

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

April 23, 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 Lunny, Jr.

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2. The invocation was offered by Councilmember Zimmerman.

The Pledge of Allegiance followed.

3. Approval of minutes of meeting held October 9, 2013.
4. Approval of minutes of meeting held October 23, 2013.
5. Approval of minutes of meeting held November 13, 2013.
6. Approval of minutes of meeting held November 20, 2013.
7. Approval of minutes of meeting held December 1, 2013.
8. Approval of minutes of meeting held December 18, 2013.

Minutes for the meetings held October 9, 2013, October 23, 2013, November 13, 2013, November 20, 2013, December 1, 2013 and December 18, 2013 were approved.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic introduced Lauren McAloon (sic). The business to be highlighted is TD Bank.

Ms. McAloon introduced TD Bank located at State Road 7 and Broward Boulevard. The store manager is Lance Lacurdo (sic) and Carlos Medina, who is their small business banker.

Mr. Lacurdo explained that they help out with personal accounts, business accounts, personal and business lending and at a certain point they bring in their business lender for small business lending, which is Mr. Medina.

Councilmember Stoner questioned if the small business lending includes SBA.

Mr. Medina replied that it does include SBA; they are doing both conventional and SBA financing. They are lending and looking to grow with the businesses in Plantation.

Councilmember Stoner mentioned another location coming in at Sunrise Boulevard almost to Flamingo Road.

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Mayor Bendekovic presented Firefighter's Service Awards to the following Employees:

Deputy Chief Blake Estes	30 years
Battalion Chief Antonio Martins	25 years
*Firefighter Frank Alvaro	20 years
Firefighter Mike Roth	20 years
Firefighter Cary Blanchard	15 years
Captain Steve Blanchard	15 years
Firefighter Herbert Northwalton	15 years
*Firefighter Brian Glaros	10 years
Lieutenant Mark Johnson	10 years
Firefighter Frank Luengo	10 years
Lieutenant Chris Terwilliger	10 years
Firefighter Tony Woolley	10 years
Firefighter Freddy Gamboa	5 years
Firefighter Marie Laman	5 years
*Firefighter Zackary Link	5 years
Firefighter Kingman Mais	5 years
Firefighter David Wittingham	5 years

Mayor Bendekovic presented Service Awards to the following Employees:

*Casey Mittauer	Police	15 years
*Johnathan Adams	Utilities	10 years
Edward Alarcon-Maclain	Building	10 years
Juan Figueroa	Engineering	10 years

*Unable to attend.

Congratulations were offered.

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Sharon Kent, Assistant Director of Parks and Recreation, made the following announcements:

- Plantation Summer Camp registration forms are still available at Plantation Central Park, Volunteer Park and at the Jim Ward Community Center. The lottery begins on Monday, April 28, 2014 and includes all mail received by April 26, 2014. Other camps available are the Jim Ward Community Center; Tennis Camp at Frank Veltri Tennis Center; Share A Pony at the Equestrian Center; Camp Elite at Volunteer Park and the Golf Academy at the Plantation Preserve.
- Tinsel Town Cabaret is May 2, 2014 at Volunteer Park at 7:30 p.m.
- The Mother's Day Buffet will be on Sunday, May 11, 2014 at the Plantation Preserve between 10:00 a.m. to 2:30 p.m. Reservations are suggested.

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Mayor Bendekovic made the following announcements:

- The Plantation Garden Club Traditional High Tea is Saturday, April 26, 2014 at Deicke Auditorium between 2:00 p.m. and 5:00 p.m.
- The Plantation Police Department Prescription Drug Take Back is on Saturday, April 26, 2014 at the Plantation Police Department between 10:00 a.m. and 2:00 p.m.
- The Mayor's 33rd Interfaith Prayer Breakfast is Thursday, May 1, 2014 at the Renaissance Hotel at 8:00 a.m.
- The Teddy Bear Picnic is Saturday, May 3, 2014 at the Helen B. Hoffman Library between 11:30 a.m. to 12:30 p.m.
- The Plantation Farmer's Market is at Volunteer Park every Saturday between 10:00 a.m. to 2:00 p.m.

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Mayor Bendekovic announced that she was informed this past week that the Government Finance Officers Association presented the City of Plantation with the Distinguished Budget Presentation Award for the current budget. This award is the highest form of recognition in government budgeting and represents a significant achievement by our City and the Finance Department. This was a team effort, not only from the Finance Department but from all of our Departments and Directors. There will be a formal award presentation in the future.

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Councilmember Stoner indicated that Administrative Item No. 23 and Legislative Item No. 26 were pulled from tonight's agenda.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 21.

Item No's. 14 and 16 were pulled from the Consent Agenda to be discussed separately.

Mr. Lunny read the Consent Agenda by title.

9. Permission for TradeStation Group, Inc. located in the Duke Crossroads Building 4 at 8050 SW 10th Street to have quarterly Employee Morale luncheons for their 300 employees.
10. Central Park Elementary School is requesting permission to have a Community Fair and Garage Sale located on their property on Saturday, January 24, 2015 from 5:30 a.m. (set up) to 3:00 p.m.
11. Request to approve a purchase order to Plantation Ford in the amount of \$82,180.77 to purchase two (2) 2015 Ford F-350 Utility Body Trucks and one (1) 2014 Ford Transit Connect Van. (Budgeted – Utilities)
12. Request for authorization to award a contract (RFSP) to RC Development Group in the amount of \$115,362 for removal and closure of underground storage tanks (UST) and installation of above-ground tanks (AST). (Budgeted – Utilities)
13. Request for authorization to participate and purchase liquid sodium hydroxide (caustic 50%) from Allied Universal Corporation, utilizing the SF Co-Operative Bid No. 2014-09, from April 14, 2014 to April 16, 2015, at a cost of \$1.59/gallon (full truck load, min. 3,500 gallons), and \$1.89/gallon (less-than-full truck load). (Budgeted – Utilities)
15. Request for authorization to award a contract (RFSP No. 011-14) to Layne Christensen Company in the amount of \$137,819 for the RWWT Plant-Monitor Well MW-2 Rehabilitation. (Budgeted – Utilities)

Resolution No. 11865

17. **RESOLUTION** of the City of Plantation approving that certain agreement regarding the extension and installation agreement for off-site force main; providing a savings clause; and providing an effective date therefor.

Resolution No. 11866

18. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period April 3, 2014 through April 16, 2014 for the Plantation Gateway Development District.

Resolution No. 11867

19. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period April 3, 2014 through April 16, 2014 for the Plantation Midtown Development District.

Resolution No. 11868

20. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period April 3, 2014 through April 16, 2014.

Resolution No. 11869

21. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period April 3, 2014 through April 16, 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: Levy, Zimmerman, Fadgen, Jacobs, Stoner
Nays: None

Mayor Bendekovic voted on Item No. 21 affirmatively.

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Mr. Lunny read Item No. 14.

14. Request to authorize the commencement of negotiations for Professional Engineering Services in connection with the City's water main restoration projects for Plantation Historical Area and Plantation Gardens Phase 11B. (Budgeted – Utilities)

A memorandum dated April 17, 2014, to Mayor Bendekovic and the Members of City Council, from Chuck Flynn, Director of Utilities, follows:

A Request for Qualifications (RFQ number 009-14) was publically advertised in the Sun-Sentinel February 23 and 24, 2014. The RFQ advised:

“The City of Plantation is requesting of qualifications from firms to provide water utilities engineering, surveying and miscellaneous accompanying services for the design, permitting and construction of the water distribution system and related components that will service the Plantation Historical Area and Plantation Gardens Phase IIB residential neighborhood. These projects will be designed as two separate projects, each having their own set of construction drawings.”

The City received nine sealed submittals which were opened on March 11, 2014 for RFQ009-14 for Professional Engineering Services – Plantation Gardens Phase IIB and Historical Area Water Main Restoration project (please see attachment #1). The “Consultants Competitive Negotiations Act” (CCNA) applies to this procurement. This process requires a qualifications review of submittals, and a Selection and Evaluation Committee recommended ranking no fewer than three top proposers based on qualifications. The Selection Committee is not required to conduct interviews with any of the proposers. The City Council reviews the ranking and determines whether to authorize negotiations. The CCNA does not allow the City to consider compensation proposals until negotiations with the number one ranked firm for RFQ009-14. Should negotiations fail to arrive at a fair, competitive and reasonable fee, negotiations with that firm will be terminated and negotiations will begin with the number two ranked firm and, if necessary, to the number three ranked firm. The proposed contract is then returned to the City Council for review and approval.

On April 23, 2014, the City Council will be asked to authorize negotiations based on the Committee's evaluation of the qualifications submittals. The Mayor appointed Utilities Director Chuck Flynn, Assistant Utilities Director, Steve Urich, and Capital Improvement Administrator, Dan Pollio, to the Selection and

Evaluation Committee. A comprehensive review and evaluation process was conducted by the Selection Committee using established selection qualification criteria. The process resulted in a short list of the three (3) highest rated firms during their meeting held April 1, 2014. The attached information is provided for your review. The Selection following reflects the ranking recommendations of the Selection Committee:

1. Craven Thompson & Associates
2. Winningham & Fradley, Inc.
3. Chen Moore & Associates

Direction is requested to commence negotiations in accordance with the process described above.

Attachment (RFQ09-14)

Funding: 405-Utility System Revenue Note – Series 2013

Mr. Lunny advised that staff pulled this item at the last meeting for the purpose of examining whether the notice of the Selection Committee was proper. He has determined that it was; therefore, it was put back on the agenda for Council consideration.

Councilmember Zimmerman believed that some discussion was needed regarding the selection process and how we, as a City, actually procure professional services. It seems that departments are doing different things. He is concerned that we did not allow any interviews with the top three firms; that is the way it is done normally in most cities and most agencies that are doing these processes. Sometimes during a personal interview the City learns some things, understands and meets the people that are going to actually be a part of the project. In the Community Center we actually did that; we interviewed those professionals. There is a difference between interviewing someone and looking at the written document. We are doing professional services and he believes that this City as a whole needs a process for that.

Mr. Lunny commented that in terms of the legal piece, our documents should say that there is no right to an interview. Whatever discipline or whatever team is doing the evaluation has the discretion to allow interviews or not and the Administration in the past has allowed discretion for those departments to decide whether to do that in any case and sometimes they decide it and sometimes they decide not to do it. He understands and personally agrees with doing interviews but he is not the one that makes that call.

Councilmember Stoner questioned how we formalize changing the process.

