

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

September 15, 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 Mayor Bendekovic.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – August 13, 2014

Minutes of the Regular Meeting of August 13, 2014 were approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

NOTE: Item No.'s 4 and 5 were voted in tandem.

Resolution No. 11943

4. **RESOLUTION** of Appreciation to Frank LeGette, Jr., for 27 years of dedicated service to the City of Plantation.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11943 as presented. Motion carried on the following roll call vote:

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

Resolution No. 11944

5. **RESOLUTION** of Appreciation to Joe Messina for 29 years of dedicated service to the City of Plantation.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Resolution No. 11944 as presented. Motion carried on the following roll call vote:

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

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Mayor Bendekovic presented Service Awards to the following Employees:

*Officer Michael Hanlon	Police	25 years
*Officer Joseph Vallejo	Police	25 years
*Tracy Gilberto	Public Works	20 years
*Sergeant Robert Marek	Police	20 years
Officer Michael Moberg	Police	20 years
Officer Daryl Radziwon	Police	20 years
*Mark Hartman	Parks & Recreation	15 years
*Jenny Kajatt	Library	15 years
*Connie Karns	Police	15 years
Robert Castro	Information Tech	10 years

*Unable to attend.

Congratulations were offered.

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

- The Plantation Preserve Linear Trail will be closed beginning tomorrow and it will reopen on October 1, 2014. The trail is being closed for maintenance and renovation work that needs to be completed.
- There will be a Fitter and Faster Swim Clinic at the Plantation Aquatic facility this weekend.
- Kids Day Off will be held at Plantation Central Park on Thursday, September 25, 2014.

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Mayor Bendekovic made the following announcements:

- “Let’s Talk Transportation” The Broward Metropolitan Planning Organization is reaching out to citizens and businesses in Broward County regarding the future of Broward Transportation System. They will host the first of four televised interactive E-Town Hall meetings on Wednesday, September 17, 2014. Details about the televised E-Town Hall meetings and online survey are at speakupbroward.org.

- Autumn Food Distribution Farm Share is partnering with Representative Katie Edwards to provide fresh produce, frozen meat and non-perishable items to the community on Saturday, September 20, 2014 between 11:30 a.m. and 1:30 p.m. at Davie Elementary School.
- Children’s Service Counsel of Broward County Reauthorization 110 State Law requires each Children’s Service Counsel in the State of Florida to go before the voters for reauthorization, which will allow them to continue operations. The Broward County Reauthorization will be a question on the November 4, 2014 ballot. There is a coalition meeting scheduled Monday, September 22, 2014 at 6:30 p.m. at Deicke Auditorium.
- There are several opportunities for sponsorship in the coming months. The Greater Chamber of Commerce has two exciting events coming up in September; the Annual Economic Summit on September 25, 2014 at the Renaissance Hotel and the Annual Chamber Golf Tournament on October 16, 2014 at the Jacaranda Country Club.
- The Family Halloween and Safety Festival will be on Saturday, October 25, 2014 at Volunteer Park.
- The automated flood insurance determination letter. On August 18, 2014 a new flood insurance rate map prepared by the Federal Emergency Management Agency went into effect for all of Broward County. The City of Plantation has developed an online tool to make it easy for property owners in Plantation to research their property and obtain a printed flood zone determination letter from the convenience of their home or business. Visit Plantation.org which will direct you to an interactive GIS map of Plantation; follow the prompts to obtain your flood zone determination today.
- Drug Take Back Event on Saturday, September 27, 2014 between 10:00 a.m. and 2:00 p.m. at the Plantation Police Department.
- Broward County Public Schools Conversation with the District Event. Join Superintendent Robert Runcie and our School Board Members. A District 5 meeting is scheduled for Monday, October 27, 2014 at Piper High School. About a month ago she asked Council if they would like the members of the School Board come and explain the Bond that will be on the November 4, 2014 ballot. They contacted our office and requested to make a short presentation. Councilmember Stoner was not in favor of a presentation and the other Council members were in agreement.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No.’s 16 and 17.

Mr. Lunny read the Consent Agenda by title.

6. Request for authorization to issue payment to Board of County Commissioners, Broward County, Florida for the joint Water Conservation & Incentives Program effort in the amount of \$35,689.55. (Budgeted – Utilities)
7. Request for authorization to participate in the SE Florida Co-Operative Bid for the supply of aggregates, topsoil and sand from Austin Tupler Trucking, Soil Tech Distributors, Inc., and Florida Superior Sand, Inc. from August 28, 2014 through August 27, 2015. (Budgeted – Utilities)
8. Request to approve renewal for the City’s Excess Self-Insurance Program.
9. Request to approve funds to purchase CAFR Statement Building Services as a software.

Resolution No. 11945

10. **RESOLUTION** setting annual compensation for Executive and Administrative personnel covered by the Compensation Plan adopted under Resolution No. 11946 (identified as agenda Item No. 11) and otherwise providing an effective date for the commencement of such compensation.

Resolution No. 11946

11. **RESOLUTION** adopting the pay-for-performance compensation plan and position schedule for Executive, Administrative and all Technical Support Personnel for the fiscal year 2014/2015.

Resolution No. 11947

12. **RESOLUTION** authorizing a budgetary item for the period from October 1, 2014 through fiscal year ending September 30, 2015, in the total sum of \$917,862.82 for those Technical Support Employees of the City of Plantation, and authorizing their Department Heads, with the approval of Human Resources and Administration, to adjust the compensation of said personnel for the fiscal year 2014/2015.

Resolution No. 11948

13. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period August 28, 2014 through September 10, 2014 for the Plantation Gateway Development District.

Resolution No. 11949

14. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period August 28, 2014 through September 10, 2014 for the Plantation Midtown Development District.

Resolution No. 11950

15. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period August 28, 2014 through September 10, 2014.

Resolution No. 11951

16. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period August 28, 2014 through September 10, 2014 for the City of Plantation's Community Redevelopment Agency.

