REGULAR MEETING OF THE CITY COUNCIL
PLANTATION, FLORIDA

August 13, 2014

The meeting was called to order by Councilmember Ron Jacobs, President Pro Tem, of the City Council.

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Councilmember Zimmerman.

   The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting held July 9, 2014.

4. Approval of Minutes of Meeting held July 23, 2014.

Minutes of the Regular Meetings of July 9, 2014 and July 23, 2014 were approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

Note: Item No.'s 5 and 6 were voted on together.

Resolution No. 11915

5. **RESOLUTION** of Appreciation to Dominick Ranieri for 31 years of dedicated service to the City of Plantation.

Resolution No. 11916

6. **RESOLUTION** of Appreciation to Marc-Garry Toussaint for 26 years of dedicated service to the City of Plantation.

Motion by, seconded by Councilmember Fadgen, seconded by Councilmember Levy, to approve Resolution No.'s 11915 and 11916 as presented. Motion carried on the following roll call vote:

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

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

- PAL soccer registration is going on now on PALsports.org or Plantation.org or registration can be done in person on Saturday, August 23, 2014 between 9:00 a.m. and 2:00 p.m. at the Plantation Central Park Gymnasium.
- The Art Search program will be in November and the theme is "Fall Into Art".
- The Annual Youth Hot Shot Basketball Tournament will be on Friday, September 5, 2014 at 7:00 p.m. at Plantation Central Park Gymnasium. Registration begins on August 25, 2014 and is $10 per person.

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Mayor Bendekovic made the following announcements:

- Learn a new language through Mango Languages sponsored by The Friends of the Library. Through profits from book sales, authors' luncheons and other fundraising activities The Friends of the Library have contributed well over $1,000,000 to the library over the years.
- The Annual Chamber of Commerce Golf Tournament will be held on September 16, 2014 at Jacaranda Country Club.
- The Annual Economic Summit will be held on September 25, 2014 at the Renaissance Hotel in Plantation.
- The Plantation Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.

Mayor Bendekovic mentioned conversations over the past several months regarding trustees on the Pension Boards. Some of the Council members have indicated that they possibly might not want to serve anymore and some have expressed interest in switching to another Board. Qualifications and application forms were provided for anyone interested. She understands that there has not been a very large response. She requested that the Council members look at some other information that has been provided. There has to be five members on the Police and Fire Boards; however, it is optional for the General Employee's Board; they are allowed three members.

Mr. Lunny advised that Ordinance No. 2501 was recently adopted, which would allow the Mayor to appoint residents or elected officials to the General Employee's Board. The law is set up so if you are a resident or elected official and you want to stay or if you are a Council appointee you may stay provided your colleagues reappoint you. If you wish to be off of a Board, the law is set up to allow a resident to be appointed. The Council appoints the Firefighter and Police Boards and the Mayor appoints the General Employee's Board. Because of the lack of response to Administration's efforts to get someone to come in during the work week it was thought that another option might be available, which would allow City salaried employees who are residents to serve in those capacities provided they were acceptable to you and would meet other considerations outlined in the memorandum. Administration is doing what it can to provide alternatives. If some of the Council members wish to get off the Board and we cannot find anyone else to serve then we will have to look to

the employees to fill that position. If it is a serious consideration to reduce the number of trustees for the General Employee's Board he would like to know that now in order to get that in place by October 1, 2014. He thinks a decision needs to be made about staying or going by the end of September.

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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. 7 and 20 were pulled for discussion and voted on separately.

Mr. Lunny read the Consent Agenda by title.

8. Request for approval of funds to lease Dell desktop computers for the 2014 PC refresh. (Budgeted – IT)

9. Request to consider approval of 2011 Lease payment #4 ($23,595.45) and 2012 Lease payment #3 ($22,922.33) for the Dell PC refresh lease payment. (Budgeted – IT)

10. Request for authorization to execute a contract with Pace Analytical Services, Inc., in the amount of $29,794 for the laboratory testing services in accordance with the City of Plantation ITB No. 028-14. (Budgeted – Utilities)

11. Request to approve a purchase order to Innovative Metering Solutions in the amount of $33,995 to purchase four (4) Tremble Ranger handheld meter reading devices with the necessary software, training, and profile viewer. (Budgeted – Utilities)

12. Request to approve a purchase of a Ford E250 van from Plantation Ford for $21,987.80. (Budgeted – Fire)

13. Request to approve a purchase of a Ford F350 truck from Plantation Ford for $30,463.02. (Budgeted – Fire)

14. Request to approve a purchase of Lifepak 15 monitor/defibrillator from Physio-Control, Inc. for the Rescue in the amount of $34,394.72. (Budgeted – Fire)

15. Request to approve concession stand bid from Candy Cottage, LLC at the Equestrian Center.

Ordinance No. 2513

16. **ORDINANCE** Second and Final Reading of ordinance pertaining to the subject of retirement; amending the definition of Police Officer to correct the statutory reference; affording the Chief of Police an option of whether to join the Police Officer's Retirement System consistent with the statutory provisions; allowing conditional in service distributions to the Chief of Police; providing findings; providing a savings clause; and providing a retroactive effective date of July 1, 2014 therefor.

Ordinance No. 2514

17. **ORDINANCE** Second and Final Reading of ordinance pertaining to the subject of Zoning; amending the lists of permitted, conditional and prohibited uses in the I-L2P Large Light Industrial Zoning

District; amending other regulations in the City's I-L2P Large Light Industrial Zoning District; providing findings; providing a savings clause; and providing an effective date therefor.

Resolution No. 11917

18. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period July 17, 2014 through August 6, 2014 for the Plantation Gateway Development District.

Resolution No.11918

19. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period July 17, 2014 through August 6, 2014 for the Plantation Midtown Development District.

Resolution No. 11919

21. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period July 17, 2014 through August 6, 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: Fadgen, Levy, Zimmerman, Jacobs
Nays: None

Mayor Bendekovic voted affirmatively on Item No. 21.

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Mr. Lunny read Item No. 7.

Resolution No. 11920

7. **RESOLUTION** accepting the FRDAP Grant A15054 in the amount of $50,000.

A memo dated August 13, 2014, to Mayor Bendekovic and City of Plantation Council Members, from Priscilla A. Richards, Strategic Operations Administrator, follows:

The City of Plantation is preparing an application for a grant in the amount of $50,000 from the Florida Department of Environmental Protection, Division of Recreation and Parks, Florida Recreation Development Assistance Program (FRDAP) for two (2) pavilions at Plantation Woods. There is no City match.

One of the requirements for these grants is that the portion of the site improved will need to be dedicated to the public as an outdoor recreation site consistent with practices and procedures called for by State Administrative Rule (see paragraph 9). The Resolution will generally authorize staff to complete this requirement without further Council approval.

The funding is for the construction and installation of two pavilions at Plantation Woods which will be available for rental.

If we are approved, funding would be available in the fall of 2014.

Councilmember Zimmerman noted that there are a lot of improvements going on at Plantation Woods and questioned if there is any reason the pavilions are going there and not to any of the other parks that might benefit more from the pavilions.