Mr. Lunny indicated that some years ago we looked at our Code Enforcement process, had many workshops on it and developed a score sheet for reducing fines. If the Council wants to have a session where this is what we say this is what we do and there can be a discussion as to whether that is acceptable and is something that can be scheduled then they will try to accommodate that.

Mayor Bendekovic stated that there will always be modifications. We could also modify notices too.

Councilmember Stoner appreciates that you took into consideration some of the concerns; one of the things being the notice. Posting a note in a glass box on the outside of this building is archaic in this time of IT and technology. She questioned since when are we not proactive in this City. In her opinion, that piece of paper out there is unacceptable.

Mr. Lunny advised that Administration heard that and he has been requested to write a policy, which he has, where we will provide a minimum of five business days notice to the proposers of the Selection Committee date and the Clerk will post the item as is our custom but she will post it with the three-day rule instead of the 24-hour rule.

In response to Councilmember Jacobs, Councilmember Stoner stated that she has spoken with the City Clerk.

Ms. Slattery indicated that we are in the process of posting them on the website.

Councilmember Fadgen believes that Councilmember Zimmerman makes a very good observation. He thinks we should have a uniform policy. If the interviews are not going to be held then a waiver should be requested; otherwise, we should allow for the interviews.

Councilmember Fadgen commented that the Selection Committee would be interviewing.

Councilmember Stoner indicated that the Mayor will bring them back and they will be discussed at that time in more detail.

Motion by Councilmember Levy, seconded by Councilmember Jacobs, to approve staff recommendations; that we continue with the process listing the three companies and negotiate with Craven Thompson & Associates first and if that does not work out, Winningham and Fradley and if that does not work, Chin Moore and Associates. Motion carried on the following roll call vote:

Ayes: Levy, Zimmerman, Fadgen, Jacobs, Stoner

Nays: None

Councilmember Zimmerman questioned if this comes back to us after the negotiations are done and you come back with a recommendation for approval after successfully negotiating with one of the three firms that we get the final contract as part of that. During the Community Center we got a single letter proposal, we did not get a contract that was completed and signed by the consultant. Once we are done with the process and it is approved it can go to the Mayor and be signed and executed. That way we know what is in the contract, we know what the fees are and we have a full view of the package.

Mr. Lunny stated that is now going to be required for the CCNA purchases; the last one was the last one.

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Mr. Lunny read Amended Item No. 16.

Ordinance No. 2501

16. **ORDINANCE** Second and Final Reading 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 appointment privilege to members 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 providing 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:

I. 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 in 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 Officers' 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 Board of 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 of 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 suitable 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. 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.

Mr. Lunny indicated that the amended one on line #48 he took out the words "General Employees" because last time you wanted to delete General Employees and have the Mayor only appoint legal residents. Since all of you are legal residents is why you see Elected Officials.

Councilmember Fadgen would like to add after that sentence in line #48 that the Elected Officials would have the first right of refusal before other residents of the City were appointed.

Councilmember Stoner was under the impression that the point of this was either one or none.

Mr. Lunny advised that it is not written that way. Some of you have expressed a desire not to serve. In the past when some of you have expressed a desire and it was not unanimous it seemed to staff like everyone just served. The last time that happened all of you said that you might not be interested in doing this once our terms are up so that it why he had this on his list for trying to get this fixed. A few weeks ago the Mayor asked when this would be done and moved it up. It is not a legal requirement that if some of you wish to serve you can't; this is the only change that is made so that if none of you want to be on the General Employees then we have the ability to fill those seats. Unlike the other two Boards where the Council has the appointment privilege, for years this has been the Mayor's appointment privilege.

In response to Councilmember Stoner, Mr. Lunny stated that it is new because the Mayor's appointment is not limited. She could decide which two of the five she wanted to serve.

Councilmember Fadgen commented that the Elected Officials would have the right to refuse the appointment and if all five refuse the appointment then the Mayor would have the right to appoint another resident of the City. He would like the Elected Officials to have the first right of refusal to serve.

Mr. Lunny indicated that is legally possible.

Mayor Bendekovic stated that she would like for the individuals who are currently serving on the General Employees Pension Board that are the Elected Officials to provide her with some due notice a couple months ahead of when their notice comes up because we will have to post for applicants to serve on the General Employees Pension Board. If any of you have any recommendations for qualifications she would appreciate you giving them to Susan Slattery or Susan DiLaura. She thinks it should be posted and there should be some type of qualifications for candidates for those Boards.

Councilmember Fadgen recommended that the sentence be added.

Councilmember Fadgen noted that it would be much like she does now. There may be less of an interest based on the fact that some do not want to serve as Trustees.

Councilmember Jacobs commented that the ordinance would read that the Mayor should first poll the Council members to see if anyone wishes to serve.

Mr. Lunny indicated that he can write it; however, in the past, past Mayors have had issues with past members of the Council. He questioned if you want to have a position where you have a Mayor who is not getting along with one of the members of the Council and now you are going to force the Mayor to appoint that Councilmember. That might not be good for the organization but if that is what you wish he will write it if you vote that way.

Councilmember Fadgen advised that the Mayor has a duty to make appointments. He just wants to know that the Council members have first right of refusal to take the appointment. If there is opposition she can pick the other person.

Mayor Bendekovic stated that if someone does not want to serve and someone else would prefer to serve on a certain Board just let her know and she will appoint that individual. If two people want the position she questioned what she would do.

Councilmember Fadgen noted that it is her choice.

Mr. Lunny clarified that in making such appointment the Mayor shall accord preferential consideration to members of the Council who may wish to serve and not write it so strongly that it is a right of the member.

Councilmember Fadgen mentioned the word preferential and noted that he likes first right of refusal better. The Mayor can select from whoever on the Council wants to serve. If only one wants to serve she goes to the public to get a resident. He thinks first right of refusal by one of the Council members would be a better choice of language.

Mr. Lunny advised that it is stronger. The way he wrote it would be an aspirational standard; not a legal requirement.

Councilmember Jacobs suggested saying first preference.

Councilmember Fadgen commented that the word right might be too strong but it is clear.

Councilmember Jacobs, Councilmember Zimmerman and Councilman Levy preferred preferential.

***Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Ordinance No. 2501.
Motion carried on the following roll call vote:***

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

In response to Councilmember Zimmerman, Mr. Lunny indicated that the sentence will be inserted after the word "City" on line #48.

Councilmember Zimmerman questioned if Mr. Lunny would look at the next sentence, "If an Elected Official or General Employee is appointed by the Mayor ...".

Mr. Lunny commented that his does not say that.

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 22.

Resolution No. 11870

22. **RESOLUTION OF THE CITY OF PLANTATION, FLORIDA, AUTHORIZING AN AMENDMENT TO THE ESTIMATED EXPENDITURES AND REVENUES FOR FISCAL YEAR 2014; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

A memorandum dated April 16, 2014, to Mayor Bendekovic and Members of the Council, from Kristi Caravella, Financial Services Director, follows:

This resolution approves the budget amendments and the amended budget for FY2014 that are included in the corresponding attachments.

The resolution amends the budgets of the General Fund, CRA Designated Capital Improvements Funds, State Forfeitures Fund, Federal Forfeitures Fund, Impact Fees Fund, Designated Capital Improvements and Reserves Fund, Utilities Fund, Utility Sinking Fund, Series 2013 Utility System Revenue Note Construction Fund and Stormwater Fund.

GENERAL FUND

The resolution increases the General Fund by \$620,550. State Statute requires impact fees to be recorded in a separate fund so the estimated revenues budgeted for these fees were moved to a new fund. The revenue was predominately replaced from fund balance. The budget increase is largely due to the addition of funds from appropriated fund balances that were assigned for particular projects like the Pine Island lighting project. In addition, minor adjustments were made to reflect expenditures within departments.

SPECIAL REVENUE FUNDS

The resolution increases the State Forfeitures Fund by \$10,000 to reflect amounts collected in State forfeitures and the corresponding expenses. In addition, the resolution increases the Federal Forfeitures Fund by \$59,000 to reflect amounts collected in Federal Forfeitures and the corresponding expenditures.

CAPITAL PROJECTS FUNDS

The resolution increases the CRA Designated Capital Improvements Fund by \$206,500. The budget increase is due to additional monies needed to complete the SR 7 Underground Utility project.

The resolution increases the Designated Capital Improvements and Reserves Fund by \$5,000. This increase mainly is due to monies received for grants related to the Deicke Auditorium Project that was completed in FY2013. In addition, adjustments were made to reflect expenditures within the fund.

The resolution increases the Series 2013 Utility System Revenue Note Construction Fund by \$30,104,570 due to the receipt of monies from the Series 2013 Utility System Revenue Note. In addition, adjustments to expenses were made to reflect the capital projects approved as part of the Series 2013 Utility System Revenue Note.

ENTERPRISE FUNDS

The resolution increases the Utilities Fund by \$2,170,317 to reflect expenditures related to lift station maintenance and principal and interest expenses related to the 2013 Series Utility System Revenue Note. Fund balance was used to cover these expenses.

The resolution increases the Stormwater Fund \$50,258 to reflect the gross revenues received from the assessment. In addition, minor adjustments were made to reflect expenditures within the fund.

The Impact Fees Fund increase by \$660,000 which is the amount of estimated revenues that were moved from the General Fund for these fees.

DEBT SERVICE FUNDS

The resolution increases the Utility Sinking Fund by \$1,571,084 due to a transfer from the Operating Utilities Fund and fund balance to cover principal and interest expenses for the Series 2013 Utility System Revenue Note.

If you have any questions please feel free to contact me directly at 954-797-2233.

Attachments:

FY2014 Budget Amendment October 1, 2013 – March 31, 2014

Mayor Bendekovic indicated that these amendments should have been done for a long time.

Dr. Caravella mentioned the Bi-annual Budget Amendment and noted that she is going to amend several funds. The General Fund, as required by Statute, would be done twice a year and then you would see the year end adjustment. There are three Budget Amendments a year and they are also posted on our website as required by Statute. The General Fund piece of the Amendment is moving the Impact Fee revenues. Again, State Statute requires a separate fund for Impact Fees; we did not have time to set that up because of getting it done in the last hour of the last fiscal year so the revenues were moved to a separate fund and hopefully we will collect those this year.

Councilmember Stoner questioned if the Impact Fees go into a separate fund, not a separate account, and at what point we can take them out.

Dr. Caravella advised that according to the ordinance, whatever capital improvements are made would be budgeted there and we would add it; it is line items.

Councilmember Stoner commented that you cannot just move the line item over to that particular department's budget.

