Mr. Leeds' comment that staff recommends all prior site plan approval; conditions remain in effect and are applicable to the extended site plan approval. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner

Nays: None

Councilmember Stoner questioned if anything has changed in that year since approval that would affect their project.

Mr. Leeds commented that in terms of zoning code changes he does not believe so. Nothing has changed in terms of parking or landscaping and nothing has changed in terms of the uses or setbacks. He is all right with this.

\* \* \* \* \*

## **COUNCILMEMBERS' COMMENTS**

Councilmember Jacobs wished everyone a Joyous Passover and a Happy Easter.

\* \* \* \* \*

Councilmember Fadgen mentioned an article in the Miami Herald concerning the City of Coral Gables having a plan of putting about 250,000 orchids in the canopy. They are partnering with Fairchild Gardens. It is an interesting concept. A lot of residents like orchids and it seems to him that might be a project that the City of Plantation should try to seek a partner for. Orchids pretty much take care of themselves.

\* \* \* \* \*

Councilmember Fadgen wished everyone a Happy Passover and a Happy Easter.

\* \* \* \* \*

Councilmember Zimmerman announced that his appointment to the Landscape Planning and Review Board, Pamela Krauss, just received the Albert Einstein Distinguished Educator Scholarship Program Award. She is off to Washington for a year for a paid Fellowship. He offered congratulations to Ms. Krauss. She is one of 14 nationwide. His new appointee to the Board is Pablo Massari.

\* \* \* \* \*

Councilmember Levy mentioned an announcement on the news this morning that mentioned certain e cigarette manufacturers are now going to have various citrus flavors. That coupled with nicotine shows who they are marketing to. He noted that the Miami Herald also had a column on the issue today. The sale of these cigarettes has doubled in the last year to teenagers and younger kids. It says, "E cigs pose new addiction threat to kids". A couple of months ago the Mayor brought this up. We had some discussion and decided to wait until we saw what happened with the State and the County. At State level an amendment was placed by the e cigarette lobby that said they would not be banned for sale to minors, they just would not be visible at the store point; they would be behind the counter. That is a rider attached to the law that is going through on a State level. If that is not changed all they are going to do is make it more palatable to kids and it does not ban the sale to minors. He stated that Miami, Weston and Sunrise passed ordinances banning the sale to minors. Miami Dade County passed an ordinance banning them in government buildings, which is interesting. He noted that the Miami Herald poll showed overwhelming support; 87% for banning the sale of e cigarettes to minors. Whether we want to get involved or wait until it massages through the State is one thing but if we want to get involved we may then be grandfathered in if a watered down Bill comes from the State where it says all we have to do is hide them from minors.

Mayor Bendekovic advised that she would a letter of opposition to the amendment but we support the original legislation. That can go out tomorrow.

Councilmember Levy commented that Representative Frank Artiles (sic) calls the amendment a compromise and says he has not been swayed by it.

Councilmember Fadgen stated that there was some discussion that the Bill was also going to preempt any local regulation of that.

Councilmember Levy noted that sometimes that does follow up and it will negate anything we have done. There are two ways of looking at it; should we do something and hopefully it will stay on the books or do nothing and wait and see? He would like to ban the sale to minors.

Councilmember Jacobs would rather not spend the money to write an ordinance that may get superseded by the Legislature. It is not very long before the Legislature is done and we will know. We will have to watch what Broward County does.

Mayor Bendekovic commented that we will just oppose that amendment.

\* \* \* \* \*

Mayor Bendekovic requested that if anyone is planning to attend the Mayor's 33<sup>rd</sup> Interfaith Breakfast they should contact Susan DiLaura.

\* \* \* \* \*

Mayor Bendekovic wished everyone a happy and safe holiday.