CRA Resolution No. 2014-1

17. **RESOLUTION** of the Plantation Community Redevelopment Agency pertaining to the subject of Finance; approving the repayment of a \$1,900,000 City fiscal advance in accordance with a schedule attached hereto as Exhibit "1"; providing for a covenant to budget; appropriate and pay such indebtedness; providing other legal provisions relating to the repayment of such advance; providing findings; and providing an effective date therefor.

Broward Mall/Bravo – Utility Easement Vacations

Resolution No. 11959

26. **RESOLUTION** approving that certain partial release of utility easement exhibit "1"; providing findings; having the appropriate City Officer execute same and authorizing the City Administration or City Attorney to make minor revisions thereto; and providing an effective date therefor.

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

Mayor Bendekovic voted affirmatively on Item No. 16.

Ms. Slattery called the roll again for Item No. 17 because Council are Commissioners of the CRA.

Ayes: Commissioner Levy, Commissioner Jacobs, Commissioner Zimmerman, Commissioner Fadgen,
Commissioner Stoner, Mayor Bendekovic
Nays: None

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ADMINISTRATIVE ITEMS – None.

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LEGISLATIVE ITEMS

Mr. Lunny questioned if he could read all of the Resolutions at once so there could be one consolidated hearing.

Councilmember Stoner replied affirmatively. She indicated that Item Nos. 18 through 24 are budgetary and #25 is a First Reading, which may also be included.

NOTE: Item Nos. 18 through 24 were read in tandem.

Second and Final Public Budget Hearing FY 2015 – Millage Resolution – City.

Resolution No. 11952

18. **RESOLUTION** ADOPTING THE FINAL MILLAGE RATE FOR THE CITY OF PLANTATION OF 5.7500 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; IDENTIFYING THE CITY ONLY ROLLED-BACK MILLAGE RATE; AND THE PERCENTAGE INCREASE FROM THE AGGREGATE ROLLED-BACK RATE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

Pursuant to Florida Statutes and the City of Plantation Council, the **Second Public Budget Hearing** is scheduled for 7:30 p.m. Monday, September 15, 2014. Enclosed are tentative millage and budget resolutions for the **second public hearing** as follows:

1. **Final Millage Resolution – City of Plantation**
2. **Final Millage Resolution – Plantation Gateway Development District**

3. Final Millage Resolution – Plantation Midtown Development District
4. Final Budget Resolution – City of Plantation
5. Final Budget Resolution – Plantation Gateway Development District
6. Final Budget Resolution – Plantation Midtown Development District
7. Final Budget Resolution – Plantation Community Redevelopment Agency

The City of Plantation Budget is based on the General Fund operating millage of 5.7500 mills, which is an increase of 7.8% from the rolled-back millage rate of 5.3354 mills.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 1.9266 mills.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills.

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482; an increase of 6.4% from last year's budget. As per the Budget Hearing on September 3, 2014 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2015 budget is balanced.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Resolution No. 11952 as presented. Motion carried on the following roll call vote:

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

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Second and Final Public Budget Hearing FY 2015 – Millage Resolution – PGDD.

Resolution No. 11953

19. **RESOLUTION** ADOPTING THE FINAL MILLAGE RATE FOR PLANTATION GATEWAY DEVELOPMENT DISTRICT OF 2.0 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; IDENTIFYING THE COMPUTED ROLLED-BACK MILLAGE RATE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

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4. Final Budget Resolution – City of Plantation
5. Final Budget Resolution – Plantation Gateway Development District
6. Final Budget Resolution – Plantation Midtown Development District
7. Final Budget Resolution – Plantation Community Redevelopment Agency

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The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills.

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482; an increase of 6.4% from last year's budget. As per the Budget Hearing on September 3, 2014 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2015 budget is balanced.

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Second and Final Public Budget Hearing FY 2015 – Millage Resolution – PMDD.

Resolution No. 11954

20. **RESOLUTION** ADOPTING THE FINAL MILLAGE RATE FOR PLANTATION MIDTOWN DEVELOPMENT DISTRICT OF 1.0 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; IDENTIFYING THE COMPUTED ROLLED-BACK MILLAGE RATE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

Pursuant to Florida Statutes and the City of Plantation Council, the **Second Public Budget Hearing** is scheduled for 7:30 p.m. Monday, September 15, 2014. Enclosed are tentative millage and budget resolutions for the **second public hearing** as follows:

1. Final Millage Resolution – City of Plantation
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3. Final Millage Resolution – Plantation Midtown Development District
4. Final Budget Resolution – City of Plantation
5. Final Budget Resolution – Plantation Gateway Development District
6. Final Budget Resolution – Plantation Midtown Development District

7. Final Budget Resolution – Plantation Community Redevelopment Agency

The City of Plantation Budget is based on the General Fund operating millage of 5.7500 mills, which is an increase of 7.8% from the rolled-back millage rate of 5.3354 mills.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 1.9266 mills.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills.

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482; an increase of 6.4% from last year's budget. As per the Budget Hearing on September 3, 2014 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2015 budget is balanced.

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Second and Final Public Budget Hearing FY 2015 – Budget Resolution – City.

Resolution No. 11955

21. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL CONSOLIDATED REVENUE AND APPROPRIATION BUDGET FOR THE CITY OF PLANTATION, FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; PROVIDING FINDINGS; BUDGETED COMPENSATION OF ELECTED OFFICIALS; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

Pursuant to Florida Statutes and the City of Plantation Council, the **Second Public Budget Hearing** is scheduled for 7:30 p.m. Monday, September 15, 2014. Enclosed are tentative millage and budget resolutions for the **second public hearing** as follows:

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6. Final Budget Resolution – Plantation Midtown Development District
7. Final Budget Resolution – Plantation Community Redevelopment Agency

The City of Plantation Budget is based on the General Fund operating millage of 5.7500 mills, which is an increase of 7.8% from the rolled-back millage rate of 5.3354 mills.