Dr. Caravella stated that they are all in the General Fund and this needs to be a separate fund; like an Enterprise Fund. Each department has a separate line item in this fund. Special Revenue Funds are the State and Federal Forfeitures so as we receive those we are required not to budget expenditures; we have to budget them after we receive the funds. The capital project funds and the CRA funds are the remaining expenditures for the State Road 7 Underground Utility project; about \$207,000. Designated capital was just a small increase of \$5,000. That was a minor adjustment to the fund basically due to grant money received for Deicke Auditorium after the fiscal year ended. The money for the Series 2013 Utilities System Revenue was \$30 million that we borrowed; that fund was created and then we reflect the revenues there and that is where you will see the expenditures coming as well. The Enterprise Funds; the Utility Fund, is about \$2 million; that was for a lift station and to the principle and interest we are putting in the Reserve. Remember that the loan, after ten years, has the escalated interest rate so we are putting the money away each year so if we want to pay off the loan at the end of the ten years we can do that. This is our first year with the Stormwater Fund so we budgeted the net revenues and are required to budget the gross. The new Impact Fee Fund is increased by the \$660,000 moved from the General Fund and the Debt Service Fund is where the money is going from the regular Utility Fund to the Reserve for the loan.

Councilmember Fadgen noted that the Impact Fees on this presentation is moved down to the appropriated fund balance. The fact that it has to be a separate fund, it is still in the General Fund.

Dr. Caravella advised that it is no longer in the General Fund. If it were in the General Fund we would have to set it aside as an appropriated fund balance and reserve it aside. This actually makes it cleaner. It is in a separate fund, which means any money in that fund has to retain there and it will not be used for anything other than projects related to Impact Fees.

Councilmember Levy commented that every City goes through this during the year; that is why we always say the budget is a tool. Periodically each City has to do this kind of an amendment as reality shows up versus what you thought might happen. In this case he thinks that Plantation has received some funds and grants that we did not anticipate and that is part of the budget amendment process to put them in the proper accounts. At the end we will get a final adjustment to make prior to the audit.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Resolution No. 11870 as presented. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 24.

24. DISCUSSION CONCERNING AMENDING THE ZONING CODE TO ALLOW ASSEMBLY USES, INCLUDING HOUSES OF WORSHIP IN A B-2P DISTRICT.

A Staff Report dated April 23, 2014, to the City Council, from Planning, Zoning, and Economic Development, follows:

SUBJECT: **Legislative Item:** City Council Consideration of Amending the Zoning Code to allow Assembly Uses, including Houses of Worship, in a B-2P District.

APPLICANT: Planning, Zoning and Economic Development Department (PZED) as required by Section 27-32(a) of the Zoning Code.

LOCATION: B-2P Zoning Districts Citywide

An application for a use variance shall not be accepted by the PZED Director unless the governing body of the City promulgates a resolution (or alternatively adopts a motion after vote) by which it determines that it does not wish to enact an amendment to the City's zoning and land development regulations so as to regulate the proposed use in some manner (e.g. to make same prohibited in all zoning districts, or to make same a conditional use, a permitted use, or a contingent use in the zoning district the subject property enjoys). In determining whether to amend the City's zoning and land development regulations to regulate a use in some manner, the matter shall be considered a legislative item.

In this case, PZED has a pending application for a use variance to allow an assembly use (House of Worship) in the Mercedes Theatre, zoned B-2P. Section 27-32(a) requires the Council to determine by motion if it does not wish to regulate the proposed use as a permitted, conditional, conditional use subject to conditions, or a contingent use in B-2P districts.

To be discussed at the City Council.

Mr. Lunny explained that Council members will make an announcement that will impact how we treat this item. Under the County Ethics Code you are required to enter lobbyist contact information before you vote on an item. He is aware that Mitch Ceasar has talked to at least one of you and unfortunately, our program will not allow tonight for the contact information to be put in because Mr. Ceasar's registration is either missing or is not caught up to this evening. Some of you tried to register and were not allowed to because of our program. We need to fix that glitch before as a technical matter you can vote on this. In the past when we have had use variances staff has a pretty good feel for whether you wish to change the zoning code or not. As a pure technical matter we cannot accept an application for a use variance unless you determine that you do not wish to have a code amendment for assemblies. Staff would like you to have a code amendment for assembly uses; it would help in the regulation of the subject. In this case we are going to follow the code exactly and ask the Council if they want to have an assembly regulation before dealing with this topic. In view of our technological problem, his advice would be that if you wish to express an opinion without voting, we will accept the application and process it as a use variance but we would still like to proceed with some assembly regulations or we can delay the whole thing. Mr. Ceasar has to get the registration in and then the data needs to be entered; otherwise, we are going to have a hyper technical issue with the County Ethics Code. You can express an opinion but you really cannot direct stuff.

Councilmember Stoner commented that she would rather have it clean and have everything entered before we have any discussions or any votes.

Councilmember Levy agreed.

Councilmember Jacobs stated that it cannot hurt to be cautious.

Councilmember Zimmerman and Councilmember Fadgen concurred.

Mr. Lunny advised that it will be put on the next agenda and in the mean time if you tried to register and could not we need to know and if you did register and it did not show we need to know. Hopefully by next time we can fix the glitch so the information can be entered.

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 25.

25. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, 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 CHANGE THE CITY'S FORM OF GOVERNMENT FROM THAT OF A STRONG MAYOR TO THAT OF A COUNCIL-MANAGER; 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 CHANGES TO THE CITY CHARTER NECESSARY TO IMPLEMENT SUCH CHANGE TO THE CITY'S FORM OF GOVERNMENT IF APPROVED, INCLUDING DELETING REFERENCES IN THE CHARTER TO STRONG MAYORAL POWERS AND PREROGATIVES; CHANGING THE TITLE OF THE OFFICERS OF THE CITY COUNCIL AND DELETING THE COUNCIL OFFICER OF TREASURER, CHANGING CERTAIN PROVISIONS OF THE CHARTER RELATIVE TO EMPLOYEES AND APPOINTEES, DELETING THE OFFICE OF MAYOR AND THE STRONG MAYOR POWERS, CREATING THE CHARTER OFFICE OF CITY MANAGER AND PROVIDING THE DUTIES AND RESPONSIBILITIES THEREOF; PROVIDING FOR FUTURE ORDAINED CHANGES TO THE CHARTER AND CODE TO IMPLEMENT THE CHANGE TO THE FORM OF GOVERNMENT IF APPROVED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated April 18, 2014, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

Attached, please find a draft Ordinance proposing a referendum to change the City's form of government from "Strong Mayor" to "Manager-Council". This Ordinance was prepared in accordance with direction received at a Workshop on March 26, 2014.

Consistent with the direction received by the Working Group on March 26, 2014, the draft Ordinance shows in Exhibit "A" only the substantive changes to the Charter that will be made by the proposed change in the form of governance. Section 7 of the Ordinance (Lines 73-92) provides that future, non-substantive changes to the Charter in the area of elections, terms, deleting references to Mayor, etc. will still need to occur and will be ordained in the future if the ballot passes. Likewise, Section 8 indicates that future Code changes will also be ordained if the ballot passes. (Lines 93-95).

The following is noteworthy concerning the substantive Charter changes reflected on Exhibit "A" to the Ordinance:

1. Since the Council determined that the City Manager will supervise all employees and have disciplinary prerogatives with respect thereto, the employee disciplinary review procedure in the Charter is being repealed. (Pages 5-7).
2. Section 10 of the Charter (Lines 257-288) has been substantially revised to clarify that the City Council will provide for the appropriate Offices, Departments, and Divisions of the City and shall fund same. The Council will not appoint or vacate any position, except the Police Chief, Fire Chief, City Clerk, and City Attorney. These four (4) positions will have duties and responsibilities prescribed by the Council, shall take direction from the Manager as may be authorized by the Council, and shall report to the Council (as desired by the Council).
3. The Working Group recommends that the City Manager and Police Chief, Fire Chief, City Clerk, and City Attorney, be appointed and removed by a super-majority vote of the City Council. This recommendation promotes stability in governance. (Lines 273, 282, 338, and 354).
4. Section 14 (Lines 352-509) creates the Office of Manager. The Working Group used the ICMA Model Charter Provision, with the changes thereto recommended in yellow. Subject areas of these changes include:
 - a. Circumstances under which the Manager will be required to reside in Plantation;
 - b. Removing the Manager's right to a Removal Hearing before the City Council;
 - c. Removing from the Manager's supervision of Boards and Committees and the Special Magistrates and,
 - d. Authorizing the Manager's specific legal authority (in the same manner as previously agreed for the Chief Administrative Officer position) (Lines 417-425).
5. Section 14 (5) contains the non-interference provision preventing Members of the Council from directing Staff. (Lines 478-490)
6. The Working Group felt that the Mayor should still proclaim elections. (Lines 470-475).

7. The Office of Treasurer is deleted. (Lines 478-483)

This proposed Charter amendment is now reading for consideration by the City Council.

Mr. Lunny referenced the memo, which reflects the working groups thinking on this topic. We tried to be consistent with the direction received on March 26, 2014.

Councilmember Levy mentioned that the description said, "Deleting the Office of the Mayor". This would not do that; there would still be a Mayor; it would just be a different way.

Mr. Lunny advised that there is no longer an Office of the Mayor and there is no longer an election for Mayor. Council indicated that you would choose one of you and that person would be a Ceremonial Mayor. The only thing we intended to keep as a Mayor function is the proclaiming of elections.

Councilmember Levy commented that a Mayor selected would also have functions such as signing documents; every Mayor in every City signs documents.

Mr. Lunny stated it can be written that way; we did not. It was not part of the discussion.

Councilmember Levy questioned who would sign.

Mr. Lunny noted that the Council President does not currently sign documents.

Councilmember Levy questioned who would sign a Proclamation.

Mr. Lunny indicated that an act of the Council would be signed by the Mayor; legislation would be signed by the Mayor; contracts would be signed by the Manager. It would be similar. He can write that if that is the wish.

Councilmember Levy commented that the Mayor should still represent this community at ceremonial events. We have to determine that if this were to pass if we would have some time to work on enabling legislation or something. He questioned if this has to be decided now. He sees the Mayor still having contractual authority representing the City; not a City Manager. The City Manager will work for the Mayor and work for this body but not be independently signing contracts; we still have to vote on that. We still have to have our head of our Council, who would be the Mayor instead of President, agreeing to all of that.

Mr. Lunny mentioned the language proposed on that subject on Line #418 and it says, "Pursuant to programs, procedures or practices that may from time to time be generally authorized for approval by the City Council; negotiate and execute contracts". By ordinance, you can ordain the Manager's authority in that regard. Currently the Mayor is a Chief Executive Officer and is full time. The Council President does not execute contracts. It was written that way when the authority was clarified of the Chief Administrative Officer and he borrowed the same language here. He would not think that you would want a hard and fast rule at this stage saying that a Council member who is Mayor has the obligation and exposure of signing those legal documents.