Mr. Romano indicated that originally there was no FRDAP money allocated for this year; therefore, we decided to put a grant in for a facility. Plantation Woods had already received a FRDAP grant. In their calculating process it helps point wise if FRDAP money is already in one of the facilities. The grant application was submitted for Plantation Woods. He advised that the pavilions are not available on weekends; they are rented every Friday, Saturday and Sunday. There is a need for additional pavilions at that location. Fortunately, the Legislation approved all of the appropriations and requests that were $50,000 and less. The goal is to have pavilions in a lot of the parks; we try to spread them out around the City. If there is a particular concern it can be addressed in the future. This grant will provide additional revenue throughout the year and it will also provide the necessary needs for this park that is so popular in this City.

Councilmember Levy mentioned that there is no match required.

Mr. Romano stated that is one of the other reasons it was decided to go for the $50,000 grant, because there is no match. In years past we put in for $250,000 and there is always a match involved.

In response to Mayor Bendekovic, Mr. Romano advised that last fiscal year the pavilions brought in over $25,000.

Motion by Councilmember Zimmerman, seconded by Councilmember Levy, to approve Resolution No. 11920 as presented. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 20.

Resolution No. 11921

20. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period July 17, 2014 through August 6, 2014.

Councilmember Zimmerman indicated that he might have a conflict with check No.'s 162592 and 163040. He has filed the paperwork with the City Clerk.

Motion by Councilmember Fadgen, seconded by Councilmember Jacobs, to approve Resolution No. 11921 as presented. Motion carried on the following roll call vote:

Ayes: Fadgen, Levy, Zimmerman (except for the two aforementioned checks), Jacobs
Nays: None

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ADMINISTRATIVE ITEMS – None.

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 22.

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

A Memorandum dated August 7, 2014, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

Please consider this Memorandum a report concerning the Planning and Zoning Board's evaluation of the Draft Telecommunications Ordinance at is meeting of June 3, 2014, and a report on material changes to the draft made as a result of Staff's final meeting with the Industry Group on June 24, 2014.

The Planning and Zoning Board's comments are in Verdana Font.

The Planning and Zoning Board's comments are in order presented in the Staff Report for the item:

Part I. Planning and Zoning Board

1. The general administrative process was reviewed. To summarize, the review of new communications facilities must be finished within ninety (90) days (for towers) or forty-five (45) days (for antennas). Generally, the administrative provisions of the Ordinance provide that for installations outside the right-of-way, the Plan Adjustment Committee (PAC) will review and approve applications for towers, and the Director of Planning, Zoning and Economic Development will review applications for antennas. The only waivers which may be approved by the PAC relate to landscaping and a decrease in tower height caused by reduced number of required collocation capacity. For installations within rights-of-way, the city Engineer will review applications.

   Any variance from the Ordinance's requirements must be considered by the Board of Adjustment. The Council has a "call up privilege" for PAC decisions. These two provisions for Administrative Relief are not subject to the "shot clock review" provisions.

   The Board did not suggest that the process be changed. It supported using a development review mechanism that is already in place as opposed to creating a new one. It agreed with the idea of using the PAC for Towers given the 90 requirement.

2. The revised Ordinance made some effort to define the types of matters that would be subject to different types of zoning review, and what types of work will be subject to a "building permit only" review. The Board was asked to review these provisions as contained in former definitions of *"Not a Substantial Increase in the Size of the Tower",* and *"Eligible Facilities Request"*.

   The former definitions of "eligible facilities" and "not a substantial change to a size of the Tower" were reviewed, and the Board generally agreed with Staff that these kinds of matters should be largely subject to only building permit review.

   The Industry Group requested additional clarifications to the Administrative processes concerning when "Building Permit Only" review will be required. **This resulted in the substantial re-writing of Secs. 5.5-53 (Pages 7-8) and 5.5-60 (Pages 21-22). The re-written provisions are conceptually consistent with the provisions reviewed by the Board.**

3. The prior draft proposed a definition of "Stealth Design" which allowed the City Council to approve "typical schematics" that would be acceptable. The process for applying for such review was set forth in formerly proposed Sec. 5.5-52.

   The Board did not think the idea of approving typical "schematics" for stealth designs for antenna installation would be workable, and suggested that this be deleted.

   The Industry representatives did not think the idea was worthwhile either.

   This concept has been deleted in the current draft.

4. The proposed height, setback, and aesthetic regulations for Towers were reviewed.

Generally, the Board did not have any suggested changes to the proposed aesthetic regulations in terms of proposed heights and setbacks for the various zoning districts.

The Board did; however, make the following aesthetic recommendations:

a. The hedge height listed surrounding the compound should be increased at time of planting from thirty inches (30") to eight feet (8') so as to totally shield the compound **(this change has been made to the current draft (Line 7231).**

b. The height of cabinets and shelters located in the compound should be increased from seven feet to eight feet in recognition that the compound will be screened with an eight-foot fence or wall and a hedge of increased height **(this change has been made to the current draft (Line 7041).**

c. Increase the size of the allowable compound. It was noted in the backup material that Staff had under consideration the recommended 750-square-foot limitation. The Board felt that given the increased screening the compound could be significantly larger.

Staff now proposes that the equipment compound be limited in size to the lesser of 750 square feet per antenna array the Tower is designed to accommodate, or 2,500 square feet, and these limitations are in the current draft (Lines 714 at Page 16, and Line 1069 at Page 241).

d. On a final note, a few of the Board Members felt that the City should allow additional types of communications towers, and not simply limit new installations to monopoles. Possible other acceptable configurations might include clock towers and trees. It was noted that, previously, definition of "Stealth" already defined a sixty-foot (60') tree as a stealth installation (but not anything higher than that).

These are policy determinations of the City Council.

5. The proposed aesthetic regulations for communication antennas on Buildings were reviewed.

Generally, the Board did not have any suggested changes, and supported the language proposed.

This language has not been materially changed. However, Staff desires the Council to review this language again to make sure a consensus has been reached. See Page 23 and 24, green highlighted language.

6. State and Federal Law seemingly require that the City expedite approving additional locations of antenna on existing Towers. The proposed substantive procedural regulations were reviewed.

   Generally, the Board did not have any suggested changes, and supported the language proposed.

7. Part 2 of the Ordinance concerns Antenna on Utility Poles in Right-of-Way. The substantive aesthetic and safety standards for approving utility poles in Rights-of-Way were reviewed.

   The Board did not have much additional comment about these regulations, except in the area of how poles used for supporting FPL's Transmission Lines are to be used for communications antenna. Generally, the Board was concerned with allowing heights of up to one hundred thirty feet (130') to support three collocations. The Board felt that it would be preferable to allow a smaller increase to the height of the Transmission Poles (to accommodate one [or maybe two antennas]) and at the same time relax the five hundred-foot separation standard that would otherwise apply to these installations --- with the end result being that more Transmission Poles would have heights increased by a little, as opposed to a fewer Transmission Poles having heights increased substantially.

