

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

August 27, 2014

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

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Councilmember Jacobs.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic welcomed Pat Hind and Barbara Grayson from the Plantation Woman's club who presented a check to the Plantation Police Department in the amount of \$18,000.00 for a speed trailer and monitor.

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Resolution No. 11922

3. **RESOLUTION** of Appreciation to Richard Maher for 27 years of dedicated service to the City of Plantation.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11922 as presented. Motion carried on the following roll call vote:

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

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Resolution No. 11923

4. **RESOLUTION** of Appreciation to Anthony Andragna for 31 years of dedicated service to the City of Plantation.

Mayor Bendekovic read Resolution No. 11923 into the record.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Resolution No. 11923 as presented. Motion carried on the following roll call vote:

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

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Mayor Bendekovic presented Service Awards to the following Employees:

*Off. Joel Stevenson	Police	25 years
*Michele Cuthbert	Parks and Rec	20 years
Michael Ostendorf	Library	20 years
Robert Shaw	Public Works	20 years
* Gayle Easterling	Planning	15 years
Carlton McLean	Code Enforcement	15 years
Chief E. Laney Stearns	Fire	15 years
*Off. Mary Mastrianni	Police	10 years
*Christopher Foster	Parks and Rec	5 years

*Unable to attend.

Congratulations were offered.

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Mayor Bendekovic made the following announcements:

- Helen B. Hoffman Library Story Time will be September 4, 2014 – April 10, 2015. There will be no Story time during public school winter and spring breaks.
- Broward County Property Appraiser will have representatives available every Wednesday, from 12:00 noon to 2:00 p.m. at the Outreach Center located at 1 University Drive, Broward County Governmental Center.
- Mango, a program that will teach residents new languages, is available online through the Library’s webpage.
- Art Search will be held September 2 to October 10, 2014. This is sponsored by the City of Plantation’s Parks and Recreation Department and Plantation Woman’s Club.
- Hot Shots Basketball Tournament will be held Friday, September 5, 2014; 7:00 p.m. at Central Park Gym.
- Sponsorship opportunities are available at the Plantation Chamber of Commerce for their annual Golf Tournament, October 16, 2014 at Jacaranda County Club and the annual Economic Summit held September 25, 2014 at the Renaissance Hotel.

- Plantation Farmers Market is held every Saturday from 8:00 a.m. until 2:00 p.m. at Volunteer Park.
- The first public hearing of the budget will be held September 3, 2014 at 7:30 p.m. The second public hearing of the budget will be held September 15, 2014 at 7:30 p.m.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 16.

Item No.'s 9 and 12 were pulled for discussion and voted on separately.

Mr. Lunny read the Consent Agenda by title.

5. Permission for Rick Case Hyundai to have a promotional event (Tent Sale) Thursday, August 28 through Monday, September 1, 2014 (Labor Day Weekend).
6. Request to approve the purchase of one (1) 2015 Chevrolet Tahoe to be used as a response vehicle from Garber Chevrolet for \$27,781. (Budgeted – Fire)
7. Request to approve purchase of a Bauer Mini Unicus 6000 psi NFPA complaint SCBA Fill station for \$40,475.30 from Compressed Air Supplies and Equipment. (Budgeted – Fire)
8. Request for authorization to continue purchasing sodium hypochlorite (chlorine bleach) from Odyssey Manufacturing Co. (RFP No. 038-11) through October 19, 2015 at a cost of \$0.67 per gallon for split or full-tanker load. (Budgeted – Utilities)

Resolution No. 11924

10. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property located at 1850 SW 51 Terrace. (Wright)

Resolution No. 11925

11. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property located at 4200 SW 9 Street. (Lopiano)

Resolution No. 11926

13. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period August 7, 2014 through August 20, 2014 for the Plantation Gateway Development District.

Resolution No. 11927

14. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period August 7, 2014 through August 20, 2014 for the Plantation Midtown Development District.

Resolution No. 11928

15. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period August 7, 2014 through August 20, 2014.

Resolution No. 11929

16. **RESOLUTION** approving the Expenditures and Appropriations reflected in the Weekly Expenditure Report for the period August 7, 2014 through August 20, 2014 for the City of Plantation's Community Redevelopment Agency.

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

Ayes: Zimmerman, Fadgen, Levy, Jacobs, Stoner

Nays: None

NOTES: Mayor Bendekovic voted affirmatively on Item No. 16.
Councilmember Zimmerman abstained from voting on Check No. 163853.

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Mr. Lunny read Item No. 9.

9. Request to award contract for RWWTP Upgrades Project (RFSP No. 012-14) to Wharton Smith, Inc. in the amount of \$8,997,000.00. (Budgeted Utilities)

A memorandum from Chuck Flynn, Director of Utilities, to Mayor Bendekovic and Members of City Council dated August 18, 2014 follows:

The Regional Wastewater Treatment Plant (RWWTP) Upgrades Project (RFSP No. 012-14) is needed to provide necessary improvement and modernization of equipment and treatment processes at the RWWTP. The plant has not had any substantive upgrades in the treatment process since the plant was built in 1986.