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The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills.

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482; an increase of 6.4% from last year's budget. As per the Budget Hearing on September 3, 2014 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2015 budget is balanced.

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Second and Final Public Budget Hearing FY 2015 – Budget Resolution - PGDD

Resolution No. 11956

22. **RESOLUTION PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL REVENUE AND APPROPRIATION BUDGETS OF THE DEPENDENT TAXING DISTRICT OF PLANTATION GATEWAY DEVELOPMENT DISTRICT FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

Pursuant to Florida Statutes and the City of Plantation Council, the **Second Public Budget Hearing** is scheduled for 7:30 p.m. Monday, September 15, 2014. Enclosed are tentative millage and budget resolutions for the **second public hearing** as follows:

1. Final Millage Resolution – City of Plantation
2. Final Millage Resolution – Plantation Gateway Development District
3. Final Millage Resolution – Plantation Midtown Development District
4. Final Budget Resolution – City of Plantation
5. Final Budget Resolution – Plantation Gateway Development District
6. Final Budget Resolution – Plantation Midtown Development District
7. Final Budget Resolution – Plantation Community Redevelopment Agency

The City of Plantation Budget is based on the General Fund operating millage of 5.7500 mills, which is an increase of 7.8% from the rolled-back millage rate of 5.3354 mills.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 1.9266 mills.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills.

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482; an increase of 6.4% from last year's budget. As per the Budget Hearing on September 3, 2014 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2015 budget is balanced.

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Second and Final Public Budget Hearing FY 2015 – Budget Resolution – PMDD.

Resolution No. 11957

23. **RESOLUTION PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL REVENUE AND APPROPRIATION BUDGETS OF THE DEPENDENT TAXING DISTRICT OF PLANTATION MIDTOWN DEVELOPMENT DISTRICT FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

Pursuant to Florida Statutes and the City of Plantation Council, the **Second Public Budget Hearing** is scheduled for 7:30 p.m. Monday, September 15, 2014. Enclosed are tentative millage and budget resolutions for the **second public hearing** as follows:

1. Final Millage Resolution – City of Plantation
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4. Final Budget Resolution – City of Plantation
5. Final Budget Resolution – Plantation Gateway Development District
6. Final Budget Resolution – Plantation Midtown Development District
7. Final Budget Resolution – Plantation Community Redevelopment Agency

The City of Plantation Budget is based on the General Fund operating millage of 5.7500 mills, which is an increase of 7.8% from the rolled-back millage rate of 5.3354 mills.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 1.9266 mills.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills.

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482; an increase of 6.4% from last year's budget. As per the Budget Hearing on September 3, 2014 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2015 budget is balanced.

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Second and Final Public Budget Hearing FY 2015 – Budget Resolution – CRA.

Resolution No. 11958

24. **RESOLUTION PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL REVENUE AND APPROPRIATION BUDGET OF THE PLANTATION COMMUNITY REDEVELOPMENT AGENCY FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A Memo to Honorable Diane Veltri Bendekovic, Mayor, and Members of City Council, from Nancy Romanello, Budget Coordinator, follows:

Pursuant to Florida Statutes and the City of Plantation Council, the **Second Public Budget Hearing** is scheduled for 7:30 p.m. Monday, September 15, 2014. Enclosed are tentative millage and budget resolutions for the **second public hearing** as follows:

1. Final Millage Resolution – City of Plantation
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3. Final Millage Resolution – Plantation Midtown Development District
4. Final Budget Resolution – City of Plantation
5. Final Budget Resolution – Plantation Gateway Development District
6. Final Budget Resolution – Plantation Midtown Development District
7. Final Budget Resolution – Plantation Community Redevelopment Agency

Priscilla Richards, Strategic Operations Administrator, read the following statement required by State Statute:

The total budget for the City of Plantation for Fiscal Year 2015 is \$173,142,482, an increase of 6.4% from last year's budget.

The City of Plantation Budget is based on the General Fund operating millage of 5.7500 mills, which is an increase of 7.8% from the rolled-back millage rate of 5.3354 mills. This increase is to meet budgetary objectives, compensation adjustments, capital needs and services.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 1.9266 mills. This is to meet services, capital, and budgetary objectives. There is no increase in the millage this year.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mills, which is an increase of 3.8% from the rolled-back millage rate of 0.9628 mills. This is to meet budgetary objectives and services. There is no increase in the millage this year.

The City of Plantation Aggregate Budget is based on the aggregate millage of 5.9741 mills, which is an increase of 7.7% of the aggregate rolled-back millage rate of 5.5457 mills. The Fiscal Year 2015 budget is balanced.

Dennis Conklin, resident, was present. He questioned the number of the current budget. He urged Council not to increase the millage rate over the existing and current millage rate, which is 5.6142. During the last meeting, the Council wisely did not go with the recommended full increase in the millage rate. He also requested that the rolled-back millage rate be explained during the reading even though it is nicely explained in the Citizen's Report on Page 18. When he requests the rolled-back millage rate he is asking the City to use the same revenue obtained during the current year for the upcoming Fiscal Year beginning October 1, 2014. The City will still experience a 7%+ increase in revenues while refraining from a millage rate increase.

Ms. Richards clarified that it is \$173,142,482.

Councilmember Stoner asked if Mayor Bendekovic would advise the public about the rolled-back rate and how it is structured.

Mayor Bendekovic explained that the rolled-back rate would have been 5.3; they do not want to see any increases, extra or surplus. She believed that if the 5.3 were rolled-back we would have been \$6 million short.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Resolution No.'s 11953, 11954, 11955, 11956, 11957, and 11958 as presented. Motion carried on the following roll call vote:

Ayes: Levy, Jacobs, Zimmerman, Fadgen, Stoner

Nays: None

Mayor Bendekovic thanked Council and the Directors. She indicated that the cpi and the storm water was not raised. Garbage and recycling rates also were not raised due to the water rate increase.