   Staff recommends that the Council address this final matter with FPL representatives so that existing heights of transmission poles in the City and the proposed increases can be finalized. The language is highlighted in green and found on Page 30.

Part II. Additional Changes Prompted by Industry Review

Other material changes have resulted from Industry Comment are noteworthy:

1. The requirements for survey measured distances have been relaxed. A GIS measurement will suffice, unless the GIS measured distance is within a certain range, whereupon a survey measurement will be required. **[See Pages 9 and 10, yellow highlight].**

2. The Industry is adamant that it does not believe certain of its submissions to Plantation need to be signed by an Engineer licensed by Florida, in light of Fla. Stat. §471.003(2)(d)(2013), which exempts from Florida's licensing requirements for the professional practice of Engineering *"(d) Regular full-time employees of a public utility or other entity subject to regulation by the Florida Public Service Commission, Federal Energy Regulatory Commission, or Federal Communications Commission."* Representatives of the Communications Industry have advocated that this exemption would allow submissions for City approval to be made by persons who are not licensed to practice engineering in this State. The Industry's argument, if true, would allow any public utility employee or other covered business entity employee, regardless of how trained or educated, to engage in Engineering when such a utility or other business entity covered by the exemption seeks approvals from Plantation. As of the effective date of this Code, legal research has disclosed no binding Florida Appellate case law that construes this exemption so as to include instances where the public utility or other entity covered by the exemption makes external submissions for approvals to a Florida local government for approval, as distinguished from the preparation of plans, inspections, and performance of scientific analyses, and other engineering practices for such entities' internal use and benefit. If, as, and when, binding case law

is established to the effect that the above exemption would apply to the submissions to the city, then the City will require such submissions for utilities and business entities covered by the exemption to be from an individual who has graduated from an accredited College or University with at least a Bachelor's degree in Engineering Science, and which certifies that he or she has at least three (3) years of experience with radio frequency and wireless communications facilities. **See Footnote 3, Page 10.**

3. The Industry requested that the Ordinance allow the PZED Director to grant an extension of time for applications to become complete. This feature is not contained in the State Law that governs these timetables. However, a provision has been added that authorizes an extension for thirty days, provided the extension also applies to the "shot clock" timetable that is otherwise binding on the City when applications are determined complete. **(See Paragraph 4, Page 12).**

4. A provision has been added to clarify for purposes of Minor Development Approvals approving new Communications Facilities to ensure they are subject to the same viability rules that apply to minor site plan amendments. This reflects the City's intent that a PAC Approval becomes null and void unless an application for building permit is made within a year, is then obtained, and the permit is not thereafter cancelled. This clarification was not requested by the Industry; rather it resulted from a question by Special Communications Counsel. **(See Paragraph 5, starting on Page 13).**

5. The Industry requested a tolling provision for PAC decisions becoming final for Judicial Review if an elected official call-up privilege was exercised, and a provision to this effect has been added. **(See Paragraph 6, Page 14).**

6. The Industry requested a clarification that any trees and bushes located within 50 feet of the equipment compound be considered by the PAC when considering requested waivers. This provision has been added **(See Page 17, Line 744).**

7. Some members of the Industry Group objected to the provision in the Ordinance (that others previously indicated would be workable) and which concerns a process to replace utility poles with poles supporting antenna. The former provisions called for the communications company to build the pole, build the light, convey it to the City to own for no charge, and pay the City an annual fee for the placement of communications antennas on the City's pole. Also, compensation of $500 per mile of cable in the right-of-way was required.

   The provision has been substantially re-written to allow the communications company to own the pole and improvements, and to maintain them (so that no public expense is involved). This would eliminate the need for a pole attachment agreement, fees, etc. (**See Paragraph 14, starting on Page 30).**

8. The Industry continues to object to some of the policy considerations made previously by the City Council in this legislative effort and which concerns the height, setback, and aesthetic requirements of the Ordinance. (These start on Page 15, Line 659 and end on Page 18, Line 797). Staff has not made any changes in these areas, except as reported above for landscaping.

9. The Industry continues to indicate that Board of Adjustment Variances and Council Call-up privileges must be exercised within the pre-emptive law's "shot clock" timetables. The City Special Communications Counsel does not agree with this position, and so administrative relief remains external to the "shot clock" process.

10. Finally, Special Counsel reports that the meaning of the various laws that applies to these kinds of matters is subject to continuing debate and agency rulemaking. In view of the continued agency activity in this area, a special provision has been added to the Ordinance's savings clause. (See Section 4, Page 39).

Part III. Conclusion

The Planning and Zoning Board hearing on the proposed Ordinance lasted for more than a few hours, and Staff was appreciative of the Board's efforts to meaningfully evaluate the matter. In addition, Staff remains appreciative to the Industry's effort to improve the Ordinance. Staff thanks the City's Special Communications Counsel for the guidance received. Finally, Staff is very appreciative to the City Council for its many hours spent dealing with this topic.

This Ordinance is now ready for consideration at First Hearing.

Mr. Lunny acknowledged Joe Ballow (sic), Matthew Liebowitz's partner, and noted that he and Mr. Liebowitz have been working with him; they are the City's Special Communications Counsel. He stated that City staff has worked very hard in connection with this ordinance. He thanked the various Industry representatives, lawyer and non-lawyer, and hopes that we are getting close to being finished. Staff did not get everything they wanted and neither did the Industry; however, he thinks that it has been an informative and valuable legislative process. Everyone has spent an extraordinary amount of time studying this legislation and going to various hearings and the City is thankful for your efforts in that regard.

Mayor Bendekovic commended staff, Mr. Lunny and the Industry on working together. Each party is not getting everything but it is a compromise. She hopes that we can move forward tonight and approve the ordinance as written. In her opinion, this is going to be the prototype for other Cities to follow and she thinks the Industry is reluctant because it protects our City and residents but also gives the Industry options.

Mr. Ballow commented that this is a very complicated undertaking and it is important for the future communications in Plantation. One of the Federal Communications Commission former Chairmen made a decision in the 1990's to shift the public forum and communications to the internet and they have been working hard to foster wireless internet and wireless communications. He does not know if we are going to have phone service as we are used to it ten years from now. There is a generation of people who cannot imagine living without telephones. It is very important to have a rational plan for authorizing the numerous towers that are going to be necessary to implement the future. Staff has really worked hard. This is not the original plan; it is taking into account many comments and he thinks it will serve the community very well.

Maria Johnston, Regional Director of External Affairs at AT&T, and resident, was present. A lot of comments have been provided over a period of almost a year. The Industry has been consistent with its comments and the City has been responsive. Unfortunately we are not where we were hoping to be; she thinks on both sides. The only reason for this is about providing services; wireless access; wireless service to the residents and businesses in the City of Plantation. Statistics show that a third of all households in the United States today are wireless only and that number in increasing daily. Everyone is mobile and everyone expects their service to work anywhere and anytime. This requires build out and enhancement to maintain the service level expected and necessary. This ordinance is not just going to affect the how, where and when wireless equipment is installed. It is also impacting its use including the service at the most critical times considering that today the majority of

calls to the 911 centers are made from wireless devices. These are important decisions regarding this ordinance and we ask as an Industry that the Industry comments be thoughtfully considered when making decisions.