The Upgrades Project will include the removal of mechanical aerators and installation of fine bubble aeration. Replacement of the mechanical aerators will provide approximately \$350,000-\$420,000 in electrical savings annually. Integral to the fine bubble aeration upgrade is the installation of a comprehensive Supervisory Control and Data Acquisition (SCADA) system. This system will provide better automated monitoring and control of the new aeration process. The Upgrade Project also includes the construction of a new laboratory building which will modernize the laboratory environment and replace 28-year old equipment. Existing lab space within the administration building will be repurposed as much needed training and meeting space.

On June 10, 2014, sealed proposals for RFSP No. 012-14 were opened and evaluated by Utilities Department Staff. Based on that evaluation, the Utilities Department staff recommends that City Council award the work for the Regional Wastewater Treatment Plant (RWWTP) to the second lowest bidder, Wharton Smith, Inc., as the lowest and best responsible bidder in the not-to-exceed amount of \$8,997,000.00. That recommendation is based on the following criteria:

Section 14.2 of the bid package lists evaluation criteria that was considered when evaluating the bids/Proposals of Respondents. Additional criteria are also listed in Addenda that are published for each project. Only those criteria where there is a material difference between the two lowest bidding firms are listed. (See Exhibit A)

The specific site and equipment experience Wharton Smith, Inc. brings with them gives them a clear advantage

in integrating the existing systems into the new systems to be installed. In addition, Wharton Smith's recent completion of the \$1.7 million contract came in under budget and without substantive issues.

The reasons specified in Exhibit "A" and the minimal cost difference between Wharton Smith, Inc. and Poole and Kent Company of Florida, Inc. (\$122,000, or 1.35% of the construction cost) are the bases the Utilities Department staff strongly recommends awarding a contract to Wharton Smith, Inc. in the amount of \$8,997,000.00 to perform the work identified in RFSP No. 012-14.

Please note that this award does not include construction management services (CMS). A request for authorization for CMS will be submitted at a later date with all the appropriate documentation.

This work has been identified in the comprehensive capital improvement plan and will be funded by the proceeds of the Utility System Revenue Note – Series 2013, which was approved by Council on December 18, 2013.

Stewart Sakwa, Attorney for Poole & Kent Company of Florida, Inc. was present. He noted Poole and Kent Company of Florida, Inc. was the lowest responsible bidder. He requested that the bid not be awarded to Wharton Smith, Inc. and that this would be a violation of the City's ordinances (Section 2-220) and State law. It was his belief the bid documents did not include the explanation of how the documents would be reviewed and the criteria set for choosing a contractor.

Chuck Flynn, Utilities Director, and Steve Ulrich, Assistant Director, were present. Mr. Flynn commented a bid was solicited for Wastewater Treatment Improvements. Bids were opened on June 10, 2014. Upon opening and review by senior staff; Steve Ulrich, Charles Spencer, Chuck Flynn, and the Legal and Risk Management Department an evaluation was done. Counsel found that not all of the bid documents were received from Poole and Kent; however, they were not found as non-responsive due to the lack of documentation. Upon further review, there were irregularities in the proposal. A letter was sent to Poole and Kent asking for a response to a non-disclosure. In that letter there was a contradiction to what was submitted in the original submittal. It was his belief, that Poole and Kent was a continuation and that the case in question was supplied. After review, it was determined that the work completed was similar to the work being requested as part of the RFP. In addition, Staff noted the work completed by Wharton Smith, Inc. on another project was excellent and had no issues. Mr. Flynn advised all of the requirements of the bid were met and there was no exception on the bid bond. The litigation history of Wharton Smith, Inc. was reviewed and determined to be reasonable. After reviewing all of these factors, Staff recommended Wharton Smith, Inc.

Councilmember Stoner expressed concern with regard to the search history of Poole and Kent showing 40 years of litigation history while the bid documents require a search for the past five years. She further expressed her frustration with the purchasing practices of the City.

Mr. Lunny commented the Department's recommendation is within the scope and function of that Department's duties to the City.

Mr. Ulrich noted the bid bond required specific language and was not included in Poole and Kent's response. The litigation was considered secondary to the bid bond response. They were still evaluated after the litigation history and bid bond response.

Councilmember Fadgen commented the non-responsiveness for the bond is significant. Upon review of the

backup material he noted he focused on the amount of lawsuits and the length of time. He felt the purchasing process needs to be reviewed.

Councilmember Zimmerman concurred that the purchasing process should be reviewed. He concurred the candidate should have been declared non responsive if the bid bond was not correct. It was his belief the difference in the proposals is insignificant and the past history of the candidate should be considered.

Councilmember Levy felt the staff recommendation, legal review and the history of the company, he concurred with the staff recommendation.