Councilmember Stoner stated that the County's Acting Mayor at the time does sign documents together with Bertha Henry.

Mr. Lunny advised that he can write it that way.

Councilmember Levy noted that he would want it that way.

Councilmember Stoner agreed.

Mr. Lunny questioned if they would want to ordain that in the future.

Councilmember Stoner likes the fact that they can come back later and expand.

Councilmember Levy indicated that if you are telling us that we have the ability to do that he is fine.

Mr. Lunny replied yes. It says that you shall be able to ordain it meaning that you can enact an ordinance.

Councilmember Levy clarified that this is only giving us the ability to come in with enabling procedures. Right now we may have different images of what a Manager does in relation to the Mayor but he certainly does not want this body to lose its authority to be in charge since we are the Elected Officials.

Mr. Lunny stated he would make that clear on Second Reading.

Councilmember Fadgen referenced Page 8, Line #273 and indicated that he does not like the super majority aspect of hiring the Manager.

Mr. Lunny advised that the subject is discussed as comment #3 at the bottom of the first page. Councilmember Fadgen is saying here is a specific place in the amendment where that language appears. He is right, the working group considered this topic and the Mayor was an advocate of utilizing super majority and the working group agreed for the reasons stated.

Councilmember Fadgen thinks that having a Manager puts another layer of government between the government and the people and by putting a super majority it makes it even more difficulty for the Elected Officials to control the government that they are elected to govern. He noted that we have a history of having a stable government and if we have a Chief, Manager, City Clerk, or City Attorney we should be able to fire them with three people. He does not think there will be much of that going on but super majority is ridiculous.

Councilmember Stoner tends to agree as to the City Manager aspect. She does not know that she has a problem with the other four positions, although she thinks we have been fairly blessed in those positions.

Councilmember Jacobs believes we will have a hard time hiring a quality City Manager. If you do not have the super majority no one is going to want to come here and take the risk.

Mayor Bendekovic commented there was a lot of conversation during the group and she felt the same; if the referendum passes you want someone who is going to be here; someone who lives within the tri-county; someone who is invested and the most important thing is to have someone who knows the culture of this City. We have a unique situation and she would hate to think that would change because someone from out of town came and did not understand, live and be vested in this community.

Councilmember Jacobs stated that there will be a contract and if they are terminated early it will cost the City a lot of money. You really do not want the Council to do that except in a more extreme circumstance and a super majority makes it a little more difficult for an unnecessary firing to occur.

Councilmember Levy indicated that when Wilton Manors asked if he would consider coming over there and they recruited him one of the things he said during the interview was, "I will not come if it is a three to two vote" because he does not want to spend his time worrying about that pendulum swinging back and forth and it is very easy to do that. His current contract is the super majority. Stability is needed if you are going to change your job, especially if no one is pushing out of a job and you want to better yourself. If someone were to come from another geographic location and move to Plantation, hopefully we would give them some job security that they are not going to be out because someone's whim does not like them at a certain point and the pendulum swings; the three to two is very tenuous. The City Manager sometimes has to say no to City Council members. In his case he is the only one who can say no to the Mayor when she comes up with spending money or programs and things that we cannot afford. The other Commissioners do not because they have to work with her politically. He has to call her in and say, "We cannot afford to do this; your idea may be good but it is something we cannot do" or "No, you cannot do this for whatever reasons". Many Cities have the requirement that people live in the community in order to be a City Manager. That was ruled unconstitutional many years ago. The tri-county area is different; you are giving a huge geography but you cannot specifically require them to live in Plantation. He reiterated that the three to two is very tenuous and you are not going to get the best people who come on a three to two and there will be a lot of overturning. You will not have the stability needed.

Councilmember Stoner commented that a three/two vote is not unique; it does exist in many Cities.

Councilmember Levy believes if you look at most contracts for larger Cities that have stable government you will see a super majority is necessary in order to fire the City Manager and if the City Manager is bad enough you will get that super majority. He does not think it is unreasonable to make that and certainly you will get the best qualified candidates to come here knowing that they have a little bit of job security.

Councilmember Jacobs questioned what would be involved in changing that in the future if there was a super majority requirement.

Mr. Lunny stated that you would have to have another referendum because you would be changing the powers of the Elected Officials relative to each other on that topic.

Councilmember Jacobs believes that we should keep the City Manager at a super majority. He is willing to discuss the other Offices one at a time.

Councilmember Zimmerman commented that we need the stability of a City Manager.

Councilmember Stoner questioned if there is a consensus to keep the super majority on the City Manager.

Councilmember Jacobs, Councilmember Zimmerman and Councilmember Fadgen replied yes.

Councilmember Stoner questioned if we want to go back and revisit the super majority on the four positions or if everyone is all right with that.

Councilmember Fadgen believed that there should not be a super majority on the other positions.

Councilmember Jacobs thinks we need the stability. We can have an election and if there are three new people that could be a real mess. Even two changing can be a big shifting power and the balance on the Council. It is not fair to people to put them through that.

Mayor Bendekovic noted that the Mayor would have voting power too so there will be five members. She thinks to do this every two years to decide whether they are going to have a position or not; it is not fair to the position and it is a stability inconsistency.

Councilmember Fadgen believes we have a long history in the City of having good quality Council members elected by our voters and he does not think that is going to change in the future. He also does not think that we will have rogue Council members here either firing the other various positions. He thinks there will be some cause that the Council will deem appropriate and if it comes up it should be a three two vote.

Mayor Bendekovic disagreed because she does not like the phrase "Rogue" because she is not thinking that anyone that runs for City Council is a rogue person. She thinks that they might be inexperienced and have not had the time to get educated and know what is going on within individual departments. She thinks it takes a good year to get your feet wet. Any job you take you go through a learning curve and she does not think that three new Council people would have gone through that learning curve and to jeopardize someone's employment when they haven't even gotten to know the position and what it entails, as well as the description and everything that goes on in that department. She would really like to have the super majority.

Councilmember Zimmerman commented that these are four key positions in the City. We have asked that these be pulled out of the General City Manager's responsibility so that we can have a say. They are important and he thinks that we want the kind of people in these positions that would feel secure in the position they have. If they are on the fence every two years for an election he thinks we could lose that continuity and the ability to have quality people in those positions. He tends to think that the super majority should stay.

Councilmember Levy agreed.

Councilmember Fadgen indicated that the City Attorney has been serving this City for a few decades at the pleasure of a three two Council vote.

Mayor Bendekovic advised that Mr. Lunny does not serve at the Council's pleasure, he is her appointment.

Councilmember Stoner disagreed.

Councilmember Jacobs stated that there is no guarantee that we will have a good Council in the future.

Councilmember Fadgen noted that is maybe all the more reason why Council should have some control of what happens. It irks him that we get this other layer and then make it more difficult for us to govern it. He is philosophically opposed to the whole measure.

Councilmember Stoner commented that there seems to be a majority again on this particular super majority. She referenced Line #407, Paragraph J, "Provide secretarial support services". People have not been called secretaries for a long time; they are Administrative Assistants and Executive Aides.

Mr. Lunny stated that this is written as an obligation of the Manager. The working group questioned if we have to have it and he said that we can take it out; if it is left in it is an obligation of the manager that he must fulfill. If you wish the language can be taken out because in the past the Council has not needed a full time staff support. He could say Administrative Assistant.

Councilmember Stoner requested that it be taken out.

Mr. Lunny advised that he would take it out and deal with it during the annual budget.

Councilmember Levy mentioned Susan DiLaura and stated that when he calls and wants Administrative assistance he asks for her and she is terrific. She helps compose letters; keep the calendar and the scheduling and she keeps him informed on an informal basis a lot of times. Someone who is a key person you can contact is needed. He cannot talk to the Mayor because it is a Sunshine violation and sometimes Mr. Shimun is busy; however, Susan is usually readily available and he gets good information and quality service from her. Someone like that should be available to all of us.

Mayor Bendekovic indicated that it would be included in the budget and that says the positions.

Councilmember Jacobs concurred about Susan DiLaura; she is great.

Councilmember Stoner agreed.

Mayor Bendekovic advised the position of webmaster was eliminated and we have eight super users with other departments partnering with them; however, Mercedes Perez and Susan DiLaura are the major co-webmasters.

Mr. Lunny mentioned Councilmember Levy's comment regarding Line #344 to #348, "Within a reasonable time is determined by the City Council after the Manager is retained. The Manager shall relocate his or her primary residence to Plantation in the event he or she lives outside Broward, Dade or Palm Beach County at the time he or she becomes a candidate".

Councilmember Levy commented that this can be researched but he knows this has been declared unconstitutional.

Councilmember Zimmerman noted that this says as long as they live in the tri-county area they do not have to relocate.

Mr. Lunny stated that if they were in the tri-county area when they applied then they can stay. If they were outside the tri-county area they would have to move into the City.

Councilmember Levy indicated that you can say that they have to make every reasonable effort to live in the City.

Mr. Lunny advised that he would check it.

Councilmember Zimmerman prefers that they move to Plantation; they have a vested interest in our City.

Councilmember Fadgen commented that should be a condition of employment.

Mr. Lunny stated that he will check it.

Councilmember Fadgen mentioned that for probably better than 60 years all resumes of the Executive and Administrative employees hired or promoted came before the Council basically for ratification. He would like to see that requirement added. From the standpoint that we are creating some more distance between the Electors of the City and their government, he finds that it gives him a better sense of the quality of the people that we have employed. Looking at their resumes, seeing who is moving up, and seeing their background and

skill level is important and he thinks it would be important to anyone who is on Council. A ratification based on the recommendation of the Manager.

Councilmember Stoner believes the issue can be addressed when we talk about the scope of the Manager's duties that we thought we would discuss after the referendum passed. She thinks that would be better incorporated at that time.

Mr. Lunny indicated that the topic mentioned only pertains to the authority that executes contracts, indemnifications and releases. The model ordinance and what he understood as direction received last time was that the Manager hires and fires everyone and that he or she is in charge of the Administration of the business. If you wish to change that and have Directors approve recommended ratification that is a political decision that can be put in the Charter. Usually that issue is one of accommodation where the Manager's often, just to accommodate the Council, allow that but it is not a requirement.

Councilmember Stoner mentioned that it is similar to how the Mayor functions at this point.

Mr. Lunny stated that if that is something Council wishes to incorporate he would need to have direction to write it in because it is different than the model.