Councilmember Stoner thanked the employees, staff and Directors for their patience and dedication while the City went through this.

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QUASI-JUDICIAL CONSENT AGENDA

Mr. Lunny read Item No. 25.

25. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, AMENDING THE POLICE OFFICERS' RETIREMENT FUND BASED ON THE NEGOTIATED COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE FOP, LODGE 42; AMENDING SECTION 18-17 PROVIDING FOR A DEFINITION OF FINAL AVERAGE COMPENSATION FOR POLICE OFFICERS; AMENDING 18-62 TO CHANGE THE RETIREMENT DATE FOR TIER 2 EMPLOYEES; AMENDING 18-63 OF THE CITY CODE TO CHANGE THE BENEFIT MULTIPLIER FOR TIER 1 OFFICERS WITH LESS THAN 20 YEARS OF SERVICE ON OCTOBER 1, 2014; AMENDING SECTION 18-63 TO CHANGE THE MAXIMUM RETIREMENT BENEFIT FOR OFFICERS WITH LESS THAN 20 YEARS OF SERVICE ON OCTOBER 1, 2014; AMENDING SECTION 18-63 TO CHANGE THE METHOD OF DETERMINING AVERAGE FINAL COMPENSATION FOR TIER I OFFICERS; AMENDING SECTION 18-63 TO CHANGE THE MAXIMUM DROP PERIOD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE OF OCTOBER 1, 2014.

An Interoffice Memorandum No. 2014-029, dated August 27, 2014, to Mayor and Members of City Council, from Brett W. Butler, Cit Engineer, follows:

The Engineering Department received two easement vacation application packages, from Broward Mall, located at 8000 West Broward Boulevard. The request is for the vacation of two portions of a utility easement as recorded in Broward County Official Records Book 9449, Page 36-397. City Staff approved the requests at the July 22, 2014 DRC meeting. A copy of the applicant legal descriptions, sketches of the proposed easement vacations and minutes from the DRC meeting confirming approval are attached for your review.

The City's Legal Department has reviewed the application packages and prepared the attached Resolutions corresponding to the two easement vacation requests for Council action. All of the requested information for the application has been satisfactorily provided. Staff recommends execution of the Resolutions to vacate portions of the subject utility easement. Should you have any questions or require additional information, please do not hesitate to contact me.

Councilmember Stoner stated that it is her understanding that this is strictly a housekeeping matter; that this incorporates everything that was done in the Collective Bargaining Agreement.

Mr. Lunny indicated that he has the same understanding.

Motion by Councilmember Zimmerman, seconded by Councilmember Jacobs, to approve Item No. 25 as presented. Motion carried on the following roll call vote:

Ayes: Levy, Jacobs, Zimmerman, Fadgen, Stoner

Nays: None

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 27.

Resolution No. 11960

27. **RESOLUTION** OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF TELECOMMUNICATIONS; APPROVING AN EXCEPTION TO A MORATORIUM SO AS TO APPROVE A ONE HUNDRED FIFTY-FOOT (150') TALL COMMUNICATIONS TOWER ON CERTAIN PROPERTY HAVING A STREET ADDRESS OF 1600 SW 80TH TERRACE, PLANTATION, BROWARD COUNTY, FLORIDA AND A LEGAL DESCRIPTION OF TRACT D, JACARANDA PARCEL 834, ACCORDING TO THE PLAT THEREOF, RECORDED IN BROWARD COUNTY PLAT BOOK 133 AT PAGE 28; THE TOWER AND EQUIPMENT COMPOUND IS PROPOSED TO BE LOCATED GENERALLY AT THE INTERSECTION OF SW 13TH PLACE AND SW 78TH AVENUE IN PLANTATION; INCIDENT TO SUCH EXCEPTION APPROVING A SITE PLAN FOR SUCH INSTALLATION WHICH DEVIATES FROM THE TELECOMMUNICATIONS ORDINANCE NO. 2515 WHICH WOULD, IF OTHERWISE ALLOWED TO BE APPLICABLE, LIMIT THE HEIGHT OF SUCH PROPOSED TOWER TO ONE HUNDRED AND TWENTY-FIVE FEET (125') AND ADDITIONALLY REQUIRE INCREASED SETBACKS FROM ADJACENT PROPERTY; MAKING OTHER PROVISIONS AND APPROVAL WITH RESPECT THERETO; PROVIDING CONDITIONS AND LIMITATIONS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Staff Report, dated September 15, 2014, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Site Plan Amendment and approval to construct a 150-foot communication tower and tower site.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; Conditional use/site plan application; and Review Committee meeting *draft* minutes of August 26, 2014.

REVIEW COMMITTEE RECOMMENDATION: No objection to the project moving forward to the City Council for review (August 26, 2014).

ANALYSIS:

The proposed telecommunication tower ("tower") is located in a landscape area at the extreme northeast corner of the Aetna Building parking lot (approximately 11 acres). The tower is 150 feet tall and is located 50.21 feet from SW 78th Avenue. The 2,700-square-foot tower compound is setback approximately 32 feet from SW 78th Avenue.

The City Council adopted the Telecommunications Ordinance 2515 on August 27, 2014 with a September 29, 2014 effective date. The telecommunications moratorium expires September 30, 2014. According to the moratorium, the City Council reserves the right to approve a telecommunication installation subject to certain requirements, including but not limited to the following:

- a. The telecommunication facility shall significantly meet the policy considerations inherent in the proposed ordinance.

- b. The telecommunication facility results in no material adverse secondary effects to safety caused by structural failure or aesthetics.

Based on a review of the proposed plans as indicated below, the application does not meet “policy considerations inherent in the ordinance” (height, setbacks, and compound size) and results in a “material adverse secondary effect to safety” caused by structural failure (see Building Department comment) and “aesthetics” (relocate tower location).