Attorney Jana Loda (sic), with the Law Firm of Holland and Knight, and resident, was present. She concurred with the Mayor and Mr. Lunny that this has been a long process. She thinks this is one they have worked on cooperatively together; she appreciates that staff has thoughtfully listened to the Industry comments. Earlier today she provided a letter to the Council with respect to outstanding comments; there are still a few items that remain. One is the definition of a tower site. It appears that the definition is largely the result of a desire to the extent that the Industry or the applicant seeks to include native landscaping that may be located outside the compound area that they want an assurance that the landscaping will remain in perpetuity as long as the tower is there. A compromise would be to the extent that an applicant seeks to utilize landscaping that is located outside of the traditional buffer area for the compound or outside within the 50 feet that they provide whatever required assurance to the City that the landscaping would remain either through an inclusion of that area in their lease agreement or in some sort of a landscape easement with the underlying property owner to assure that the landscaping will remain. She thinks it is appropriate to limit the tower sites to the lease parcel and any required buffer per the code. The second comment relates to the requirement that any affidavits or certifications required under the ordinance be required to be submitted by a State licensed professional engineer. She appreciates staff's comments and recognizes that to the extent that any affidavit or certification is being provided that relates to a technical aspect such as the structural integrity of the facility, building code requirements, things of that nature, a survey would be provided by a licensed P.E., which she has no problem with. Her greater concern relates to radio frequency engineers. Their radio frequency engineers are employees of Verizon Wireless. They are tasked with the sole responsibility of helping deploy their network and assuring that the facilities work within their required bandwidth and will achieve their objectives of design service. Those individuals are not licensed. She is not aware of a State license for a radio frequency engineer. She asked that as to those types of that particular discipline that the ordinance recognize that when you are a regulated carrier, such as AT&T or Verizon Wireless; that a radio frequency engineer can be an employee as provided by Florida Statutes and exempt from licensure. She is fine if the City wants to include some sort of a minimum experience requirement in connection with that. As an Industry, they understand that there are certain aesthetic requirements that the City is imposing with respect to setbacks, tower distance separation, etc. They are aware that most new facilities are going to require a variance. The ordinance, as it is currently proposed, is probably going to make every one of the sites non-conforming. She mentioned Sunset Park and Volunteer Park.

Attorney Patrick Bryant (sic), for Florida, Power & Light, was present. As an electric utility, FP&L concerns with this ordinance have differed somewhat from the other providers providing wireless service. He stated that after nearly a year of working with the City Attorney and staff, FP&L's concerns with this ordinance have been adequately addressed.

Mr. Lunny mentioned that Attorney Loda's comment regarding the compromise of the 50 feet might be workable; he will review it with staff before Second Reading. As indicated, the Industry asked that we expressly allow it to count towards the landscaping requirements, any landscaping within 50 feet of the compound, and that is why it became part of the tower site and they have to assure that it remains. With respect to the licensing issue, he is not going to recommend this be done. The State Law says, "You do not need to be licensed as an engineer in order to perform the professional services of an engineer if you are an employee of a utilities company". His view is that the Statute has to be read so that if the utility company wants to have its own employees do that for their own internal purposes well and good but the minute they use it for an external purpose and submit it to Plantation, who has a different mission to protect the public, they fall outside of that exception. Exemptions or exceptions to professional licensing are strictly construed; there is no case that follows what the Industry suggests. We said in the ordinance that we are not going to accept it. The employees

of the utility company can do whatever they want for the utilities internal purposes but when they make submissions to the City or to the Building Department they are going to be sealed by an engineer or by another proper design professional because at that point they are doing something external. Perhaps if there is an Attorney General opinion one day that identifies some Supreme Law on this maybe there will be a difference but for now he is suggesting that we stay the course on this. His advice is that the ordinance be left the way it is, which says, "If there is a case that comes along that construes it differently we will follow the case without having to amend the code". As to looking back and determining whether the ordinance makes some towers non-conforming, it might but we are trying to look forward and plan for the future. There are a few things that need Council direction. Staff proposed that the bushes surrounding a compound be thirty inches high at planting and the shelters behind the fence be seven feet tall. The Planning and Zoning Board said they wanted the bushes to be eight feet at planting and a couple types of species were recommended. They want the eight feet at planting because they do not want to see the equipment compound and recommended that the shelters be increased to eight feet instead of seven feet. The Industry has indicated that it would like to have the bushes reduced a little because they are concerned about whether they can find eight-foot bushes. Mr. Ezzeddine is willing to take a second look at that if Council is interested in him doing so. The question is if Council wants Mr. Ezzeddine to readdress going somewhere between eight feet and 30 inches.

Councilmember Jacobs believes the staff recommendation of 30 inches is fine.

Councilmember Fadgen mentioned that eight-foot plants might have a diminished survival rate and the species might be limited by getting such a large plant. He suggested three feet or better but not necessarily eight feet.

Councilmember Zimmerman believes it might limit the species and eight feet seems a little extensive. He questioned whether there is a screen on the chain link enclosure.

Mr. Lunny advised that there is a screen on the chain link enclosure. He indicated that the idea about landscaping is to screen the fence and the wall.

Councilmember Zimmerman stated that because there is already something on the fence, the equipment will not be seen directly.

Councilmember Levy believed that staff's recommendations are sufficient.

Mr. Lunny mentioned Ordinance Line 1228. This has briefly been discussed at Council and believes this is consistent with what the majority wants. He referenced Line 1302 that talks about the transmission lines. Remember that we have four electric transmission corridors in the City; one along the Turnpike, one on Hiatus Road; one along University Drive and another somewhere. FP&L's affiliate has little canisters they are putting on these large poles. If they put two canisters on the poles then we have been advised that 130% of the height of the existing pole will work; that pole will be increased by 30%. If you want three canisters it has to be 130 feet high. He thinks they are currently 72 feet. The Planning and Zoning Board felt that having 130 feet in these corridors would be aesthetically not as good as having only two or one antenna and relaxing the 500-foot standard so that FP&L could perhaps raise the transmission pole a little and do more of them instead of higher with greater distance. He questioned whether this is satisfactory. FP&L has indicated that they do not care what we do.

Councilmember Jacobs does not think it would be noticed. There are so many antennas in the City that he does not notice them. He does not think the height would be a problem for something so small, especially in such an industrial intensive area where there are large transmission lines.

Mr. Lunny advised that years ago near Hawks they took out one and put one in that was about 130 feet high. There was such a difference.

In response to Councilmember Jacobs, Mr. Lunny stated that the monopole was changed; it was so different aesthetically.

Councilmember Fadgen agreed with Councilmember Jacobs that on those particular sites they probably will not be noticed. The facilities are already not attractive but they have been there and that particular aspect will probably not be noticed.