\* \* \* \* \*

**PUBLIC REQUESTS OF THE COUNCL CONCERNING MUNICIPAL AFFAIRS**

Eric Sonoban (sic), resident, was present. He inquired how the trash system can either be revised or changed. He is concerned with rodents throughout his part of the neighborhood. He has read several things online regarding the regulation of trash and cans not being on the street all day. At the same time he is concerned leaving mounds of trash on the side of his house; if he puts them in a garbage can he cannot roll it out to the street. The size of the bags we currently have are not conducive to putting it in a garbage container inside of your house; it does not fit in a normal garbage can. He does not understand why trash cans are completely out reason since Plantation Acres have them. In his opinion, we are behind the times of every other City in Broward County and almost everywhere else in the country. With regard to recycling, he does not see anyone on his block recycle. It is a nuisance for the residents to have to pile up trash on the side of their house when it cannot be kept anywhere. The trash is attracting possums and other rodents and his dog has even been attacked by the possums. He questioned whether he should circulate a petition from neighbors.

Mayor Bendekovic advised that she spoke with Mr. Sonoban and explained the whole process. She even provided all of the information on the survey. She stated that she would give him all of the information on the Waste Management survey, which is done yearly. It is completely up to the Council if they would like to change the way we do this.

Councilmember Jacobs questioned if he understands the rational behind the blue bags.

Mr. Sonoban replied yes; you pay for your trash.

Councilmember Jacobs stated that you pay on usage as opposed to paying a flat rate, which would most likely be higher.

Mr. Sonoban indicated that most likely is an opinion.

Councilmember Jacobs mentioned piling up trash bags and questioned if his trash is picked up twice a week.

Mr. Sonoban replied yes. The problem is within a day or overnight rodents chew a hole in the bag and then he has to clean it up or it rains and the bag is completely drenched.

Councilmember Jacobs commented that he keeps his bag in the garage and he has an insert that fits inside the bag so it does not have to sit in a can and he throws trash, which is usually bags, in it the night before and rarely has he had a problem.

Mr. Sonoban stated that he has done that and prefers that his garage not smell like trash.

Councilmember Levy questioned what if Plantation created a smaller bag that fit into a normal large trash can.

Mr. Sonoban thought that would be great. The current system is not great for the environment.

Mayor Bendekovic advised that plastic is recyclable and it goes for energy. It goes through the incinerator and becomes energy; it does not go to the landfill. She stated that on April 23, 2014 we are going to have a demonstration of different bags because we have heard that people are tired of duct taping and masking tape. We are bringing bags that are drawstring and are a different thickness. Prices will be provided. The bags will be filled.

Councilmember Stoner commented that when she had a family she had a trash compactor.

Mayor Bendekovic stated that as long as the survey indicates that the majority of the people in the City of Plantation want to retain the blue bags she is going by the survey.

Mr. Sonoban questioned how many petitioners would be needed to have something done about this.

Councilmember Levy requested that Mr. Sonoban ask the company during the presentation on April 23, 2014 if they can come up with a solution that allows it to be more convenient with a bag that will fit into a standardized container because it seems that people are requesting that. If it could be an alternative the charge would be less because it is not as big and people might like to have that.

Mr. Sonoban questioned why the rest of Plantation is segregated from the Acres.

Councilmember Levy stated that they pay extra money for that service.

Mayor Bendekovic advised that when the Acres came on they were agriculture and they needed it for their livestock because they had so much from having horses. That was a horse community at one time and they needed the larger bins. They not only had one bin, they had two and three bins due to all of the issues they had

with livestock out there. If you would like to spend \$82 like she does even though she never fills up a bin feel free to do so.

Mr. Sonoban questioned if it would be reduced if all of Plantation had trash bins. His research shows that it is about \$35. From what he understands the City put a \$7.50 tax because people were throwing trash in dumpsters, which should be included in what he pays for the bags.

Councilmember Fadgen questioned if he recycles.