Completeness determination is not part of City Council consideration of this application. Staff has notified the applicant that the application is not complete, contains outdated information, and is internally inconsistent.

STAFF COMMENTS:
PLANNING AND ZONING:

In General:

1. The proposed monopole telecommunication tower does not meet the policy considerations of the adopted ordinance with respect to tower height, setback, and compound size.
 - a. The proposed tower is 149.7 feet above crown of road. Revise plans to reduce tower height to 125 feet to comply with Policy Consideration Section 5.5-55(d)(3).
 - b. The tower is setback 71.5 feet from the north property line, approximately 45 feet from the northwest lot line (retention pond), and 50.21 feet to the east property line (SW 78th).
 - i. Revise plans to reduce the tower height to 125 feet to comply with Policy Consideration 5.5-55(d)(3), **and**
 - ii. Revise plans to provide minimum setbacks of 1.15 x tower height (144 feet in this case) to comply with Policy Consideration Section 5.5-55(d)(3).

An early draft of the telecommunications ordinance:

- a. *Limited tower height to 125 feet in commercial areas, and*
- b. *Required a minimum tower setback of 1.0 x tower height. The Building Official required a minimum setback of 1.15 x tower height in a subsequent ordinance draft.*
- c. The proposed tower compound is approximately 2,700-square-feet in area. Revise plans to reduce compound size to 2,500-square-feet to comply with Policy Consideration Section 5.5-55(d)(5).

Please note, staff initially proposed a 500-square-foot maximum compound size. In response to industry to industry concerns and based on research of existing City installations, staff recommended increasing the compound size to 2,500-square-feet.

2. The proposed monopole telecommunication tower results in a material adverse secondary effect to safety caused by structural failure. The Building Department (see below) indicates the tower does not meet the “safety setback” of 1.15 x the tower height.

- a. Revise plans to reduce tower height to 125 feet **and** relocate the tower to provide the minimum 1.15 x tower height setback (or 144 feet) on all sides.
3. The proposed monopole telecommunication tower results in a material adverse secondary effect to aesthetics based on its location near the intersection of SW 78th Avenue and SW 13th Street. The tower will be visible to persons entering Midtown via westbound SW 13th Street. While street level landscaping can be provided, there is no way to screen that portion of the tower exceeding 15' – 25'.
 - a. Revise plans to relocate the tower to the south and the west so that it is not within the SW 13th Street view corridor.

ENGINEERING DEPARTMENT:

No objection to request.

Site Plan Comments:

1. Project is actually accessing SW 78th Avenue. The address should reflect the location on SW 78th Avenue for emergency services. *07-08-14: Comment not addressed. 08-14-14: The Applicant's response states "Will Comply", yet the address on the plans still stated SW 80th Terrace. Please revise as requested. 09-08-14: The response states that the address will be done "Post Permit". The address will be needed for the permit, please call Engineering (Krishna G.) to obtain the address.*
2. Please show on the plans that the sidewalk at the driveway connection will be replaced with 6" concrete, per the detail.
3. Please show the existing curb that is being removed; will it be replaced with the same curbing or show how the driveway will be constructed around it.

Permit Comments:

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

1. An erosion and sedimentation control plan will be required and reviewed at time of permitting. An NOI will be required.
2. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
3. Drainage calculations will need to be submitted, signed and sealed by a professional engineer registered in the State of Florida.
4. Surface water management permit(s) through the Old Plantation Water Control District (OPWCD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review.
5. The applicant may/will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

TRAFFIC CONSULTANT: Please see Engineering.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

1. All site plan and planting plan comments from the Department of Design, Landscape and Construction Management must be responded to in writing before or at time of permitting.
2. When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
3. Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please Contact Diana at 954-797-2248 directly to obtain required permits.

At time of permitting, please address the following items:

1. Plans submitted show the proposed locations for the Cypress trees and Green Button wood trees to be planted 6' or less from the equipment enclosure; Cypress trees at maturity can have a spread up to 60' and a trunk diameter up to 10', Green Buttonwood trees can have a spread of 20'. Please allow adequate space for the proposed Cypress and Green Buttonwood trees to grow.
2. Plans submitted show the proposed locations for several Sabal palms to be planted within 3' of the equipment enclosure; staff recommends planting the Sabals a minimum of 8' from the proposed enclosure.
3. Is tree 7 to be relocated or to remain? The Tree Disposition List submitted shows tree 7 to be relocated – the Legend shows the tree to remain.
4. Sheet L-1 is not consistent with sheet Z4 or the site survey with regard to the tree disposition/survey plan.
5. All proposed trees to be removed or relocated require ISA appraisals based on the checked Trunk Formula Method, Guide for Plant Appraisal, 9th edition, 2000. Performance bonds are required on all trees to be relocated as per City codes.
6. All proposed trees to be removed must be mitigated for as per City codes; tree mitigation will be above and beyond code required trees on the property. Staff will verify all trees proposed to be removed, remain, and/or relocated.
7. All landscape areas shall be provided with an automatically-operating underground irrigation system; with a minimum of 100% coverage, with 50% minimum overlap in ground cover and shrub areas. The rain sensor must be installed as well as a rust ground cover and shrub areas. The rain sensor must be installed as well as a rust inhibitor if applicable. Irrigation plans must be submitted at time of permitting.

BUILDING DEPARTMENT: Tower does not meet the safety setback requirements.

FIRE DEPARTMENT: No objections to this request with the understanding that the applicant and/or owner are aware that conditions may arise upon review of all required permitting plans.

POLICE DEPARTMENT: The following C.P.T.E.D. recommendations are for the following design measures which apply to the area of 1600 SW 80th Terrace, Plantation, for a proposed Clearview Tower Company enclosed in a 2,647-square-foot fenced compound.

Security: Recommendations:

1. Provide adequate security systems, locks, and alarms, etc. Use of a permanent “no trespass” sign displayed for unauthorized individuals on the existing fence.