Mr. Lunny mentioned Line 1010; staff's suggestions about stealth antennas mounted on a building face and put on a roof. There was previous discussion at Council where Mr. Leeds was directed to come up with some preference so as you move away from the edge of the roof the antenna goes up a little. The tweak previously discussed was that staff wants these to be flush mounted stealth and not protruding from the building face. The Industry says they can make them look like a louver and protrude from the building face.

Councilmember Jacobs questioned how one makes them totally flush and whether they have to cut into the building.

Mr. Lunny indicated that they are put up next to the building and fully screened. It is Mr. Leeds' desire that they be architecturally compatible and not a louver sticking away from the building.

Councilmember Jacobs commented that if it is flat it is parallel with the face, not perpendicular.

Mr. Lunny advised that integrated and matching component of the design in our architecture is what we said. If they want to put in a bigger type of facility they can request a variance; however, that is not something they are encouraging at this time.

Mr. Leeds stated if there is a glass face building there is no way to have a stealth antenna attached that will not protrude four, five or six inches. The antenna is three-dimensional. If there is a building with architectural features molded then this stealth antenna can be inset so it looks like it is part of the architectural feature then it will not stick out and it looks like part of the building. At this time the ordinance does not provide a limit per building and that may be something to think about.

In response to Councilmember Jacobs, Mr. Leeds mentioned the Sheridan Hotel on University Drive, which has non-stealth antennas. He suggested a maximum of no more than ten. They could say that based on the floor area or size of the building it would be a sliding scale. That would have to come back at Second Reading if that is the preference.

Councilmember Fadgen believes there should be some limitation and size should also come into play.

Councilmember Zimmerman stated that will be difficult, especially when you tie into an architectural feature or component in the building because there could be an architectural style on the building or decorative components that could very easily be more than ten if it is consistent and part of the overall building. He thinks it needs to be limited to some degree but as long as it is blending and it looks like part of the building and not an antenna put onto the outside.

Mr. Leeds commented if there is a three-dimensional protruding architectural feature the stealth antenna, if it is right next to it and camouflaged, would not be noticeable. He thinks there should be a maximum amount.

In response to Councilmember Jacobs, Mr. Leeds believes there is a requirement that the antennas be a minimum distance. He feels that not having any limit is a mistake.

Councilmember Jacobs suggested that Mr. Leeds work on it for Second Reading. He is leaning towards less regulation. He noted that there is room for abuse; however, it is unlikely.

Mr. Leeds thinks there is always a possibility; there was more before and with the stealth there is less possibility. He will come back with something.

Mr. Lunny referenced the memorandum of August 13, 2014 and mentioned AT&T comment #2; the overall size of the equipment compound. They are recommending 750 feet per antenna or 2,500 feet as a cap. The Industry has requested a greater size. Staff thinks that is the right number. He does not know if Council wants to readdress that or go as it is written.

Councilmember Zimmerman thought that staff's recommendation was fine.

Councilmember Jacobs and Councilmember Fadgen agreed.

Councilmember Levy commented that the Industry is requesting no cap and we are suggesting that there be a cap. He did not have a problem with a limited cap.

Councilmember Fadgen mentioned the height of the structure inside of the compound.

Mr. Lunny stated that in order to screen the fence that is around the compound, the landscaping is eight feet and shelters were at 10 feet and maybe 12 feet. Staff felt that would be too high; originally staff said seven feet. The Planning and Zoning Board suggested eight feet and currently it is at eight feet. There will be some discussion between now and Second Reading between the City Engineer and the Building Official on what to do if any of these are in a flood plain. There might be some change to the elevation if it is in a flood zone; other than that, eight feet is what is proposed.

Councilmember Levy and Councilmember Fadgen were comfortable with that.

Councilmember Fadgen mentioned existing facilities we have on our City properties that would be non-conforming if this is inactive and questioned what impact that has on the City or on the non-conforming structures.

Mr. Lunny advised that there will be non-conforming structures; he did not say they would be on City property. As he recalls, it was said that the adoption of this ordinance would make City sites non-conforming. He disagrees because this ordinance does not include City owned sites. For example, the City is a property owner and has complete control over how it is going to build these facilities or if they are even going to allow the facilities. The City is not going to put itself under some Federal or State Shot Clock in order to process an application that the City, as a land owner, does not want. There were countless visioning sessions and Council meetings. When the City builds things there is a lot of input and a lot of decision making that goes well beyond when you can act as a regulator. Try to put yourself in the context of being a regulator and being regulated and knowing the good efforts that you all go through and knowing that as a land owner you are not going to give

someone a right to apply for anything on your land that you don't want. This ordinance does not apply to Plantation owned sites; therefore, it would not make any of the City sites non-conforming.

Motion by Councilmember Levy, seconded by Councilmember Zimmerman, to approve Item No. 22 with comments. Motion carried on the following roll call vote:

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

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QUASI-JUDICIAL CONSENT AGENDA - None.

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QUASI-JUDICIAL ITEMS

Note: Item No.'s 23 and 24 were voted on together.

23. REQUEST TO DEFER TO AUGUST 27, 2014 RESOLUTION APPROVING A 3,572-SQUARE-FOOT DAYCARE AS A PERMITTING CONDITIONAL USE; TO BE LOCATED IN THE B-7Q (PLANNED COMMERCIAL DEVELOPMENT) ZONING DISTRICT; PROPERTY LYING IN SECTION 6, TOWNSHIP 50 SOUTH, RANGE 41 EAST, AND DESCRIBED AS JACARANDA PARCEL XX, AS RECORDED IN PLAT BOOK 114, PAGE 5, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED AT 10359 WEST BROWARD BOULEVARD, AND PROVIDING AN EFFECTIVE DATE THEREFOR, (CHABAD) AND REQUEST TO DEFER TO AUGUST 27, 2014 SITE PLAN, ELEVATIONS AND LANDSCAPE APPROVAL FOR CHABAD MIXED USE COMMERCIAL BUILDING LOCATED AT 10359 WEST BROWARD BOULEVARD AND ZONED B-7Q.

24. REQUEST TO DEFER TO AUGUST 27, 2014 SITE PLAN, ELEVATION AND LANDSCAPE APPROVAL FOR PLANTATION COMMERCIAL DEVELOPMENT LOCATED AT 700 SOUTH STATE ROAD 7. (FAMILY DOLLAR)

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to Defer Item No.'s 23 and 24 to the August 27, 2014 meeting. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 25.

25. REQUEST FOR SIGN SPECIAL EXCEPTION FOR HERITAGE ESTATES LOCATED AT 11760 SW 1ST COURT.

A Staff Report to the City Council, dated August 13, 2014, from the Planning, Zoning and Economic Development Department, follows:

SPECIAL EXCEPTION REQUEST:

From: Section 22-43, which limits single-family residential developments of 50 or more lots to have one double-faced ground sign; no more than 18 square feet in area; and not to exceed seven feet in height.

To: Allow an entranceway monument sign for Heritage Estates, a single-family residential development of nine lots.