Motion by Councilmember Fadgen, seconded by Councilmember Jacobs, to approve the recommendation from Staff to award the bid to Wharton Smith, Inc. as presented in Item No. 9. Motion carried on the following roll call vote:

Ayes: Zimmerman, Fadgen, Levy, Jacobs, Stoner

Nays: None

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Mr. Lunny read Item No. 12.

Resolution No. 11930

12. **RESOLUTION** approving that certain draft agreement for Emergency Medical Director Services between the City of Plantation and Dr. Jaroslaw Parkolap, MD and providing an effective date therefor.

A memorandum from Donald J. Lunny, Jr., City Attorney, to Mayor and Members of City Council dated August 21, 2014 follows:

The Fire Chief advises that the City's current Medical Director (A necessary component for the City's Emergency Medical Services) has decided to retire. The Department conducted an advertised procurement for Medical Director Services and is pleased to advise the Council that Dr. Parkolap of Westside Regional Hospital is recommended as the new Medical Director. Dr. Parkolap has been before the City Council previously during the Fire Department's lifesaving citizen award announcements.

A Resolution approving the draft form of the contract is attached. The Contract is the same as that used previously for Dr. Lee, except that the references to applicable Florida administrative Code Rules have been updated, and the reciprocal indemnities have been limited in accordance with current limits of sovereign immunity. The contract is terminable by either party for convenience. Compensation is set forth in Article IIb, on page 3.

This matter is now ready for approval as a Consent Agenda Item.

Motion by Councilmember Zimmerman, seconded by Councilmember Jacobs, to approve Resolution No. 11930 as presented. Motion carried on the following roll call vote:

Ayes: Zimmerman, Fadgen, Levy, Jacobs, Stoner

Nays: None

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ADMINISTRATIVE ITEMS

17. STATE OF CITY PENSION FUNDS

Robert Klausner, Attorney, and Jeff Amrose, Actuary, were welcomed and introduced.

Mr. Amrose noted the following highlights that will be discussed during his presentation.

- The common costs for each plan.
- Cost pressures for each plan.
- Projections for each plan.

He discussed the Actuarial Valuation Report for General, Police Officers and Fire Employees. The following was noted:

General Employees Plan

- The required contribution for FYE 2015 will be 28.07% of the covered payroll or \$6.5 million for the General Employees.
- The Employer Normal Cost is \$2.2 million or 9.34% of payroll for General Employees.
- The amortization of accrued liability is \$4.3 million or 19% of payroll which equates to approximately 70% of the total cost for General Employees.
- As of October 1, 2013, the unrecognized investment gains of \$6.8 million. The smoothing value of assets recognizes that the plan is operating strongly. This is due to the negative years of investment gains being recognized and the investment performance in recent years has been very strong. If the gains were to be absorbed now, the City contribution would be reduced by \$650,000.
- For the first 11 months of this year, the General Employees fund has recognized 12% gains.
- The reduced benefit for employees hired after October 1, 2010 will reduce costs once they are brought into the system. The normal costs are currently 9% and are estimated to be reduced by 1.5% over time.
- Next year is the last year of the phasing of assumption changes. This is the assumption return that was reduced from 8% to 7.5% and updating the mortality table. This will result in an upward pressure of approximately \$370,000 in next year's required contribution.

Mr. Amrose explained over the next 20 years the current unfunded accrued liability and the costs of the plans will be the normal costs of 7.5% of covered pay. However, the gains and losses accounted for in the assumptions will determine the actual costs. It was noted the assumptions are not aggressive. Because of this, there is a higher probability that gains and losses will cancel each other out.

The funded ratio for the General Employees Plan is 74.1% as of October 1, 2013. He felt the way in which the fund is setup with the current assumption rates show a more realistic figure and the plan is healthier.

Police Officers' Plan

With regard to the Police Officers Plan, Mr. Amrose advised the current contribution is \$7.3 million or 75% of non-DROP, covered payroll. The employer normal payroll cost is approximately \$3 million or 31% of payroll. The amortization payment is \$4.9 million or 51% of payroll. These amounts are ultimately offset by the State which equated to a payment last year of \$700,000 or approximately 7% of payroll.

As of October 1, 2013, there is \$3 million in unrecognized investment gains. This is due to the bad years of 2008 and the last several years have resulted in strong investment performance. The last two years returns were 2012-16.5% and 2013-10.6%. It was noted that once those officers who are part of the additional Tier of benefits (January 1, 2010) are brought into the system, there will be additional, modest savings. Plan changes recently proposed are not reflected in the above projections. An Impact Statement with those numbers is being constructed. The return year-to-date is approximately 12%.

In response to Councilmember Stoner, Mr. Amrose explained the plan numbers and percentages are similar to those of other municipalities he is involved in.

The long term funding ratio is dependent upon the funding ratio. The assumption rates being used are very good and have a high rate of being met over the long term. The investment return assumption rate is 7.05% and the mortality assumption rate has been revised to the new tables.

Firefighters' Plan

This plan has been funded by State and investment earnings since 1988. There have been no City contributions since 1988. The State contribution was approximately \$850,000 in 2013. Mr. Amrose reiterated the assumption rates being used are very realistic and are the updated rates. The funded ratio is 128%.