Councilman Fadgen advised that he would like to have all Administrative and Executive positions ratified. They are still going to be hired by the Manager but the ratification should come to Council.

Councilmember Levy commented that the Manager's responsibility is to hire and fire staff. Every Manager is not going to hire anyone that Council members disagree with. He is going to meet with each one of you individually, say his recommendation, provide the resume and ask what you think of the person. You would not expect a Manager to hire a Department Head without keeping everyone on the dais informed. The basic set up of the system is that the Council sets policy and it is the Manager's job to do to the day to day operation to make that policy happen. The Manager is responsible to Council for the policies that are given and to make sure they are executed properly. If not, we can question the Manager. If they are not bringing Department Heads to Council to make sure we understand and know the philosophy and the way it is happening they are not doing their job properly. He thinks that the way Counsel has written it is appropriate because no City Manager would ever think of hiring a Department Head without checking with all of us.

Mayor Bendekovic stated that Council has always been given the opportunity to meet with the recommendation and if you choose not to then you let Administration know.

Councilmember Jacobs commented that there is a danger of letting the legislative body become too involved in operations. A lot of Charters have non-interference clauses that prevent that and he thinks we are pushing that envelope; we are starting to get too close to operations. Council needs to be legislative and the City Manager needs to run the operations.

Councilmember Fadgen reiterated that we have reviewed Administrative and Executive positions for over 60 years.

Councilmember Jacobs noted that it probably will not change. It will be difficult to get a quality City Manager if there is a veto power with the Council.

Councilmember Zimmerman indicated that we are asking for and searching for a professional Manager to run this City. If we take away the ability to put a staff together and manage those people accordingly we are really restricting the ability of that Chief Executive Officer. He tends to agree, he or she needs to report to Council. If that is not happening and there is a four one vote that is where it stands. We have the ability in this form of government to be able to talk to that City Manager directly and informally, which is an important liaison issue between us and that Manager. We need to take the opportunity to put ourselves in a position to meet with that person and be informed.

Councilmember Jacobs noted that it sounds like there is a majority.

Mayor Bendekovic advised that if the referendum passes they will bring things back to Council and then you can get into the details and other issues.

Councilmember Zimmerman mentioned that as long as we can deal with the issues we do not have to go back for another referendum.

Mr. Lunny stated that you are altering the balance of power and changing the form of government. He will try to accommodate that and did to the extent that he could. He felt that it should be clearer on the critical issues.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve on first reading as amended. Motion carried on the following roll call vote:

Ayes: Levy, Zimmerman, Jacobs, Stoner

Nays: Fadgen

Mayor Bendekovic advised that you will have up until 2018 to make all of these determinations. A decision would probably be made before 2018 because you probably want to make it in the last year of the term to go out for a search. You will have given yourself that latitude of time to really decide what you want. Remember, there might be changes on the City Council too because there are three seats up for election at that time. She thinks that after the vote she would not start discussing it until after the March 2015 election because there will be an election.

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

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 27.

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

A Staff Report dated March 12, 2014, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: A waiver to reduce the required on-site parking to accommodate expansion of an existing law office call center in the Winn Dixie Marketplace Shopping Center from 17,086 square feet to 37,968 square feet.

WAIVER REQUEST:

From: Section 27-742, which requires 1,175 spaces for the current tenant occupancy in the Center.

To: Reduce the required parking from 1,175 spaces to 1,015 parking spaces (a 160-space or 12.9% reduction).

EXHIBITS TO BE INCLUDED: Supplemental Planning and Zoning Division report, applicant's amended application (e-mail dated March 4, 2014), letters/e-mails of support, and existing law office call center restrictive covenant.

REVIEW COMMITTEE: Application determined to be completed. (October 22, 2013).

PLANNING AND ZONING BOARD: APPROVAL subject to staff comments. (5/0; December 3, 2013)

CITY COUNCIL ACTION: Tabled from February 26, 2014 Council meeting to March 12 2014 Council meeting.

INITIAL REQUEST – PHASE I:

The subject site is 17.8 acres in area and developed with a 230,330-square-foot shopping center with a grocery store anchor. The tenant occupancy in the Center includes retail, office, sport center, and restaurant uses. The site is bound by office uses to the north, Broward Boulevard to the south, bank use to the east and multi-family residential uses to the west.

In 2011, LaVan and Neidenberg (L&N) submitted a proposal to open a 17,086-square-foot law office call center in the northwest corner of the Winn Dixie Marketplace shopping Center. The applicant proposed 281 cubicle workstations, 15 conventional offices, and other office floor area. The applicant also requested the facility be allowed to accommodate up to 300 employees. Applicant indicated that the call center component was the principal activity of the business.

The zoning code contains a "high-density office" parking requirement. High density office requires one space/50 square feet of floor area, but only if high density area exceeds 40% of the total office floor area. Because the call center component fell below the 40% threshold, the default standard is "general office", which requires one space/200 square feet of gross floor area for the entire 17,086-square-foot facility.

Staff had concerns about the parking generated by up to 281 workstations or 300 employees. General office requires only 200 parking spaces, less than applicant's potential occupancy. Staff was also concerned about future parking demand if the law office call center is expanded into the adjacent vacant 20,000-square-foot area. Responding to staff's concerns, applicant voluntarily agreed to a restrictive parking requirement with the following conditions:

1. The call area/high density office area shall not meet or exceed 40% of the gross office floor area;
2. 325 parking spaces shall be designated for the applicant office space at the side and rear of the shopping center.
3. Parking shall be based on one space for each 85 square feet of floor area.

CURRENT REQUESET – PHASE II: In 2013, applicant proposed expanding his current operation into the adjacent 20,900-square-foot tenant space with the ability to accommodate 300 additional employees. If approved, up to 600 employees could occupy the total 38,000-square-foot law office. The restrictive covenant does not apply to Phase II so required parking is based on the general office requirement of one space/200-square-foot.

Based on the current tenant mix occupying the site and the restrictive covenant for Phase I, 1,175 parking spaces are required for the entire center. 1,175 required parking spaces includes a 62-space reduction based on two prior parking waivers in 1999 and 2013. 1,015 parking spaces are provided, creating a 160-space or 12.9% deficit. The applicant has requested a waiver.

Applicant's parking study (attached to the original report) concludes that all existing plus future tenants (including the proposed law office expansion) will require no more than 922 parking spaces (90.8%) of the provided 1,015 spaces.

Staff's evaluation of the original application concluded the proposed expanded law office call center will require about 53% of the total shopping center parking spaces, leaving 47% of the parking spaces for the remaining tenants, the latter occupying approximately 192,000 square feet of the shopping center. As such, the remaining tenants would be provided one parking space/413-square-foot of gross floor area. This standard is less than the one space/250-square-foot shopping center requirement or the one space-300 general retail requirement. *Staff did not support the 12.9% parking waiver based on reduced parking, significantly below parking code requirements, for the remaining tenants.*

MARCH 4, 2014 AMENDED APPLICATION: The applicant has submitted an amended application (see attached e-mail dated March 4, 2013). Based on applicant's amended application and including applicant's assumptions for discussion purposes only, the expanded law office call center will require 51.3% of the total parking area. Staff will analyze the amended application based on the Zoning Code waiver criteria.

Section 27-699 Review: The shopping center is zoned B-2P. Section 27-394(b) requires design approval for B-2P zoned land pursuant to the requirements of Article IX, planned commercial developments. Article IX waiver criteria are provided in Section 27-699 below:

ARTICLE IX. PLANNED COMMUNITY DEVELOPMENTS

Sec. 27-699. Conflicting provisions. Other than the mandatory regulations such as the South Florida Building Code and the City of Plantation Fire Prevention Code which directly relate to the health and safety of the City's citizenry (as, for example, but not by way of limitation, those portions of the City's fire prevention code and

ordinances pertaining to the location of fire hydrants and the distribution and flow of water for fire fighting), the City Council has the prerogative of waiving any mandatory provision contained in any of its ordinances or comprehensive zoning Ordinance No. 305, as amended, which do not directly relate to the health or safety of the citizenry of Plantation (as, for example, but not by way of limitation, a mandatory landscape buffer zone contacted within the City's comprehensive landscape ordinance or a building setback line contained within a specific zoning use district, both of which are codified in the City's comprehensive zoning ordinance, or a subdivision requirement specifying the type of material to be included within a sidewalk as codified in the City's Code of Ordinances) whenever the City Council is specifically requested to waive such mandatory ordinance and the City Council makes a specific finding that the ordinance for which a waiver is sought is not one directly relating to the health or safety of its citizenry and the requested waiver would be, not only desirable for the proposed development, but not detrimental or injurious to the surrounding area and, further, that the City Council would thereafter be willing to entertain similar requested waivers on a conditional use basis, with the same specific findings, as herein set forth, to be made by the City Council as a condition precedent to such similar requested waivers of otherwise mandatory portions of the City's Code of Ordinances or comprehensive zoning ordinance, as foresaid.

STAFF ANALYSIS: The proposed 12.9% waiver is not "considered desirable for the proposed development". See below.

1. General retail requires one parking space for each 300-square-foot of floor area; one space for each 250-square-foot of floor area in planned shopping centers. If the waiver is granted, other shopping center tenants will be provided one parking space/400-square-foot, significantly less than the 1/250 shopping center standard applicable to most tenants. *Staff does not support the parking waiver based on reduced parking, significantly below parking code requirements, for the remaining tenants.*
2. Applicant's amended application places the City in the position of enforcing parking arrangements, law office call center occupancy conditions, and cubicle counts. Staff does not agree with all of applicant's assumptions. Assuming for purposes of discussion only that staff does agree with some of applicant's assumptions, staff does not have the ability or resources to enforce parking lot arrangements or occupancy limitations, including non-cubicle lawyer occupancy. *Staff does support the parking waiver based on operational activities over which the City has no practical control.*
3. Staff does not support allowing similar businesses to obtain a parking reduction by conditional use approval. Parking characteristics for office call-center type uses vary considerably based on floor plan, work station or cubicle count, type of business (claims, customer support, sales, law, etc.) location in a shopping center or office building, location and number of provided parking spaces, and site plan layout. Each proposed office call-center office type use is so unique such that the category is not susceptible to conditional use approval.

STAFF COMMENTS:

PLANNING AND ZONING:

1. PZED staff cannot support the requested waiver based on the above criteria.
2. If the parking waiver I granted, staff will ask the City Attorney to determine if the current restrictive covenant requires modification.
3. For future applications, staff recommends re-evaluating general office and call-center office parking requirements.

ENGINEERING DEPARTMENT: N/A

TRAFFIC CONSULTANT: See Engineering Department.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: Staff has no objection to the requested parking reduction as this appears to have no impact on existing landscape.