Construction Phase:

1. Safety protocols should be in place to ensure pedestrian/motorist safety during construction phase along SW 78th Street.
2. Construction site and equipment should be enclosed with proper use of “no trespass” signs displayed for unauthorized individuals. Reference to F.S.S. 810.09(d)(1).

UTILITIES: No objection, but Utilities requires the following:

1. All water and sewer lines must be shown on plans (even mains outside the fencing area).
2. All mains must be shown on both Landscaping and Engineering plans.
3. Applicant understands a full utility review will be required prior to permitting if approved.
4. Utilities staff met with applicant this week and discussed including mains on plans.

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

WASTE MANAGEMENT: No issue with the submitted plan.

Mr. Lunny mentioned a couple of clarifying items as follows:

- The applicant is Clear View Tower Company LCC. Section 1 of this Resolution indicates that the applicant was TRP NOIP SW 80 Plantation, LLC, which had not been formed and he does not think will be formed. Clear View Tower Company LLC is formed and is the applicant and tower owner, according to his understanding.
- When we were last here, the City Council, at his recommendation, asked for a Waiver Release and Indemnity Agreement from the applicant, which in essence, framed this application so there is a legislative prerogative of approving this as a Legislative review and not a Quasi Judicial review.
- If you decide not to approve this, the only remedy of the applicant is to apply under the ordinance. When the Moratorium was prepared we provided a carve out to allow people to come in while the Moratorium was in effect in order to propose something that was not entirely consistent with policy considerations that were inherent in the new ordinance. He received a Waiver Release and Indemnity Agreement; it is acceptable as to form. He received a new execution opinion from Counsel, which was acceptable as to form. The only thing he did not receive was the insurance requirements that were requested and those insurance requirements will need to be in place should Council approve this application and they would need to be reviewed by Mr. McCarthy.
- If you choose to approve this application you may; if you choose not to approve this application the effect would be that they would have to apply under the new ordinance and he has in place the legal documentation which he recommended and which were conditions of being placed before you.

Councilmember Stoner questioned which applicants Counsel accepted other than the COI.

Mr. Lunny stated that he prepared the documents and they were all approved. He thinks Mr. McCarthy will require endorsements and that is only for the indemnity portion. The waiver and release say that they are giving up their rights so they do not need to be insured. The indemnity would reinforce with insurance provisions.

Attorney Paul D'Arelli was present. Also present was Jack Rupert, Principle of Clear View Tower, and his business partner, Charles Bernardo, as well as an AT&T Engineer.

He explained that the proposed installation is at the end of SW 13th Place and SW 78th Avenue, behind the Whole Foods and kiddy corner to the Jacaranda Park of Commerce Executive Court between the Aetna building and the east side of the newly renovated Stiles Retail Plaza and One Plantation to the South.

Mr. Rupert provided the following presentation and made the following comments:

- They are here due to the growing need for mobile communications capability and how they are seeing the transformation occurring in household use. In 2007, only 15% of households relied on wireless only and today, in 2014, that percentage has gone up to 43%. That means that everyday communications are dependent on wireless service and most importantly, their emergency services are dependent on being able to get adequate connections with E911.
- There is a significant growth in the number of E911 calls being made by mobile communications. The ability to have a solid connection and service becomes very imperative to adequately serve the community. Data from the FCC estimates that about 70% of E911 calls are placed from wireless phones.
- The coverage map shows the area of the proposed site as a massive dead zone.
- The next map shows that should this installation be approved the coverage will improve drastically.
- Developers look at search reigns and the need that is instigated by a particular carrier looking for placement and they scour for property owners who might be willing to lease a piece of property within their development. They are not lucrative leases; they are incidental revenue and it is often very difficult to find a property owner willing to lease land.
- After scouring the area they were successful in getting the institution, which is an institutional owner in Colorado that leases to the Aetna building, who was willing to lease a piece of their land at the end of the lake in the buffer zone, which was in the search range that would provide the coverage necessary in the area.
- From a site plan perspective, essentially the pole is surrounded by a landscaped fenced in area. Vegetation is a combination of both trees and vegetation on the landscape buffer at the end of the lake together with significant amounts of new landscaping that surrounds all around the compound that meets the requirements of the new ordinance.
- There will be a driveway that comes off of SW 78th Avenue. There would be very low traffic; maybe one trip per month per carrier who comes in to retrieve data into their laptop and upgrading software with hardware included in the equipment cabinets.
- The monopole is designed with great point technology. Under the new ordinance a larger setback has been adopted by Council, 1.15 times the pole height. As he understands it, it is not for aesthetic purposes but to provide a fall zone in case a pole was to topple over. Great point technology means that they actually engineer into the pole places that are weaker that will collapse under a stress event so the pole does not fall perpendicular straight to the ground; it actually breaks at a point and will collapse onto itself.
- An engineering certification that was submitted with their application to staff by a licensed P.E. Engineer, that does provide the fall zone certification. It also talks to the design speeds for that pole. Essentially, there would have to be a wind event exceeding 175 mph for the pole to achieve a failure and if it did achieve a failure the first scenario would be that it would fall over on itself because it would collapse at the stress section.
- The pre-design location for failure, which is 5% weaker than the rest of the pole, would cause the pole to snap at a designated location. If it were to fail beyond that, the certification depicts that the fall zone radius for the failed pole would be 50 feet around from the base of the pole so it would not likely collapse straight out. These fall zone certifications are accepted by other local governments around the State of Florida.
- The fall zone would be a 50-foot radius around the pole and puts the fall zone within the leased area for the pole and/or the landlord's own property that is leased to them; the compound area; and it keeps it out of the public right-of-way.