Attorney Robert Klausner was welcomed and introduced. He commented that the Police Officers' Plan has performed well since 2008. He discussed defined benefit and deferred compensation plans. It was his belief this plan has performed well and recovered better than numerous plans since 2008. He reiterated the funding for this plan is the most cost effective means. He commented a defined contribution plan costs more than a defined benefit plan due to the plan being able to pay for itself. Over time, the plan has earned more than the assumed rate of return. By lowering the assumed rate of return, in the short term, employer's cost were increased, but in the long term interest is saved. The plan assumption rate calls for an increase in salaries of 5.7% per year. By making this assumption, a contribution is made and this further decreases the unfunded liabilities at an accelerated rate. He discussed the DROP and the benefits of the plan.

Kevin Swan, Chairman, of the General Employees Board was present. He noted the employees are very pleased to have the defined benefit plan. Employees stay due to the benefits, pension and the way in which they are treated.

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18. PLANTATION COMMUNITY CENTER PRESENTATION

Danny Ezzeddine, Director of Design, Landscape and Construction Management, made a brief presentation with regard to the Plantation Community Center Presentation.

Merrill Romanik, Synalovski, Romanik, Saye presented a brief overview of the changes that were incorporated from the July 23, 2014 meeting. The front elevation was changed to be more consistent with the back elevation with a decrease in the roof lines, scales reduced and similar to a residential component, larger overlays, porte-cochere and added additional brick features. In response to Councilmember Levy, the fountain being donated by the Plantation Woman's Club would be located in the drop off area in front of the building and to the east of the round-about. The brick sign will be located in the round-about. In response to Councilmember Jacobs, it was her belief that the costs for these changes should be absorbed for the most part.

Mayor Bendekovic noted her approval of the changes to the design. She explained the design for the fountain will be similar to City Hall and Deicke auditorium.

Councilmembers Jacobs and Zimmerman advised they preferred the original design.

Councilmember Stoner felt the Landscape Department will greatly enhance the design.

It was the consensus of those Councilmembers present to approve the design submitted for Item No. 18.

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Mr. Lunny read Item No. 19.

19. DISCUSSION CONCERNING EMERGENCY GENERATOR IMPROVEMENTS AT THE WATER TREATMENT PLANTS.

A memorandum from Chuck Flynn, Director of Utilities, to Mayor Bendekovic and the Members of City Council, dated August 19, 2014 follows:

This proposal is for a work authorization for Hazen and Sawyer, PC in the form of a lump sum of \$119,200 for services related to installation of the modifications needed to bring the existing water treatment plants' generators into compliance with the Environmental Protection Agency's (EPA) Tier IV Emissions Standards only. This project is limited strictly to the installation of the required diesel oxidation catalyst (DOC) on each generator. The services include design, preparing performance based bid proposal specifications, bid management and evaluation, and permitting/testing assistance.

This is the minimum work that must be performed to avoid continued violation of EPA Tier IV Emissions Standards, which subjects the City to fines by the EPA in excess of \$30,000 per day if the EPA chooses to begin enforcement of those fines. This work would also ensure the ability to remain the FPL Commercial Industrial Load Control Program (CILC) and the nearly \$400,000 per year in cost savings achieved through the lower rates that program provides.

The Utilities Department staff also requests that City Council review the original full scope proposal as previously presented on July 23, 2014. The radiator modifications have already been identified as planned improvements in the five-year plan and the City will achieve substantial cost savings by performing the entire scope of both modifications as a single project.

It should also be noted that the DOC only proposal does not include any of the modifications for converting the cooling systems for the generators from pass-through raw water to enclosed radiator coolant systems. As a result, it does not contain any of the environmental benefits achieved through the reduction of consumption of raw water used to cool the generators during use (in excess of 2 million gallons in FY 2012-13). It is important to note that by splitting the project into two phases, the City will not realize any of the cost savings that would come from the economy of scale of combining the radiator modifications and the DOC installations. The estimated overall cost of the project would increase by approximately \$230,000.00 by completing the project in two phases.

Chuck Flynn, Director of Utilities, explained the proposals have been reviewed again and the scope of services has been reduced. He requested Council consider the entire scope of services which included the water cooled radiators and the new CAD drawings. The original proposal has been a proposed capital project for the past five years. This was included in the Utility Loan Agreement as one of the projects. The project included the Emissions Standards which was not anticipated as part of the original project and escalated the cost.

Steve Ulrich, Assistant Utilities Director, advised the systems can be enclosed for no additional costs as part of the project.

Councilmember Zimmerman expressed his belief the consultant fees are too high even after an on-site tour of the facility and meeting to discuss the scope of work. He questioned why the system is being placed outside and are exposed to the elements. Upon further clarification from staff, staff advised the water usage reduction is insignificant compared to the daily usage.

Councilmember Stoner felt the fees should have been reviewed in more depth by staff and that the Hazen and Sawyer representative was disrespectful. She expressed frustration with staff for bringing back the same proposal.