1. Staff requests an onsite meeting to discuss outstanding landscape items to be addressed with regard to missing, declining, and/or dead plant material throughout the site. Please contact Diana Berchielli at 954-797-2248.

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT: No objection as to this waiver request.

POLICE DEPARTMENT: No objection as to this waiver request.

UTILITIES: No objection.

Mr. Leeds explained that staff has analyzed the parking waiver in terms of the criteria provided in the code and staff's conclusion is that it does not support the parking waiver, which is approximately a 12% reduction. Staff's rationale is based on this proposed expanded use will require approximately half the parking spaces in the shopping center, which are about 1,000 spaces. The applicant has requested permission to have up to 600 employees in this facility even assuming that 20% of the employees are absent or away on any given day there are still 500 parking spaces that would be required for each employee. This leaves the remainder of the shopping center approximately one space for every 425 square feet and the standard for a shopping center is one parking space per 250 square feet.

Attorney Rod Feiner, Carl Peterson, Traffic Engineer, were present along with Mr. LaVan and Mr. Neidenberg, the applicants.

Mr. Feiner advised that this is for the Plantation Marketplace Center. The applicants want to expand into the 20,000-square-foot parking adjacent to where they currently park. This request has been continued a couple of times. Originally one of the tenants in the shopping center, Kiddie Ridge Academy, expressed concerns; however, after meeting with him he has filed a letter of no objection and is now all right with the parking waiver. In addition, at the last hearing it was said that they would hold a meeting on the property with all of the other tenants and hand deliver notices to the tenants, which they did; notices were hand delivered to all of the tenants ten days prior to the meeting. The meeting occurred last Wednesday and two people were there; one from Uniforms of America and the other from the pizza shop next to them. Everything was explained to them and they did not have any objections to the parking waiver once they understood what was being requested. Several other letters have been provided from tenants in the Center who said they have no objection. Mr. Leeds said they are requesting a 12% parking waiver. He agrees with that number because there is an artificial device that requires that number. If you look at it alternatively it is really a request for 40 parking spaces or 4%. This is a social security disability law firm; they specialize with social security disability at the Federal level and work with a lot of Veterans. That is unique because they almost have no client traffic in their business because most of their clients are disabled. Their business is mostly via phone and email. They do the same thing with their medical providers; it is all through phone calls or email. They have kept track of client traffic into the business; records have been kept since they opened in 2011 and there are about 15 clients per week. That is significant because when they first opened City staff was rightfully concerned because this was a new type of

business model coming as a law office, which is a permitted use on the premises; however, when you look at the floor plan there is an essential area where there are a lot of employees. Staff was concerned that this premises would be used to treat people for medical reasons and that parking was not an issue. They also wanted to make sure that the City would have control if they ever wanted to expand or not. When looking at the shopping center portion of the code it says, "Offices can exist in the shopping center for up to 10% of the total square footage and you use the general plan shopping center square footage". If you go over 10% you subtract out the office numbers and use a parking ratio of 100 to 200 for the office and the rest of the center gets blended up with whatever the blended rate is in the code. The applicant could have expanded with the current office mix and expanded but stayed under the 10% level and staff had concerns about that because they wanted control. About five or ten years ago there was a center operation in the Center and there is a parking declaration on file for that prior use. When meeting with staff and going through the venues at the time because this was done Administratively, Mr. Leeds and the City Attorney said that they need to abandoned the old declaration and they want a new declaration. One of the provisions of that new declaration is, "For purposes of counting parking, we are going to impose a ratio of one parking space per every 85-square-foot in your 17,086-square-foot original space". The reason they did that was to create an artificial number of parking spaces for a calculation of required parking so it basically said if you want to expand there will not be enough spaces; you have to get a parking waiver. When you apply the one to 85 parking ratio instead of the one to 200 for the existing 17,000 square feet you get to the 12% number that Mr. Leeds is talking about for the required parking waiver. If you use the one to 200 for office it is 4%. Under code, without the parking declaration, they are asking for a waiver of approximately 40 spaces. Before submitting this they are going to have a traffic engineer do a parking study to see if the Center can support the parking.

Mr. Peterson, Traffic Engineer, was present. He prepared a parking evaluation for Plantation Marketplace, more specifically for the proposed expanded use by LaVan and Neidenberg into what is currently vacant space. Their study addresses three primary areas; the current parking supply on site; the current parking demand on the site; and the parking availability in the future should this expansion be approved. With regard to the current parking supply, it is 1,015 parking spaces. With regard to the current parking demand, they did parking observations on two peak days; Thursday and Friday from 8:00 a.m. until 7:30 p.m. Every thirty minutes they took an inventory of the number of occupied parking spaces throughout the entire shopping center. Those weekdays were selected because those are peak weekdays and that time period also happens to coincide with the hours of operation for LaVan and Neidenberg including at least an hour before and after. The peak demand observed occurred on a Friday with 450 occupied parking spaces in the Center, which represents about 44% of the spaces in the entire Center. These were typical days and all of the existing businesses were open and fully operational as well as the LaVan and Neidenberg offices. With regard to the parking analysis, this portion is to determine what the future demand would be at this particular location should the expansion occur. Four basic areas they took into consideration were a peak season adjustment, approved but not yet open uses within the Center, the current vacancy of the Center as well as the proposed LaVan and Neidenberg use. With regard to the peak season adjustment, they performed their counts in August so that is not the typical peak season for South Florida; they adjusted those counts in accordance with traffic data in the area prepared by FDOT. They into account approved but not open spaces at the particular time of the count, which included MD Now, Quest Diagnostics and a Dental office. They also took into consideration the vacancy of the shopping center. At that particular time there was about 45,000 square feet of vacant space that represents about 20% of the shopping center; 21,000 square feet is proposed roughly for the LaVan and Neidenberg expansion leaving 24,000 square feet that would remain vacant after the expansion. The vacant space was parked at the retail rate of one space per 250 square feet and then the LaVan and Neidenberg demand was parked at .9 spaces per proposed employee. In summary, taking into consideration all of the existing uses, the vacant space assuming the entire shopping center was 100% leased out at the peak particular time of the day, including the expansion,

within the Center there would still be approximately 100 vacant spaces. In their opinion, the available parking is adequate to meet the future conditions.

Mr. Feiner questioned what parking ratio was used when the traffic analysis was performed using the Dental office and the MD Now.

Mr. Peterson indicated that they used one per 150, which is the medical rate they use.

Mr. Feiner questioned if the same thing was done for Quest Diagnostic.

Mr. Peterson replied that was correct. They wanted to be aggressive on that side even though it is believed that the actual rate will be lower than that for those particular uses.

Councilmember Stoner commented that Mr. Feiner indicated that there were 440 spaces. She questioned if that was the average.

Mr. Peterson stated that there were 450 occupied parking spaces. He noted that was the absolute peak, not the average.

Councilmember Stoner referenced areas C and D and questioned how many spaces are in those areas.

Mr. Peterson advised that Zone C has 509 parking spaces and Zone D has 166 parking spaces.

Councilmember Stoner questioned how many parking spaces are in B.

Mr. Peterson indicated that there are 165 parking spaces in Zone B.

Councilmember Stoner mentioned the 400 number and questioned if they looked to see where they were concentrated and parked.

Mr. Peterson advised that is why the report is broken down in this manner. In terms of the data collection, they wanted to make it easier on the data collectors and look to see where the parking demands are within the shopping center. The vast majority of available parking spaces tended to be in Zone C. Zone D had a relatively large amount of availability as well. In terms of the concentration, they observed a high concentration in Zone B, which would be consistent with what they would expect with the LaVan and Neidenberg use closest to Zone B.

Councilmember Stoner questioned how many total spaces there are.

Mr. Peterson stated that there are 1,015 total parking spaces.

Councilmember Stoner commented that there would be another couple hundred parking spaces between Zone A and Zone E.

Mr. Peterson indicated that Zone A has 44 parking spaces and Zone E has 131 parking spaces.

Mr. Lunny advised that the parking code does allow the City to, if a use is not fairly described in a classification for parking, to apply a similar classification. His recollection of the Declaration of Covenants and Restrictions was that the staff had concluded that while it is designated as an office there was such a concentration of call center activity within the office that to apply the high density office parking would not be appropriate and by the same token to apply the one to 200 would not be appropriate. It was resolved between the applicant and the City at that time to use a blended one per 85 standard. That was the application of the code last time and he does not recall how we arrived at the one per 85 standard number. It may have been an analysis of what portion of square feet was treated as high occupant and what was not. Any way it goes, a waiver is required and the same rules apply. There was some prior analysis as to why the one to 85 is appropriate under the circumstances and he thinks that if asked Mr. Leeds will tell you that he is of the same view, that the one to 85 is still appropriate.

Councilmember Fadgen questioned the typical vacancy of most strip centers.

Mr. Peterson could not speak to that in terms of what a typical vacancy is. His experience is that it varies from Center to Center.

Mr. Feiner stated that his client, who is in the leasing business and owns several commercial shopping centers, has indicated that the average vacancy rate is about 15%.

Councilmember Stoner commented that 15% is not a good percentage. That is not what the Class A Centers go for. It may be acceptable to your client but it really is not an acceptable vacancy rate.

In response to Councilmember Stoner, Mr. Feiner indicated that he represents LaVan and Neidenberg but the property owner has joined in on this. He noted that the landlord fully supports the application.

Councilmember Fadgen mentioned that there would always be some vacancy. He visits the Center frequently and there is no question that there will be a concentration in the northwest corner. He noticed that it is heavily occupied. He questioned if there are employee parking designated areas.

Mr. Feiner advised that another reason for the parking declaration was because staff was concerned that parking fields D and C, which are the main public parking fields, would remain free and clear. When the declaration went through Zone B was designated as first primary parking for LaVan Neidenberg. That was a covenant they entered into with the city and it is also part of the lease between the landlord and LaVan Neidenberg. After that, the parking declaration required that overflow parking for the most part would go into either Zones A or E with only a minimal area flowing into Zones D and C. As it happens, through the parking analysis the existing LaVan and Neidenberg does not need to go into Zones A and E whatsoever.

Councilmember Fadgen mentioned Zone A of 44 spaces. When heading north from Broward Boulevard there is parking, probably ten or 15 spaces, and then there is no parking the rest of the distance to the end of Zone A. He is concerned about the concentration of that parking in the northwest section. He questioned whether the landlord has explored having a parking arrangement with the properties to the north.