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

ANALYSIS:

The subject property is zoned RS-1EP and consists of nine residential platted lots controlled by a Homeowner's Association. Eight of the nine lots are vacant. The community has one entrance on the east side of SW 118th Avenue, just south of Broward Boulevard.

Section 22-43 allows single-family community under unified control that have more than 50 lots to have one entry sign with an allowable sign area of 18 square feet. The applicant requests approval of a four-foot high monument sign located in a new landscape median at the community entrance. If approved, the proposed monument sign will have six-inch aluminum letters on a limestone backdrop with split face stone on the base of the sign. A landscape planter is also proposed adjacent to the sign.

Consideration of the criteria in Section 22-11 is required in the review of a Special Exception request. These criteria are contained within the application packet.

STAFF COMMENTS:
PLANNING AND ZONING:

1. Provide a four-inch decorative cap along the top of the sign (Section 22-20(v)).

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT: No objection.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: Staff has no objections to the requested sign exception.

1. At time of permitting please submit landscape plans.

UTILITIES: No objection providing fire hydrant is relocated accepted and approved by Utilities Department prior to installation of entry feature. Utility plans have been approved for the relocation of hydrant.

1. Gravity Sewer manhole must be raised to new grade.
2. All existing utility lines must be shown on Landscape plans.
   Call Danny Pollio with any questions at 954-797-2209.

_____

Richard Levy, resident, was present.

Councilmember Levy clarified that he and Richard Levy are not related.

Mayor Bendekovic advised that she likes the stone and understands that it is being done because it is a cul-de-sac. She stated that planters need maintenance and questioned who will maintain the planter.

Mr. Levy indicated that it is a community of nine lots and they propose to build it at the entrance to the community. With regard to maintenance of the planter, there is a Homeowner's Association.

In response to Mayor Bendekvoic, Mr. Levy believes that maintenance is part of the documents; however, he will double check. He noted that it will be irrigated.

Mayor Bendekovic reiterated that she likes the stone. She questioned why aluminum was chosen for the lettering.

Mr. Levy stated that they tried to keep it very sleek and simple. It is a small sign and they tried to keep it aesthetically pleasing for the entry to the community.

Mayor Bendekovic commented that her major concern was the foliage.

Motion by Councilmember Zimmerman, seconded by Councilmember Fadgen, to approve Item No. 25, subject to staff comments. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 26.

26. REQUEST FOR SITE PLAN AMENDMENT FOR MOTOROLA LOCATED AT 8000 WEST SUNRISE BOULEVARD.

REQUEST: Consideration of a request to amend the parcelization split.

<u>WAIVERS:</u>

From: Section 27-559, which requires a minimum lot size of 40 acres.
To: Reduce the required lot size from 40 acres to 23.27 acres for Lot A.

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

ANALYSIS:

The subject site is zoned I-L2P (Large Light Industrial District), 77.5 acres in area, and developed with a million-square-foot industrial complex currently occupied by Motorola and Motorola Solutions. The property is bound on the north by West Sunrise Boulevard, on the south and east by residential uses, and on the west by University Drive.

On June 11, 2014, City Council approved a parcelization split with associated waivers (minutes attached) separating the site into two parcels of 27.23 acres and 50.27 acres, respectively. The following waivers were approved at that meeting:

The applicant requests approval for an amended parcelization split reducing Lot A from 27.23 acres to 23.37 acres and increasing Lot B from 50.27 acres to 54.13 acres. The revised parcel configuration will require adjusting the previously approved lot size waiver for Lot A to provide 23.37 acres in lieu of the 40-acre lot size required by code.

STAFF COMMENTS:
ADMINISTRATION:

1. Any change in the principle use of a building or site may require payment of impact fees pursuant to Ordinance No. 2485.

PLANNING AND ZONING:

Planning:
1. The proposed parcelization is consistent with the Industrial land use category on the adopted Future Land Use Map.

Zoning:
1. A unified control document is required to (a) avoid creating non-conformities on the two new parcels upon approval of the parcel split, and (b) to require access to all parking areas for new businesses that are not part of the Motorola family. The applicant has established a trust account and has initiated contact and is currently working with the City Attorney. Prior to occupancy of any portion of the site by any new business not part of the Motorola family, the Unified Control Document shall be recorded and any gates or barriers that restrict parking access shall be removed.
2. The proposed parcel split produced an overage of parking on Lot A and a deficit of parking on Lot B. Lot A requires 595 space and provides 933 parking spaces, creating an artificial surplus on Lot A. Lot B, which is the northern parcel, requires 1,961 parking spaces and provides 1,546 spaces. This condition should be addressed in the Unified Control Document.
3. Comments noted on the previous parcelization staff report with regards to parking requirements for other users still apply.

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT: No objection.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: No objection.

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT:

1. No objection to this site plan parcelization request with the exception that the electrical and generator rooms to the southwest of Building 5 shall be on same parcel as Building 5, for the reason that the electrical and generator are for Building 5. This owner, and any other future owner, is aware that if and when these parcels are owned by separate entities then each parcel shall comply separately with all fire and life safety codes within its respective parcel, not shared and/or accessed with or through the other parcel. The fire and life safety concerns shall be inclusive of, but not limited to, fire alarm system, fire sprinkler system, fire standpipe system, means of egress requirements, emergency power, and any other established fire and life safety systems.

POLICE DEPARTMENT: No comments.

UTILITIES: No objection to the site plan amendment.

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

WASTE MANAGEMENT: No comment.

Mr. Lunny indicated that Attorney Barbara Hall is present on behalf of the applicant. He mentioned Planning and Zoning comments that were principally unified control related. Comment #2 indicates that the proposed parcel split produces an overage of parking on A and a deficit on B and that this condition will be addressed in the unified control document. He requested that Ms. Hall make a clarifying comment as to how that will happen. It will meet his approval providing it meets her approval. This is a slight change to what was previously approved to his judgment.

Mayor Bendekovic disclosed that she met with Ms. Hall and this was part of the conversation; however, it will not impact her decision if she should have to vote because of the fact that it is supported.

Attorney Barbara Hall was present. Because of the disparity in the parking numbers their unified control document will make all of the parking available to both parcels.

Mr. Lunny advised that the City will allocate those two uses first come first serve.

Mr. Leeds indicated that this is a parcel split; it is a site plan but it really is not because there are no proposed newer modified buildings. The line separating the two parcels has changed and that is why we are here tonight. It is subject to an additional condition; the Fire Department modified a recommendation and submitted to him on August 12, 2014. He would like the Fire Department's modified recommendation not included in the backup to be included as part of the motion of staff comments. The unified control document will include a cross parking agreement that will allow anyone to park anywhere. This means that all of the barriers and the closures that you have seen will come down. This allows more effective use of the parking and in some cases people may have to walk longer than they would have because parking is being shared. He thinks Mr. Lunny wanted to make that clear because we will be coming back to that issue with the repositioning of the complex.

He reiterated subject to staff conditions and the Fire Departments modified recommendation of August 12, 2014.