Mr. Ulrich stated that it was a mischaracterization to state that the prices have not changed. He explained it was a 67% reduction in the overall scope. The same scope was presented since Council requested additional and more backup and not a different proposal.

Councilmember Fadgen was of the belief the representative from Hazen and Sawyer was not professional. It was his belief the entire project should be reviewed by Council including the fees that are outrageous and another proposal for an engineer should be sought.

Mr. Flynn interjected Hazen and Sawyer has reduced their fees by half and it was his belief the fees are competitive.

Councilmember Zimmerman reiterated while this is a Utilities building, it is a generator project. It was his belief the Engineering work may be completed by another company.

In response to Councilmember Levy, Mr. Flynn explained the cost for engineering was reduced from \$600,000 to \$299,000 (approximately).

Mr. Ulrich clarified there would be a separate contract for CMS at the time the bid contract for construction is awarded. The original estimate was \$126,000 and a revised estimate of \$100,000 based on the bid award. The Engineering fees were not reduced.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Item No. 19. Motion carried on the following roll call vote:

Ayes: Fadgen, Levy, Jacobs

Nays: Zimmerman, Stoner

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 20.

Ordinance No. 2515

20. **ORDINANCE** SECOND AND FINAL READING OF AN ORDINANCE OF 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 COMMUNICATION ANTENNAS 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 from Donald J. Lunny to Mayor and Members of the City Council dated August 22, 2014 follows:

Attached for Second and Final Reading is a draft Telecommunications Ordinance which has been revised since First Reading. The following is noteworthy.

1. The definition of "Tower Site" has been adjusted in reaction to the Industry comment at First Hearing so that if not all of the fifty foot (50') strip of land around the equipment compound is used by the applicant for purposes of meeting the landscape requirements (i.e. supporting a waiver request), the size of the Tower Site would be reduced accordingly. The revision allows the industry to determine the size of the Tower Site based upon the size of the equipment compound proposed (subject to the previous seven hundred (750) SF per antenna array/two thousand five hundred (2,500) SF absolute maximums as before), with a minimum twenty (20) additional feet surrounding same for landscaping.
2. The Building Director and Director of PZED have agreed that the Building Director should perform

certain duties previously proposed for the Director of PZED in Section 5.5-5.3(c) (See Lines 311-352) and in Section 5.5-6.0 (c) (See Lines 981-1008). These determinations involve where installations require only "Building Permit Review".

3. Staff has liberalized the Ordinance with respect to when, if ever, certain portions of an application relative to RF Propagation data will be accepted from person who are not licensed engineers. Footnote 2 on Page 11 allows the City to accept in addition to binding case law, and Opinion from the Attorney General of Florida. (See Page 11). This issue is still likely to be contested.
4. Hedge height around the equipment compound has been reduced to thirty inches (30") as requested by City Council.
5. The Director of PZED has proposed a maximum number of antennas that can be placed on the face of a building. The proposal is one (1) per fifty (50) lineal feet of building face not to exceed fifteen (15) antennas per building. (See Lines 1094-1096).
6. Generally, the Administration has advised that after Second Reading, it will take a short while for the Staff to prepare the implementation of the Ordinance. Accordingly, an effective date of Monday, September 29, 2014 is suggested for the Ordinance. The Moratorium will expire the following day.
7. A clarification was added to the Ordinance that affects when street lights on poles will continue to be illuminated at City expenses after an antenna installation. (See Lines 1462-1468). Basically, if the pole and light do not need to be replaced as a result of the installation, the City will continue to pay for illumination afterwards; in all other cases, illumination will be paid by the pole owner (or permittee) afterwards.
8. New provisions were added to deal with antennas that cause decorative light poles in residential neighborhoods to be replaced which have been paid for by residents (See Lines 1548-1564) and decorative light poles in County and State right-of-ways paid for by Plantation to be replaced (See Lines 1593-1621). These provisions are principally designed to allow the City to collect for the homeowners association the unamortized cost of the decorative light being modified or replaced, or to allow the City to collect for the City the unamortized cost of the decorative light being replaced, as the case may be.
9. A provision has been added to allow the Public Works Department to recover costs in the event actions are needed to clear rights-of-way or protect person or property. (See Lines 1566-1676).
10. A definition of "Electric Transmission Line" has been added. (See Line 1319) and the law was clarified in connection with placing antennas on Transmission Line Poles (See Line 1623), still maintaining as before that no engineering permit will be necessary.
11. Finally, Staff requested Special Communications Counsel to evaluate whether the size of residential satellite dish installations should be decreased as the Ordinance has permitted ten feet (10') dishes since 1986. (See Lines 1839-1844). Dishes of ten feet (10') still are used for certain types of satellites, and so no change is recommended. It should be noted that most household dishes are smaller than one (1) meter in diameter because of a Board of Rules and Appeals decision to implement Federal preemption, and so not many new dishes are expected at this increased size.