Mr. Feiner indicated that they have not. He mentioned the northeast property and noted that it is not their property so it cannot be counted. They did not feel that they needed to go there because they thought were enough spaces. The problem with trying to do a shared parking arrangement is purely economic. When the owner of the property you want to go to a lot of times think they have something you need the user fees or easement fees are extraordinary. Another problem is if they do something like that and start using their spaces

the question would be how they would account for future uses on that site plan. He understands the concern about Zone B but it has been operating that way since 2011 when LaVan and Neidenberg moved in and so far it has functioned safely.

Councilmember Fadgen questioned how many additional employees they are projecting.

Mr. Feiner stated that they are projecting a maximum occupancy of no more than an additional 300 employees. Of those employees 10% has been shown as out for vacation, sick or other reasons on a daily basis; there is generally a 10% absent rate. In addition, another approximate 10% of the employees have out of office jobs. When he says total number of employees he is including the out of office jobs. Based upon the numbers already seen, there are about 30 to 40 employees who either car pool or take mass transit to go to work.

Councilmember Fadgen questioned whether customers who want to patronize the other vendors have a longer hike.

Mr. Feiner commented that if you want to have that in the declaration and make that a condition of approval that they amend the parking declaration to account for that in a way that is acceptable to City staff they would have no objection to such a condition. A couple of the tenants primary concerns were about Zones A and E. They questioned if employees would park in that area because that area is not really used for customers and whether they will be able to get their truck in when needed. He stated that if LaVan and Neidenberg needs to go into that area it will be staggered at a certain ratio of one to three spaces such that there is plenty of room for employee parking in that area and again Zones C and D are to be left alone so it will not affect consumers who are going to the shopping center. LaVan and Neidenberg employees work from 8:00 a.m. to 5:00 p.m.; there are no shifts and they are not open on the weekends. Winn Dixie is not a large traffic generator when LaVan and Neidenberg employees are there and Big Lots is not a large traffic generator. The gym is primarily early morning hours and later afternoon to evening hours.

Mayor Bendekovic also visits the shopping center frequently. It is very concentrated at lunch time; the entire area is full and at other times Zone C is completely vacated. She noted that there cannot be off site parking because the code prohibits off site parking to satisfy parking.

Mr. Feiner indicated that the observations are right on with what the traffic count showed between 12:00 p.m. to 1:00 p.m. and 1:00 p.m. to 1:30 p.m.

Mr. Leeds commented that off site parking is not a good idea if people have to cross a public street. The City has some exposure he believes if parking is encouraged that requires crossing a street where there is no designated crosswalk.

Mr. Lunny advised that it is not allowed. The Council does have the prerogative to approve it provided certain instruments are in placed but generally an applicant cannot explore that; it has to be authorized and it is not favored under the code.

Mr. Leeds stated that if Council is inclined to approve all we have is the basic standards. He was told when the first phase was approved that the applicant wanted the ability to accommodate up to 300 employees. He has been told with the second phase there would be an additional 300 employees for a total of 600 employees. We cannot control the number of bodies in an office but you can control the number of cubicles. If there seems to be a parking problem we can have a revised agreement to send someone in to count the cubicles if suddenly there is no where to park. The only reason he is suggesting that is because 38,000 square feet is a large area; it

is about three-quarters of an acre and he is a little concerned that the cubicles will start to grow with the business. When first talking they were talking about an evening shift and being open until 8:00 p.m. Mr. Feiner is correct, the health club has its busiest times starting around 5:00 weekdays and then Saturday and Sunday mornings. He asked Council to think about putting a limit in terms of how late the law office can be open. If they are running at full capacity until 8:00 p.m. there is going to be some competition for full spaces between the law office and the health club. He would not want to this to end up in a situation where 500 to 600 cubicles show up in a year or 18 months because then there could be an issue.

Mr. Feiner indicated that they would have no objection to such conditions, as a matter of fact the existing declaration has language which allows the City to come in during regular working hours without notice to conduct an inspection and that if it finds evaluation they have three or five days to cure it and if not the City can revoke their BTR. It is currently in the declaration and it can be revised to expand and they will resubmit floor plans with this use. They will abide by the floor plans that show the number of what Mr. Leeds is calling high density office or the cubicles so they do not exceed that. They will agree to be bound by that. Also, the declaration has a provision that they are continuing to abide by that says, "Should they wish to implement hours in which employees work in shifts, LaVan and Neidenberg shall first obtain written approval of the Director of Planning, Zoning and Economic Development Department for the purpose of evaluating parking impacts and if there are parking impacts the Director shall not approve it". They live by that language and are fine with it. They are not trying to change their business model and if they do that is a different fact from circumstances on what is being voted on today and yes, they have to come back before Council.

Councilmember Zimmerman commented that even with a parking study and the number counts he does not see anything in the morning or afternoon. The only thing is mid day parking and then from 5:00 p.m. to 7:00 p.m. People go there at 8:00 a.m., 3:00 p.m., etc. and he is looking at the peak hours which are lunch time to 2:00 p.m. His only scenario is to assume that is normal working hours and that somewhere between 8:00 a.m. and 5:00 p.m. he is having that same peak demand across the shopping center and after people leave at 5:00 p.m. even at the existing law offices there are lower parking counts. He noted that the summary charts seem to be the easiest to read.

Mr. Feiner stated that as part of the parking study Appendix A; they show the actual accounts from 8:30 a.m. to 7:30 p.m.

Councilmember Zimmerman mentioned that Table 1 compared to Table 2 actually showed the mid day peak demand as higher on Table 2 on Friday versus Thursday. He mentioned parking lot B. In looking at the parking counts during peak demand there is only an extra 30 spaces in B. By adding 250 to 300 more cars with only 30 spaces left in area the remaining cars have to end up somewhere else. He referenced A and E and cannot believe any of the employees will park on the far east side. Naturally they are going to overflow into D and C.

Mr. Feiner indicated that they will primarily be parking in A and E; that is part of the lease. It is enforceable because there is a mechanism to account.

Councilmember Zimmerman questioned how we are going to enforce where they park and who is going to tow them.

Mr. Feiner stated that the property manager is going to do that; that is an issue between them. They are still the landlord and need to satisfy all of the other tenants.

Councilmember Zimmerman commented that people working in the law office will have a sticker or something for their car.

Mr. Feiner advised that they will have something on their dashboard; that is actually required under the current lease to make sure they first park in area B. That same mechanism will apply to the other areas of A and B.

Mr. Patterson indicated that they attempted to focus on the peak time periods. The peak occurs at mid day and between 8:00 a.m. and 12:00 p.m. there is a further abundance of parking and after 1:00 p.m. it becomes quite abundant as well. That was the purpose of breaking that down. On one of the days they did their observations only 319 spaces were occupied at 9:00 a.m.

Councilman Zimmerman expressed concern about normal business hours. He does not buy the percentage decrease of 2% or 4% if you did 200 square feet per car. He thinks that staff has evaluated it properly. To say that you are only at 2% or 4% does not work.

Mr. Leeds commented that he spoke with a few tenants in the shopping center and he made it very clear that the City has no ability to enforce where anyone parks within the shopping center. We can count cubicles once a year. The red tags shown on the bumper blocks in the center are areas that are intended to be designated where LaVan and Neidenberg employees can park but it is not exclusive. This has been explained to two of the tenants; there is no reserve parking with these red tag bumpers and we cannot enforce it. The concern is that there is enough parking in the entire shopping center; we do not focus on the walking distance. The area that is probably the biggest concern in terms of properties ability is the area shown as E, which is directly to the east of the east wing of the Center. This area backs up to Bank America and is what he refers to as the least desirable parking because it is hidden and obscured. His observations are that area E behind the east wing of the building is very sparsely used. Next to the gym is full.

Councilmember Zimmerman stated that he would look at area E and say there is 131 spaces there but in looking at the layout half of those spaces are in that undesirable area. There could be 60+ spaces that are in an extremely undesirable area.

Mr. Leeds advised that from staff's perspective, if someone came in and complained about parking he would go there and if he saw vacant spaces even in a less than desirable space he would say they meet code. That is why he has given the numerical mathematical recommendation.

Councilmember Zimmerman noted that he is all for walking and making people exercise but from the back of a building all the way around is a long way.

Mr. Feiner indicated that is what they can require because of the landlord tenant situation has a means of enforcing that. He would suggest that is perfect for this type of situation because it is never going to be used by members of the public and they can force that as a condition of the lease, which has been done.

Councilmember Stoner questioned the term of the lease.

Mr. Feiner advised the lease is eight years and if the parking waiver is approved it goes up to ten years.

Ken LaVan with LaVan and Neidenberg, was present. He stated that as of today they have eight years left on the lease and upon the completion of the build out they would have ten years from nine months or so.

Councilmember Stoner commented that the build out is technically bringing in cubicles.

Mr. LaVan stated that it is currently an empty box.

Councilmember Stoner questioned what kind of options they have after that.

Mr. LaVan indicated they have the option of five additional years.

Councilmember Stoner questioned if they have an option for more space if it is available.

Mr. LaVan replied no. They waived other locations to take this space.

Councilmember Stoner questioned what the client is willing to do to update the shopping center.

Mr. Feiner stated that they repainted it about three or four years ago. He would think that they could repaint the shopping center. They looked at all of the lights and added wall packs in the addition behind.

Councilmember Stoner noted that the lighting is terrible in the parking lot.

Mr. Feiner indicated that the lighting is much better by MD Now and meets City code for photometrics and they can do that for the rest of the Center as well.

Councilmember Stoner commented that the Center floods all the time.

Mr. Feiner advised that they have gone through that and upgraded the drainage. Besides the weekly drainage they had the entire drainage certified by a professional engineer.

Councilmember Stoner mentioned the landscaping.

Mr. Feiner stated that the landscaping might be the Bald Cypress, which they tried to change out and do a different type of tree and the Landscape Department said no, the Bald Cypress trees in that shopping center are exactly what they want because it serves the Center well with their drainage and with what they do. This was discussed eight years ago. He noted that they can update some of the landscaping along the façade of Broward Boulevard. One of the things they did was create dirt areas around the Bald Cypress trees and got rid of the curb cuts to help improve drainage and staff is happy with that.

Councilmember Stoner did not know whether it changes the fact that staff still does not recommend approval of the parking waiver for the space. She could ask for everything and it would be all right but it does not change the parking situation.

Councilmember Jacobs commented that the worst time is lunch time. He questioned whether the employees of LaVan and Neidenberg would be eating lunch in the office or going out.

Mr. Feiner indicated that they primarily go out within the Center. The tenants are kind of happy they are here because they give business to the Center.

Councilmember Jacobs believes that the City should be happy to have a Center that has struggled a little to get filled up. He requested that the concessions they would agree to be repeated.