Mr. Sonoban stated that he does not recycle because he would have less blue bag usage. He does not have anywhere to keep it. He drinks all plastic water bottles and has no where to keep all of the recycling. If he had a big blue garbage can on the side of his house specifically for recycling he would probably recycle 100 times more than he does because he does not recycle at all and no one on his block does.

Councilmember Fadgen commented that recycling would be part of the solution. Another trick is if you put a cap full of ammonia or chlorine in the garbage bag the rodents will stay away.

Mr. Sonoban indicated that he would try that. Regardless of a survey done by the garbage company, he does not know that it necessarily reflects the whole community. He has been here for two years and he has never had anything asking how he feels about the garbage.

Mayor Bendekovic advised that they do not send it to everybody; they do a random sampling of the entire community. She appreciates his efforts but this issue has been recycled over and over. There would be more anarchy in this City if the blue bags were taken away than keeping them.

Mr. Sonoban questioned how a compromise comes. He questioned why garbage cans can't be put out with the blue bags.

Mayor Bendekovic stated that there is not one.

Councilmember Jacobs commented that it is a different model. He noted that there is not going to be a change tonight.

Mr. Sonoban mentioned that no alternative is being given other than that is the way it is.

Mayor Bendekovic emphasized that as far as she is concerned, the answer is no; it is not going to be changed.

Councilmember Jacobs concurred.

Mayor Bendekovic reiterated that the bags will be brought back on April 23, 2014 but as far as changing these bags, it is not going to be done. If the Council directs her to do it and has Waste Management change the entire thing then we can fill this room up and you will find out what the percentage is.

Mr. Sonoban advised that he will be back until he gets an actual answer. He commented that the Mayor may be the Mayor but she does not speak for every citizen of this community; that is not right.

Councilmember Jacobs stated that it is called a democracy; we represent everyone. A true democracy would be that we have to get everyone in here and vote. We have a republican form of government, not a true democracy.

Mr. Sonoban commented that if he brings in petitions you are not going to listen.

Councilmember Stoner indicated that the Mayor said no. She thinks we are off course. There is a little frustration on everyone's part. When she campaigned the biggest topic was garbage collection; however, half of the City loved the bags and half loved the cans. There has always been a mix and there is always going to be a mix of collection but there is always going to be a mix of opinions. There has never been one that is overwhelmingly more than the other so there is really no change in sight.

\* \* \* \* \*

Dennis Conklin, resident, was present. He mentioned previous discussion to night regarding the appointment and selection for the Pension Boards. He hopes that when that selection comes around that you consider changing from the Defined Benefit Plan to the Defined Contribution Plan.

Mr. Conklin commented that you basically come to a point where you cannot make up what you have lost because you cannot make up the compounding of what has been lost. The problem is not going to be solved; you need to be more aggressive.

\* \* \* \* \*

Mr. Conklin mentioned that the Florida Senate passed out of its Committee and the Florida House passed out of its Committee to put to the floor a vote to have the Conference of the States for recommending amendments to the Constitution; that is the Article 5 Amendment.

\* \* \* \* \*

Mr. Conklin stated that they are trying to pass casino gambling for the third or fourth time.

Councilmember Levy advised that the only gambling Bill left on the table in Tallahassee has to do with separating racing and live racing from the casinos. Any other expansion of gambling is off the table now.

\* \* \* \* \*

Mr. Conklin mentioned he medical marijuana and e cigarettes. What is becoming a reality in the States that are making actions to approve medical marijuana is that the marijuana industry has moved into those States and has said they can do this many jobs for you. They are also talking about using flavors. He encouraged everyone to have their neighbors vote down the medical marijuana.

Councilmember Levy advised that there are many doctors who prescribe this for children with specific problems.

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**SEALED COMPETITIVE SOLICITATIONS – None.**

\* \* \* \* \*

**WORKSHOP – None.**

\* \* \* \* \*

Meeting adjourned at 10:57 p.m.

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\_\_\_\_\_  
Councilmember Lynn Stoner, 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