12. The Right-of-Way installation portion of the Ordinance has been clarified to require safety acknowledgements that the antennas will comply with safety standards for emissions (see Lines 1517-1538) for installations that are permitted by the City Engineer, and Lines 1641-1654 for installations generally not permitted by the City Engineer. Additionally, given that the City will not be issuing permits for installations on County or State Roads or within State approved electric transmission pole corridors in Plantation, the provision to allow the Public Works Department to recover any emergency action related costs as described in paragraph 9 of this memorandum above has been duplicated in Lines 1632-1639.

Staff has attempted to yellow highlight changes deemed material.

This Ordinance is now ready for consideration at Second Reading.

Mr. Lunny noted the following changes proposed:

- An email was received from FPL's counsel requesting that the definition of Communications Facility on line 147 of the Ordinance be revised to include - "this definition does not include communication facilities installed to remotely facilitate, monitor, or control the distribution or transmission of electricity on electric infrastructure, telephony or telephone on telephone infrastructure and other types of utility service on such utility infrastructure." The Legal Department has no objection to this requested modification of today and recommend that this be included as part of the approval.
- The City Engineer requested the decorative lights that are referenced in line 1613 and 1614 be amortized over a 30 year period rather than a 50 year period. Mr. Lunny explained this is being proposed in the event one of the decorative poles installed by the City or by a neighborhood, needs to be replaced; the City can recover an amortized investment.
- On Line 851, the language was revised to - "assurity or cash bond shall be posted by the communication's tower owner or successor with the Building Department, in a form approved by the City. The City made by Resolution or by vote of the City Council accepts alternate forms of financial assurances in specific cases."
- On Line 1139, a clerical error was clarified so that the numbering will be "ii" and "iii".
- On Line 1248, the word "or" after the comma has been deleted.
- Line 1439, the Industry is requesting - after the word "pole" the wording "utility pole" would be inserted. There was no objection from the Legal Department.
- Line 1498, the Industry is requesting - instead of the referenced paragraph 19, the wording would be corrected to reference Subsection G.
- Line 1504, Staff is requesting to accept cash or assurity bonds or any other type of financial assurance as before, and requires a resolution or vote by City Council rather than accepted by Staff.
- Line 1575, after the word maintained - the paragraph reference would be corrected to Subsection F.
- Page 11, footnote 2 - As indicated, previously when looking at the statutory exemptions about the practice of Engineering and whether an RF person would have to be a PE when calculations are submitted to the City. The new draft eliminates the PE requirement and request a suitably skilled person with three years of experience in radio frequency and wireless communications make the certification. In addition the following is proposed: if the Attorney General renders an opinion on the statutory construct the City would automatically defer to that situation. If the Florida Board of Professional Engineers renders a formal declaratory statement, the study and analysis of projected radio wave propagation by use of equipment and antennas and applied sciences not within the scope of professional

engineering; then the other provision would be defaulted to which calls for a skilled individual with a bachelor's degree in Engineering Science and three years' experience in radio wave. The intent is for the City to not be a barrier, the City is acting conservatively in that if the regulatory authority that regulates the profession and issue the declaratory statement, the City would be able to utilize the backup position and not require a PE. This would be another accommodation to the industry and as long as the City has notice and an opportunity to dialogue, this would be a practical solution to resolving the issue.

In response to Councilmember Stoner, Mr. Lunny explained State law indicates an employee of a utility company does not have to be an engineer. It was his belief it is appropriate to specify some level and the three year level was suggested by the industry and viewed by staff has sufficient. Mr. Lunny explained there is an issue with the number of professional engineers who do this type of work. This is unique to the industry and are activities that are solidly within a design professionals criteria and does not affect the structural safety. This type of information would affect build out information and the City is prevented by State law from evaluating.

Mayor Bendekovic expressed concern with regard to the standards being changed.

Mr. Lunny clarified there is no right-of-appeal to the City Council; however, there is an elected official discretionary call up procedure, in which the Council would decide whether they wished to consider the matter and then, after it is agreed upon, the matter would be set for formal review.

Discussion ensued with regard to the effective date of the Ordinance. Councilmember Stoner noted Attorney Paul D'Arelli had a client who was in the process of City Staff reviewing his client's application and he expressed concern that he might be "caught in the middle" of the approval. She questioned whether there was a consensus to allow Mr. D'Arelli's client to be on the September 15, 2014 hearing.

Mr. D'Arelli noted he represents Clearview Tower company who submitted an application prior to the moratorium was adopted. During the second reading of the Ordinance, language was added to allow applications on a case-by-case basis to move forward. It was his belief a clear set of plans, addressing the Engineering concerns, can be presented in the two-week timeframe.

Mr. Lunny advised if Council allows this, there should be a waiver, approved by the Legal Department, so that the posture of the permitting authority and the applicant are not altered by this accommodation. The carve out provision for the moratorium was that the applicant would have a review by the Planning and Zoning Department and then move forward to Council once the review was completed. If Council wished to approve the application it may do so. If approved it would be a legislative and the Ordinance would be adapted to fit similar applications.