Councilmember Fadgen questioned if Ms. Hall was aware of the Fire Department modification.

Ms. Hall advised that she was aware of the modification. She stated that they worked that condition out with the Fire Department and it is fine.

Motion by Councilmember Levy, seconded by Councilmember Zimmerman, to approve Item No. 26, subject to staff comments and the Fire Department comments as of August 12, 2014. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Councilmember Fadgen mentioned the status of getting the legal suits and dollars associated with that.

Mayor Bendekovic stated that she indicated that the budgets are ready and will be going out with all of the backup material. She noted that there is a cover memo to everyone indicating that the litigation information is strictly confidential and it is only to be reviewed by Council.

In response to Councilmember Fadgen, Mayor Bendekovic advised that it will be received by August 15, 2014; budget time is September 3, 2014 and September 15, 2014. She reminded everyone that there is a meeting on August 27, 2014; however, there is another meeting on the following Monday, September 3, 2014. The Second Public Hearing will be the next Monday on September 15, 2014.

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Councilmember Zimmerman commented that at the last two meetings Parks and Recreation brought two items on the Consent Agenda for approval with only one bid. He thinks we need to watch how we are procuring some things.

In response to Mayor Bendekovic, Councilmember Zimmerman was all right with the pool piping; he understood that. There was carpeting and there are a lot of vendors for carpeting; he was surprised we got one bid. He noted that today we received one for the concession stand for Volunteer Park.

Councilmember Bendekovic believed we only received one bid from Country Cottage. She does not know what else we can do; it is advertised.

Councilmember Zimmerman requested that we find other methods of getting the word out.

Ms. Slattery advised that all bids are advertised twice in the Sun Sentinel. We try to do it 30 days before the bid opening and it is also advertised on our website; Demand Star.

Councilmember Zimmerman stated that there are other advertising agencies in the contracting industry that may help us a little. He reiterated his concern of only getting one bid.

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Councilmember Levy reiterated the request for Country Club Estates for repaving of streets.

Mayor Bendekovic indicated that will not be part of the budget process because that would be part of the bond she would like to go out for. It costs over $1,000,000 to do the paving and anything over $1,000,000 is not in the capital; all we have given is operational capital. Country Club Estates is on top of the list and as soon as we have the money it will be done. She mentioned the new light poles going up; 16 have already been installed. Those were funded by CDBG money.

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PUBLIC REQUESTS OF THE COUNCIL CONCERING MUNICIPAL AFFAIRS

Steve Oaks (sic), resident, was present. He mentioned a house that went into foreclosure and it was an eyesore for about four years. He spoke with the Mayor regarding purchasing the house and she worked out some issues concerning Code Enforcement violations. He ended up purchasing and leveling the house. Initially he did not have any intentions of what he wanted to do with the property and thought he might build a garage or something and incorporate it into his property. Planning and Zoning said they were not up with unified title for a garage. His wife suggested building a new house and since his parents are getting older they decided to build a larger house. He currently collects antique motorcycles but cannot keep them at his house because he only has a one-car garage. He thought that if he builds a larger house he will build a larger garage so he can store all of his things. Upon meeting with Engineering, he was told how big they can build. After drawing and going back and forth, they went to Planning and Zoning who said they did not like it; the garage is too big. The footprint is all right. They went into Zoning records and there are no rules or definitions that say a garage has to be this big as long as it is at least a one-car garage and the garage cannot be 20% higher than the highest point of the house. He also wants to purchase an RV that is about 13 feet tall and put a trailer on it for retirement; however, Planning said it does not fit the definition of accessory building. They say it is not like anything else in the neighborhood. He noted that no two houses are the same in the neighborhood; there are some pretty large garages in the neighborhood with 14-foot doors. In the year 2000, Planning and Zoning revised the code to make it easier for people with RV's. He went around the entire neighborhood with his plans and started a petition. Just about everyone signed the petition; they are thrilled that they want to build a new house. All of the neighbors support what he wants to do. Planning and Zoning is telling him he cannot have a garage taller than eight feet and the garage cannot be bigger than 24 feet long outside block to outside block. He has a problem because now they are telling him he needs to go before the Board of Adjustment; they came up with seven or eight issues that are not in the code.

Councilmember Jacobs questioned who he is referring to when he refers to Planning and Zoning.

Mr. Oaks stated that he is referring to Planning and Zoning. He stated that he did not go to the Board of Adjustment.

Councilmember Levy questioned the size of the garage being proposed.

Mr. Oaks indicated that the house is about 4,200 square feet and the garage is about 4,000 square feet. The house is a two-story house and with the revised drawing the house is less than 27 feet tall; the garage is less than 20 feet tall. There is a 14 x 14 door on one side; it is set back. It is a beautiful design and you cannot see the large garage because of landscaping. The garage is set back from the front of the house. The average house in this neighborhood is 50 years old and this is a brand new house. Eventually this area is going to get redeveloped and people are going to want to build newer houses.

Mr. Lunny advised that Mr. Leeds consulted with him on this matter. He believes that the interpretation of the Zoning code is defendable and appropriate. Mr. Leeds is the Officer of the City that interprets the Zoning code and if you wish to appeal that interpretation the only body that considers such appeals is the Board of Adjustment and the time limit has passed for that. The issue is whether the Council wishes to revisit the topic legislatively for the RS2-B District, which we have very little in the City; it is principally in the Country Club area, and whether Council wishes to chart a new course in anticipation of more intense residentially development. Generally the concepts of mc mansions or structures that are extremely new, large and different can be controversial for an area. The concept of a garage being accessory and consistent with the District is a proper legal concept; it is imbedded in our law. Mr. Leeds examined the homes in the District and tried to come up with some standards as to what he felt were normal for that area. If the matter were appealed to the Board of Adjustment and they overturned the interpretation that would be the interpretation that would govern this District. Mr. Oaks chose not to appeal and no longer has the opportunity to do so; therefore, the only relief he can get is if Council wants staff to go back and look at the size of the lots and revisit the topic legislatively. Absent to Mr. Oaks applying for an amendment to the Zoning code, Council considering the matter and the Planning and Zoning Board's advice being sought on the matter, there is no further relief here.

Councilmember Jacobs clarified that the Council does not have the power to provide any relief; the proper relief was to appeal to the Board of Adjustment. Since that has passed we cannot do that. The Council can address this issue legislatively where it is not site specific but the issue would be for the entire RS2-B Zoning District, where the Zoning District would be looked at, and philosophically decide whether or not we would change the way the District would look so what Mr. Oaks wants to do would then be permitted. He suggested that if Mr. Oaks wants to say something it should be, "Why Council would want to legislatively look at the RS2-B zoning".

Councilmember Levy commented that the legislative process is a long term process. He knows there have been many discussions with Mr. Leeds and Council cannot do anything at this point to help. He questioned if there is any kind of way Mr. Oaks could meet with Mr. Leeds and his staff again to see what could happen to fit what is needed into the code as it stands now.