Motion by Councilmember Jacobs to approve the waiver. There was no second. The motion failed.

Mr. Feiner stated that wall packs will be added to the exterior of the Center so that the Center meets current photometric code and they will also clean all of the existing lights.

Councilmember Stoner did not like that.

Mr. Lunny commented that residents are right across the wall.

Councilmember Stoner indicated that there are residents across Cypress.

Mr. Feiner indicated that is probably why the wall packs are better than putting in a new pole light.

Councilmember Stoner commented not in the C and D areas. She suggested meeting with staff and working out an acceptable lighting plan.

Mr. Feiner stated that would be fine. They already had two concessions in the declaration; if LaVan and Neidenberg moves to shift work it has to get approval of the Planning and Zoning Director or they could come back and get a new parking waiver; either one is fine with them. The other is that they are limited to a maximum number of work stations as shown on the floor plan submitted with this application and the City has the right to come into the premises and inspect the premises within working hours without notice and if there is a violation it must be cured within five working days or the City may revoke the tenants Business Tax Receipt.

Councilmember Stoner questioned if the Fire Marshall has the right to go into any office building and inspect at any time.

Mr. Lunny replied yes. This is talking about Mr. Leeds for non fire related matters.

Mr. Leeds advised that there have been a couple different sets of plans come in and he needs a number from Mr. Feiner. This is just work stations, it does not include all of the surrounding offices; there are at least 20 or 30 additional offices.

Councilmember Jacobs commented that they would address the work station issue somehow. There are also some other things that should be in there.

Councilmember Stoner said that she wanted the parking and the landscaping redone and perhaps the signage.

Mr. Lunny suggested letting them work on it for two weeks and come back so you can see it.

Councilmember Stoner thought that was a good idea.

Mr. Lunny believes that in terms of the number of work stations, if you wish to control that and provide a number to Mr. Leeds, perhaps that could be done now. He would rather it come back.

Councilmember Jacobs commented that there are a few items that should be in staff's discussion and some were listed.

Mr. Leeds has the lighting issue, which will be discussed with the Police Department. The landscape issue has to be reviewed by Design, Landscaping and Construction. Mr. Feiner is going to come back with a final number of work stations.

Councilmember mentioned the parking, striping and painting of the building.

Councilmember Jacobs noted parking enforcement; that the landlord will require tags in the cars and that the property manager will enforce it.

Mr. Leeds advised that the parking lot is already striped; it probably could use some freshening along the exterior areas.

Mr. Feiner indicated that will be stipulated in the conditions. He noted that the landlord will be responsible for enforcing parking for the LaVan and Neidenberg employees.

Mayor Bendekovic commented that employees can take the tag or paper off of their dash and park where ever they want. It has to be something that is affixed.

Councilmember Stoner advised that Council is basically giving a list so he can meet with staff and come back.

Mr. LaVan and Neidenberg mentioned cubicles versus total spaces. He questioned if staff wants the cubicles or the total people in the office.

Councilmember Jacobs stated that the next meeting would be in three weeks; May 14, 2014.

Mr. Leeds clarified that they would discuss parking lot striping, landscaping, exterior lighting and cubicle count. His recommendation was not to make a condition with the parking enforcement program. If approved with a parking enforcement program staff has no way to make sure they are doing their job. The Mayor gave an example.

Councilmember Jacobs questioned whether it has to be left out entirely or if something could be in saying that the landlord agrees.

Mr. Leeds stated that it could be in as long as Council understands that if there is a problem he cannot help.

Councilmember Stoner advised that is fine but when the landlord comes to us next time they can say that they did not comply.

Mr. Feiner indicated that he understands the conditions.

Councilmember Zimmerman mentioned that we are at about a 12.9% reduction. We have granted other parking reductions in the past on different projects. He has not seen anything go over the 10% mark. He questioned if we are setting a precedence to start to get to a higher reduction percentage.

Mr. Leeds did not believe that a precedence was being set because each of the sites is unique. This is a good use in some ways because it creates a built in demographic for lunch. We want to eliminate the vacancies in our shopping center.

Mr. Lunny questioned if there is some way some math can be applied to make the waiver around ten by reducing the number of cubicles and giving the applicant the ability if they need it at some time in the future to come back and request the 2.7% addition and it can be looked at after seeing how the first 10% goes.

Mr. Leeds commented that if there were 400 cubicles and based on a 10% to 15% reduction based on absences, you would be looking at 340 spaces; that is one-third of the spaces in the shopping center. It is hard to come up with a number where it is 10%. He stated that he could look at the literature and see if there is a standard for call center cubicles.

Mr. Feiner will also discuss the number of cubicles with his client.

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic made the following comments:

- The Mayor's Interfaith Breakfast will be on May 1, 2014.
- She wished everyone a Happy Mother's Day.
- The next meeting will be on May 14, 2014.

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Mr. Lunny advised that there was a County Commission yesterday regarding the Ethics Ordinance. Several ideas were floated around and one is to clarify the definitions in the Ethics Ordinance so as to reduce the need for implementing safe harbor opinions, specifically in terms of when the annual filing requirements are due and what remuneration means, which could be a big deal. In the area of gifts, they wanted to clarify that de minimus gifts would be permitted so there would not be a trap for the unwary. As written currently, it is so strict that it could be a trap and as a result it is something to be feared instead of ethics guidance. There did not seem to be much initial support for creating different new levels of governments in terms of an Ethics Officer or a Commission. They did think that the concept of Local Government Attorneys rendering opinions was not going well with the public and they thought that perhaps there should be a three-panel group of lawyers that are retired and have no ties to governmental entities to render opinions. In the beginning, Plantation's only position was that there needs to be a place where a safe harbor opinion can be obtained. The compromised position when the ordinance was enacted, it got to be the job of the County's attorney and City's attorney as long as there is a place; that is the most important thing. There are a lot of good reasons to keep it where it is but he thinks that might be a change that gives the public more confidence in the law and allows these other changes which are important to occur. The general thing is to keep your eyes on this and when you are talking to the public about it you may want to be educated on the proposals and what is going on. It is going to be very difficult for the County Commission to make changes because any change might be wrongly perceived as watering down the law instead of making it workable. There needs to be support and it is going to have to be a collaborative effort. He was pleased that a number of the Commissioners seemed open minded to looking at the issue and he is hopeful that changes can be made so that it is not so structurally deficient and in some ways silly. They are thinking about reducing the education; it is really hard. You should be getting the bulletins from the League and if you can, stay at tune and support this effort where you feel you can.

Councilmember Stoner questioned where Councilmember Levy's tapes are.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Karen Gray (sic), resident, was present. She has a client who lives in Plantation Acres that does a fundraiser every year. His organization is the Guma Conda Ready Foundation and they actually raise money for other charities. They use the Jacaranda Country Club for their golf tournament. This year they went to apply for an alcohol license with ABT and when you do events and things of that nature you have to get Planning and Zoning to sign off on that. She has done several fundraisers and events around the County and when they go to Planning and Zoning it is just an application they sign off on and there has never been a fee attached in any of the other Cities that she is familiar with. Her client has encountered a \$400 fee for having Plantation Planning and Zoning sign off on an application for that. The ABT license is only \$25 and it struck them strange that this was a rather hefty fee to pay for a signature when doing a fundraiser in your own City that is benefiting organizations throughout the County. She is here to see if they could get a waiver, amendment or adjustment in that fee.

Councilmember Jacobs questioned who she has spoken to at the City about this.

Ms. Gray indicated that her client spoke with Planning and Zoning.

Councilmember Jacobs questioned if they should contact the Mayor's office.

Mayor Bendekovic stated that this is the first she has heard of it. She questioned the guidelines on this.

Mr. Leeds advised that the fee schedule, which is adopted by ordinance, as one fee regardless of a liquor license, whether it a beer and wine license, a 4COP or a temporary license. The \$400 fee does not make a distinction between whether it is temporary, full time, a not for profit or for profit. They do not have any discretion.

Councilmember Stoner questioned if it has always been like that.

Mr. Leeds indicated that it is required by the City code; it is in the ordinance and has been there since he has been here. We have always charged a fee for a license; it does not make a distinction. Planning and Zoning has no discretion.

Mr. Lunny questioned if there is some type of inner department review with Police and Fire or if it is just Planning and Zoning.

Mr. Leeds replied not for a temporary license. His staff has no discretion and cannot arbitrarily waive it.

Councilmember Levy spoke with Ms. Gray about this and called Mr. Leeds. The charity checks out and it does do the things that she said. This may be the first we are looking at and perhaps we need to set some kind of a scale for beer and wine; alcohol.

In response to Councilmember Levy, Ms. Gray advised that Jacaranda will assume the liability but when the client applies to ABT it is the charity that gets the license for the one day.

Councilmember Levy believes that if they are strictly raising money for charity, for us to charge \$400 for a liquor license for a one-day golf tournament seems a bit excessive.

Councilmember Stoner thought that perhaps staff should review since there are various licenses involved and prepare a sliding scale.

Councilmember Levy questioned Ms. Gray's timeframe.

Ms. Gray advised that the fundraiser will be on May 8, 2014. They have already sent out publicity.

Councilmember Jacobs believed that the Mayor should look into this.

Mayor Bendekovic commented that the Chamber of Commerce has theirs every September.

Mr. Lunny questioned if Council was also authorizing the Mayor to make an appropriate adjustment if she deems it fit.

All of the Council members agreed.

Mayor Bendekovic stated that she would look into this tomorrow and get back with Ms. Gray.

Mr. Leeds commented that for some reason Alcohol and Tobacco requested a Zoning approval in this case. The event has been held two or three years previously. When someone comes to them they give them a flat fee. If the other organizations came to them they would be told the same thing. Perhaps it is an issue with ATB.

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Dennis Conklin, resident, was present. He made the following comments:

- The State of Florida House and Senate both voted out the Convention of the States Bills; therefore, Florida, Arizona and Georgia are the first three States that have approved Article V Convention of the States for Proposing Amendments to the Constitution.
- Yesterday was Earth Day. The United Nation's report on global warming came out a week or two ago and they admitted that that their report and models were a failure. He proposed a repeal of Resolution No. 10481, the City's Go Green Resolution.
- The proposal on the ballot being put forth to Florida Voters to approve medical marijuana for the State of Florida. He stressed his opposition to it and encouraged everyone's opposition.
- On April 21, 2014, Florida Surgeon General John Armstrong came out opposing marijuana proposed legislation going on in the Legislature.
- The Journal of Neuro Science came out with its report on how harmful occasional use of marijuana is to the actual structure of the brain.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 10:30 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