- Aerial views providing simulations of before and after.
- There will be a pole; it is a stealth flag pole design; there will be no flag on it. It is proposed at 150 feet in height; the ordinance currently requires 125 feet in this area. They started a process before the Moratorium with a height and setback. They are requesting support for the 150-foot height, which does two things; it will provide an opportunity for up to five antennas to be placed inside. Two positions are already committed to AT&T so that would allow three more carriers to come into that pole. If the height were brought down it would minimize the number of carriers coming onto that pole so we are likely to see another applicant coming back looking for another pole because they will not be able to take care of as many carriers. The 150 feet is de minimis and when looking at it from the ground level it will be very hard to perceive the 25-foot height difference.
- Letters of support from Mr. Inklebarger, who has an ownership interest in the Jacaranda Executive Commerce, which is the nearest property to the installation; from Stiles Corporation on behalf of their residential ownership and on behalf of the shopping center; and from the landlord who leased them the space owning that office building. Those letters were submitted to the City Clerk. They have support from major property owners saying this is good for business and for life safety.

Mayor Bendekovic mentioned the photographs and questioned why it can't be set back somewhat. The word de minimis was used; if it is de minimis she questioned why it can't be done at 125 feet. As far as landscaping, we just spent close to a year doing a real comprehensive telecommunications ordinance and now this contradicts it. She believes they should consider setting the pole back and also keeping it at 125 feet; it certainly does not go along with the rest of the telecommunication tower ordinances.

Mr. D'Arelli advised that in terms of process, it is always a challenge of finding a site location and they would like to say they can move it further into the lake or parking lot; however, they have no ability at landlord consent to be able to do so. That is a real estate negotiation. This is what was made available; it was a very difficult transaction and took many months to culminate because of the institutional ownership of that office park. His reference to de minimis was between the 125 feet and the 150 feet from a perception standpoint, which he believes it will be very difficult for anyone to see the difference between 125 feet and 150 feet as opposed to another pole coming in down the street because another carrier is coming to the market and could not get accommodated. It is heavily landscaped at the base, which will heavily shield the compound.

Mayor Bendekovic indicated that we worked very hard on the telecommunications ordinance. She questioned if this means that anyone that comes in from now on can be waived.

Mr. Lunny explained that there are three issues. The first issue was the safety setback of 1.15 which was established by the Building Official and which is not met in this application. The prior setback would have been 1.5 times the building height because the planned community standards would apply. The second issue is the height of the tower, which does not comply with the other policy considerations. There is a legal argument that this would not constitute precedent because you are considering that in the context of an exception to the Moratorium. Every other application the City receives will be under the new ordinance; completely under the new regulations. There is a practical concern about precedent in terms of the policy considerations underlining that ordinance was established fairly early on. If the Council hears an argument which the Industry Group advanced to staff when those were made, some reason would have to be found or articulated as to why this would be different. From a purely hyper-technical legal standpoint, there is an argument as to why this would not be precedent. The practical issue is that when the law was written they said if you changed and wanted 150 feet and less setback; you would let them know and they would write the law to meet that. The law is done and they are not going to revise it. He does not believe that legally there will be precedent but from a practical issue, these arguments are the same as we heard before. He noted that the applicant in the Indemnity and

Waiver Release has clearly indicated that it will never, for any other application it has in the City, it will never take the position that this meeting constitutes precedent if approved. He encouraged Council if they are going to approve this to try to address the practical issue in some way.

Councilmember Jacobs mentioned research on the ordinance and expressed concern that the testimony stated that if the height of the pole were reduced by the number of collocations are limited. He has never heard any expert testimony from staff regarding that. The question is if we are limiting poles to 125 feet if we are inherently limiting the number of collations that can be done on these poles.

Mr. Lunny indicated that we are. That was inserted during the time the Council has policy considerations. There is a requirement that if a pole is built at a certain height it has to be designed to accept a certain number of collations. One of the things presented was if Council wanted to go higher and have fewer poles or try to set it at 125 feet for this District and higher industrial at 150 feet. If it were at 125 feet it would accommodate a certain number of collations. Currently under the new process they would be limited to 125 feet with the Board of Adjustment being able to grant a variance. They would be limited to this safety setback with the Board of Adjustment able to consider variances.

Councilmember Jacobs commented that so many poles probably would not be found in this District as other types of antennas would be used because they want to get more density; like building mounted antennas. Mr. Lunny stated that there was a relief built in under the new regulations; however, the 1.15 was for two reasons. One was that they never fail exactly as planned and there is also stuff hung on the tower and the concern is what would happen to that. If this is approved, part of the indemnity includes, which it will be reinforced by insurance, damage to people on our right-of-way that would be within that setback area or on private property that is within the setback area. It is addressed to the greatest possible extent.

Councilmember Jacobs mentioned the numbers and noted that it is impossible to put it at this site if there is going to be a 1.15 setback.

Mr. Lunny advised that it would have to be moved away from the street into the parking area or reduced in height.

Mr. Leeds indicated that it could be done. The tower would be moved to the south and to the west. Parking may be lost but we are in a position to support the loss of parking so this tower meets the setbacks and the height. He understands the need for the tower and the 911 issue; he has not seen anything yet that says the 911 service is compromised if the tower is 25-foot less or meets the code. He believes the tower can be set back to the 1.15 and does not think the setback has anything to do with providing 911 services. Staff is not against the tower. Planning, Zoning and Economic Development understands the economic development issue. The issue is that we spent about a year discussing the setback of 1.5; that is the setback of the District, then we dropped it down and then we added the .15, which was in the even that the tower does not make the 50-foot collapse as described. The big issue is that if this approval is granted without asking the applicant to relocate the tower or to reduce it, the next applicant will come in and there will be no basis for staff not to recommend against it.

Councilmember Stoner commented that is not what Mr. Lunny said. The new ordinance does not take effect until October 1, 2014. This project has always been in the Moratorium loop and all of a sudden you want to try to connect them to the October 1, 2014 ordinance and Council is saying this cannot be a precedent.