Mr. D'Arelli agreed to execute the aforementioned waiver.

It was the consensus to allow Mr. D'Arelli and his client make a presentation at the September 15, 2014 meeting.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Ordinance No. 2515 with the aforementioned changes as outlined by the City Attorney. Motion carried on the following roll call vote:

Ayes: Zimmerman, Fadgen, Levy, Jacobs, Stoner

Nays: None

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QUASI-JUDICIAL CONSENT AGENDA - None.

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QUASI-JUDICIAL ITEMS

NOTE: Item No.'s 21 and 22 were heard and voted on in tandem.

21. REQUEST TO DEFER TO OCTOBER 8, 2014 RESOLUTION APPROVING A 3,572 SQUARE FOOT DAYCARE AS A PERMITTED CONDITIONAL USE, TO BE LOCATED IN THE B-Q (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- DEFERRED SITE PLAN, ELEVATIONS AND LANDSCAPE APPROVAL FOR CHABAD MIXED USE COMMERCIAL BUILDING LOCATED AT 10359 WEST BROWARD BOULEVARD AND ZONED B-7Q.
22. REQUEST TO DEFER TO OCTOBER 8, 2014 THE DEFERRED REQUEST TO CONSIDER (PP13-0032) SITE PLAN, ELEVATIONS, AND LANDSCAPE PLAN – PLANTATION COMMERCIAL DEVELOPMENT LOCATED AT 700 SOUTH STATE ROAD 7. (FAMILY DOLLAR)

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to Defer Item No.'s. 21 and 22 to the October 8, 2014 City Council meeting. Motion carried on the following roll call vote:

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

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The City Clerk swore in the witnesses who intended to testify.

Mr. Lunny read Item No. 23.

Resolution No. 11931

23. **RESOLUTION** APPROVING A 17,550 SQUARE FOOT SPORTSCENTER (PLANET FITNESS) AS A CONDITIONAL USE TO BE LOCATED IN A B-2P ZONING DISTRICT ON PROPERTY LYING IN SECTION 33, TOWNSHIP 49 NORTH, RANGE 41 EAST, AND DESCRIBED AS PART OF TRACT A OF JACARANDA PLAZA AS RECORDED IN PLAT BOOK 84 AT PAGE 38, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA BEING FURTHER DESCRIBED IN EXHIBIT "A" AND GENERALLY LOCATED ON THE NORTHWEST CORNER OF UNIVERSITY DRIVE AND WEST SUNRISE BLVD. (8219 WEST SUNRISE BLVD); PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

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

SUBJECT: PP14-0012: Conditional Use for Planet Fitness at Jacaranda Plaza

APPLICANT: Karen Geller, representative/ Jacaranda Plaza Partners, LLC, owner

ADDRESS: 8219 West Sunrise Boulevard

LOCATION: Located on the north side of Sunrise Boulevard approximately 750' west of University Drive

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

REQUEST: Conditional use approval to allow a 17,550 square-foot sportscenter (Planet Fitness) in a B-2P zoning district.

WAIVER REQUEST:

From: Section 27-743, which requires 902 parking spaces (based on use) for the property;
To: Reduce the required parking from 902 spaces to 882 spaces (a 2.2% reduction).

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; conditional use application; and Review Committee Meeting *draft* minutes of June 24, 2014.

REVIEW COMMITTEE RECOMMENDATION: NO OBJECTIONS to the project moving forward for further review (June 24, 2014).

ANALYSIS:

The applicant has requested conditional use approval to building out a vacant 17,550 square foot tenant space in the Jacaranda Plaza. The shopping center is zoned B-2P (Central Business District) and contains approximately 175,000 square feet, excluding the Chase bank outparcel. The master plan consists of four buildings including a grocery store, department store, retail shops, offices, and restaurants. The shopping center elevations were recently upgraded with exterior improvements (PM 12-0052).

This sportscenter contains less than 18,000 square feet, much smaller than the typical 24-Hour Fitness and LA Fitness, which are in the 45,000-50,000 square foot range. In addition, this sportscenter occupies about 12% of the total shopping center floor area as compared to LA Fitness which occupies about 25% of the Office Max shopping center's overall floor area.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. The proposed use is consistent with the Commercial land use category on the adopted land use map of the Comprehensive Plan. Sportscenter is a permitted use in the Commercial land use category.

Economic Development

1. The proposed use will occupy the largest vacant tenant space in the plaza.

Zoning:

In General:

1. If approved, the business license approval is subject to the conditions of this approval.

2. Prior to issuance of a building permit, the construction drawings must include soundproofing details that can be easily verified by Zoning.
3. Massage use is prohibited unless conditional use approval is granted by the City.

Signage:

4. Signage is not part of this review. Existing signage relating to the previous tenant will need to be removed.
5. Please note that window signage may not exceed 20% of the glazed area (Section 22-65).

ENGINEERING DEPARTMENT: No objection. The previous comment has been addressed.