Mr. Oaks stated that he has been dealing with Mr. Leeds since April, prior to purchasing the property.

Councilmember Jacobs indicated that perhaps the design could be modified and they could come to a compromise with the Officer of the City, who makes that decision. He stated that Mr. Oaks is welcome to contact the Council members and Lobbyists to change the zoning if that is the path you wish to do or you might consider modifying the plans.

In response to Councilmember Fadgen, Mr. Lunny advised that Mr. Leeds provided a formal written interpretation of the Zoning code pursuant to his authority and advised Mr. Oaks that he had 30 days within which to seek an appeal to the Board of Adjustment.

Councilmember Fadgen questioned if there is a way to request a re-consideration and start that clock again.

Mr. Lunny indicated if there was a material modification to the plans that prompted a different interpretation then the answer is yes. The letter that was written sets outside parameters and guidelines that Mr. Leeds felt was consistent with that community. The letter was written not to be plan specific; it was intended to leave it to the property owner to design within those parameters. Council might wish to hear from Mr. Leeds on this topic.

Mr. Oaks stated that he plans on pursing this some more; he is not going to go away.

Mr. Leeds explained that this started back in early May. He was asked by staff to meet with Mr. Oaks Staff had determined that the arrangement of parking garages was too big and Mr. Oaks asked what he could build. Mr. Leeds told him this was too big but if he requested a formal interpretation one could be made and he would evaluate it in terms of the code. He tried to be very fair and reasonable. He also took into consideration the context of the neighborhood. He came up with an arrangement that would allow Mr. Oaks to build a two-car garage attached to his home and an additional three-car garage, possibly four, as a freestanding building. He asked Mr. Oaks to come up with some standards in terms of the height of the garage door and also indicated that he could build up to 25% of the floor area of the house. Mr. Oaks is building a large house and that comes to 2,000 square feet. He thought the 25%, the 2,000 square feet, the two-car attached garage, the additional three-car freestanding garage, was very fair and reasonable given the context of what exists in the Zoning District. While there are a lot of homes from the 50's that have a one-car carport, the standard seems to be a two-car garage and in some cases a two-car garage with an additional two-car garage attached. He came up with something he thought was accessory, customary and incidental to the size of the home based on what he sees in the neighborhood today. He can meet with Mr. Oaks again but at this point he is not prepared to deviate what he thinks was a very reasonable and fair alternative to what he proposed. He proposed three garages, which equals roughly 49% of the house; about 3,800 feet. The largest of the garages was 30' x 82' long; then there was an additional four-car garage and a single-car garage at the front of the house. He cannot find an arrangement or a set of criteria between what Mr. Yost proposes and what he thinks is customary, incidental and subordinate to the house in the context of this neighborhood. Mr. Oaks was advised that the criteria or the code says, "He has the opportunity of appealing the determination", and he was told that if the Council rules in his favor then his arrangement would become what is permitted in the R22-B Zoning District, which are two Zoning Districts east of Country Club Drive. He extended additional time because he received a change in information, which gave him an opportunity to give Mr. Oaks additional time to file an appeal. If he had filed an appeal he could have brought his petitions, brought people from the community and we would have notified all property owners within 300 feet and as is the custom, we would have notified the Association and then we could have had this discussion in front of the Board of Adjustment. Mr. Oaks elected to not file the appeal; the deadline was August 11, 2014, and right now Mr. Leeds cannot come up with something in between; he does not think it fits; he does not think it is consistent with the neighborhood. To try to come up with a compromise between what he has proposed and what has been suggested as reasonable would be substituting Mr. Leeds' judgment or the judgment of the City Council. He thinks it is a significant substantial change. In good faith and in proper planning, he cannot come up with an in between answer. He has given a determination and thinks it is fair. Unless the Council says they want to allow much larger garages in Country Club Estates and tells him to change the code there is not too much he can do. He spent a lot of time on this; he reviewed it with staff. We originally started out with 20% of the size and house and he said no, let's make it 25%; however, this is not Mr. Oak's needs. If the Council is not inclined to change the approach in this community there is nothing he can do. This has been discussed with staff and with the City Attorney and he is considering the community.

Councilmember Jacobs advised that he is not ready to change the zoning to have garages about half the size of the houses.

Councilmember Fadgen believes that the concept to rebuild will make all of the properties in that area more valuable. If we do the rezoning we probably would not permit a 49% size garage relative to the rest of the structure. He thinks we should look at rezoning to accommodate to some degree the fact that there is a need to perhaps redevelop that area with newer, more modern structures.

Mrs. Tabia Oaks (sic), resident, was present. She stated that Mr. Leeds' argument that the garage is not consistent with the neighborhood is understood; however, she does not think it is fair. She provided pictures of what is currently in the neighborhood that is surpassing what they are being restricted to. It sounds huge on paper with the numbers but they are making it aesthetically pleasing and as her husband said, you would not see the garage from Country Club Circle, you would just see a single door because the way it is planned, it would sit along the side of the house in the corner not facing the street.

Councilmember Levy expressed concern about trucks being housed there and being used for business.

Mrs. Oaks indicated that would not be the case. She stated that her husband is a big collector; he has many motorcycles, airboats, and vessels and they want to properly store them. We have an opportunity to rebuild and they want to do it the right way. Earlier she heard discussion about an antenna being architecturally blended and camouflaged. They are saying they have a lot of stuff and they want to store it properly. She does not see why they are getting such a backlash from this. They are within the code; they are not in violation of any of the codes with Engineering. She would appreciate if they can get this looked into further. They were here during the second meeting of June in which they had every intention to come before Council. Mr. Leeds asked us to step outside and said that he would schedule a private meeting with the City Attorney; that never took place. They were then told that it was not going to happen because it was not approved.

Mayor Bendekovic advised that it does not change the interpretation that the Official has given. Unless you want us to change this on a legislative item she thinks that we should commence with the discussion. Either the plans can be modified and go within the parameters. She has the letter that Mr. Leeds sent to Mr. Orbst; she will provide that. It was written on June 13, 2014. Mr. Leeds has spent a considerable amount of time with them. She is very familiar with the site and said that it does not blend in. She also stated that it is on a corner lot.

Hector Lopez, resident, was present. He has had conversations with about 80% of the people who reside within three blocks and they are excited about the rebuild. No one has any objections. He actually would feel safer if the motorcycles were stored inside of a garage than left outside.

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

- He reminded everyone that we are getting into the Election season and early voting starts this Friday. Absentee ballots have been out for about a month. There are a couple of convenient early voting sites in Plantation and he encouraged everyone to take the opportunity to exercise the franchise.
- He mentioned a near miss a few years ago in Plantation with an outfit called CARE, which is a terrorist organization. They have designs for America to put America to an end as does Hamas, a terrorist organization, to put an end to Israel. He urged Council to press upon our National and Federal Government that when meeting with these people that they are meeting with people who want to "Put your head on a spike". Just to clear up any confusion, he noted that Israel is good and Hamas is evil.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 9:35 p.m.

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Councilmember Ron Jacobs, President Pro Tem
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