TRAFFIC CONSULTANT: See Engineering.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: Staff has no objection to the requested Conditional Use. This project appears to have no impact on the existing code required landscape.

BUILDING DEPARTMENT: No objection to conditional use.

FIRE DEPARTMENT:

1. Provide correct and scaled floor plan to verify proper compliance with fire and life safety codes; submitted plan is for a different property.
2. Provide detailed site plan for immediate area to verify property compliance with fire and life safety codes.
3. Provide scaled life safety plan showing all proper means of egress requirements.
4. All aspects of fire and life safety shall comply with 2010 Florida Fire Prevention Code as new construction.
5. Any new construction will require permitting plans.
6. Additional conditions may arise upon review of any required permitting plans.

POLICE DEPARTMENT:

1. Provide adequate lighting for members exiting the building at night.

UTILITIES:

No objection to the conditional use approval; however, the following comments apply:

1. Water and sewer utility plans were not provided with this submission.
2. Prior to the Building Permit or Business License being issued, the following must be provided:
 - \$500.00 review fee must be submitted to the Utilities Department.
 - Water and Sewer Utility plans must be submitted to the Utilities Dept. for review and approval.
 - BCHD and BCEPD Permits must be approved if applicable.
 - Utilities Agreement must be executed.
 - Utilities Performance Bond must be posted.
 - Utility Easements must be executed.
 - Utility Inspection fees must be paid.
 - Capacity charges must be paid in FULL.
 - Contact: Danny Pollio if you have any question – (954) 797-2159.

OPWCD: No comment.

WASTE MANAGEMENT: No objections.

Ron Mariano (sic) was present of behalf of the applicant. He explained Planet Fitness is requesting to lease 17,500 square feet of retail space. There have been significant improvements since 2011 on the property. The lease is for five years with five options to renew. There is a reciprocal parking agreement with Chase Bank which results in a parking shortage.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11931 and grant the waiver for the parking reduction to 882 spaces and subject to staff comments. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Councilmember Fadgen discussed the upcoming referendum for the November ballot for constitutional amendments and the potential impact on the City. He suggested the City consider reviewing referendum 2 which deals with medical marijuana. It was his understanding that the City will not be able to control where vendors are operating as long as it is a retail location, there will not be any distance requirements and the target will be students. The amendment allows children (12 years and older), without parental consent, to purchase.

Councilmember Levy expressed his belief that the medications would be provided by prescriptions and that he would like to further read the proposed amendment. If it is passed, the dispensaries information needs to be better defined as well as the enabling legislation including where they will be located and how the medication will be dispersed.

Mayor Bendekovic will provide an update of staff's review at one of the October meeting dates.

City Attorney Lunny indicated this is a mixed issue and will not address whether this matter will or will not be on the ballot. He indicated staff is reviewing the planning, science and legal theory on the recommendation to deal with the amendment if it is passed.

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Mayor Bendekovic thanked staff for their efforts with regard to the Telecommunication's Ordinance.

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Mayor Bendekovic appointed Samantha Fitzgerald as her appointment to the Educational Advisory Board.

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Mayor Bendekovic advised she has created an educational guide with facts regarding each referendum.

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Mayor Bendekovic noted Plantation General Hospital would like to move 200 beds to Nova from Plantation General Hospital. Once this is completed, only the emergency and outpatient surgery departments would remain at the existing location. The cardiac and obstetrics would be moved to Westside Regional Hospital. A letter is being drafted to be sent to HCA and Nova.

City Attorney Lunny advised staff is trying to ascertain what will happen to the hospital in the short term and in the long term. Once this is reviewed, then a recommendation will be brought forward to Council. In response to Councilmember Stoner, Mr. Lunny explained to oppose the application is difficult.

Councilmember Levy expressed his disbelief of the proposal and reiterated the partnership with the City and the improvements were made to that area to help improve the economy of the hospital. He felt the effects of human beings of the community rather than just figures and data.

Councilmember Fadgen indicated he was told that the City denied a request to expand the parking field. He suggested part of the reason for the move may be because the City has not been as cooperative as it should have been. He agreed the move would have to be opposed.

Councilmember Jacobs suggested consideration be given to a contingency plan to discuss if the beds are moved and the effects such as whether the property will be sold and the possibility for another facility to purchase it or changing the zoning.

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Councilmember Stoner noted Peace Week will be held from September 15-20, 2014 in Broward County Schools.

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Councilmember Stoner inquired as to the Mayor's expanding job responsibilities.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Glenna Danner (sic), 8224 NW 12 Place, expressed her frustration with the Plantation Quarterly and Recreation Quarterly not being delivered to every house in Plantation.

Phil Goodrich, Superintendent of Parks, explained attendance at all City functions including PAL has decreased. He noted several avenues include Plantation Now, email and to direct users.

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Dennis Conklin, 4581 NW 6 Court, discussed Plantation General Hospital; congratulated Claudette Hammond regarding science program, and commented on medical marijuana, James Foley and pension.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 11:30 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