Mr. Leeds stated that Mr. Lunny was talking in a legal standpoint. He advised that this application was not submitted to the department until after the initiation of the Moratorium. If approved, regardless of legal precedent, it will be very difficult for him to sit in front of the Board of Adjustment and say it is different in Midtown or in another area because the applicant has not provided any reason for not moving the tower other than the landlord does not want to grant a lease in a different location.

Councilmember Stoner believes his response is fairly simple. The applicant falls under the new ordinance and the other did not. What happened before does not come into conversation for a new applicant.

Mr. Leeds commented that after appearing before the Board of Adjustment and Council and being asked what has been done elsewhere. He can tell what the existing tower heights are now that they have been approved on City locations and only one is above 125 feet. Fire Station #1 has four providers at 67, 85, 82 and 100 feet respectively. Fire Station #6 has three providers at 65, 78, and 94 feet. Old Fire Station #3, the tallest in the City on City property has AT&T, Sprint, T-Mobil and Verizon. It is respectively 100, 120, 130, and 150 feet.

In response to Councilmember Stoner, Mr. Leeds could not say how long ago those were put in but he assumes the technology has come forward several years since they were installed. Seminole Park has four providers, 70, 100, 112, and 125 feet. Sunset Park has one at 68 feet high with Metro PCS; 80 feet high with AT&T; 99 feet high with Sprint; and 100 feet with T-Mobil.

Councilmember Stoner indicated that this is interesting that you are saying all of these are on City owned property. She questioned why there is no knowledge of what is on private property.

Mr. Leeds advised that no record is kept; that record is not as easy to get. He can defer this and advise what is on privately owned property. He does not think there is one that is 150 feet.

Councilmember Stoner stated that we are not deferring this.

Mr. Lunny commented that it is important because the applicant did this and to some extent staff did this. The applicant talked about our Police Station tower and said that is 400 feet with no setback. When the Industry was before us they said that our towers are under a certain number but they are right up against the property lines. That happened because in many of our parks there are not any protected Zoning provisions and we own the property. The whole idea of the ordinance was to look forward about how the City is going to be built out in the future, not to look back and test the future based on our history. The question is very narrow and that is does Council wish to approve this tower as a legislative item, which you reserved your power to do so, or do you wish the applicant to make such applications as are required under the new ordinance with the policy considerations that were formed by the Council over the legislative process. No one is going to argue that the next few towers are going to be tested based on the City's history. As a matter of legal precedent, he thinks the distinction can be made because you reserve your power to consider something that is during the Moratorium and the Moratorium is still in effect. We will have to deal with the practical problem if you choose to approve this. He requested that Council consider the policy considerations that were set by the Council early on.

Councilmember Fadgen commented that this facility would not work in other parts of the City but he thinks in this area where it is behind retail and bordering on an office park off of the main thoroughfare, it would work with the height provided. He thinks land will be more difficult to acquire for these types of facilities as the areas build out and the lower the height the more poles will be needed. He believes this will work and that it is an ideal location.

Councilmember Stoner agreed with Councilmember Fadgen. She does not think it will be anymore unsightly than it is looking at the transformers and the overhead lines.

Councilmember Jacobs indicated that the issue is not aesthetics; it is that the pole could end up in the street.

Councilmember Zimmerman advised that he has been to the site and noted that Council spent a lot of time on that ordinance. The parking lot is never full. In hearing Mr. Leeds, he agrees with staff that there must be a way to change the site somehow to get this setback. Perhaps we should look at the other pictures that are further away. We are spending a lot of time and energy to develop Midtown; the way it looks and the way people approach. Finally we have a shopping center where people approach it from the side. This is a corridor that may or may not connect. There are other developments coming in on the other side of Peters Road. He thinks we need to keep that in consideration. He is sharing a lot of what Mayor Bendekovic said; setting the pole back the way it should be from the roadway and complying with the ordinance we spent a lot of time on. It seems to be the appropriate thing to do.

Councilmember Stoner commented that for her a pole is a pole. When sitting in her car her line of vision does not include 150 feet in the air, which is why landscaping requirements only go so far, because it is only for your peripheral vision. There is danger wherever it comes from. She wonders whether this is a true ancillary service that is actually required and necessary for One Plantation that really tries to offer the service of Wi-Fi and high tech the same as the office buildings that have all converted. Someone will be coming into the old Whole Foods and they will need some technology; there is a huge gap in service.

Mayor Bendekovic stated that another supermarket, Lucky's, is going into that location.

Mr. Leeds advised that Lucky's has some stores in Colorado and they are opening one in St. Louis. It is a different kind of concept. He thinks they offer a variety of both comfort and healthy food; something for everyone. They also have a little café where they serve beer and wine and they have a business model which is unusual. You can purchase wine or beer and put it in a holder in your cart while you shop.

Councilmember Zimmerman believes that the development needs this and he thinks we need this; however, he thinks there are ways to make it work within our current ordinance.

Mr. D'Arelli stated that there were many discussions with staff while going through the process. If they were the property owner of the park and could choose to make a trade off between a certain number of parking spaces versus the pole they would be in a much different position. They are a meager tenant who was able to find a location acceptable to the landlord and have asked for an opportunity to relocate it and told no. For them this is it.

Councilmember Jacobs suggested moving the pole which would increase the setback from the road and reduces it to the lake.

Mr. Rupert stated that is the lease area. He noted that there is access for the carriers so they can get to the pole. There will be shelters and he is not sure that moving the pole location would work.

Councilmember Jacobs indicated that would address his concern of the pole possibly ending up in the street.

Councilmember Stoner advised that they have indemnified everybody of that possibility.

Mr. Lunny commented only to the extent of insurance.

Councilmember Stoner questioned the insurance limits.

Mr. D'Arelli believes the requirement was \$2 million coverage; he does not recall the exact number. They will comply with whatever the limits were established as a condition of the agreement. He stated that for this pole to fail; it is a 175 mph failure and that is a category 5.

Councilmember Jacobs stated that it is possible that this can be done but he does not know if it is worth making them do it; moving it to the southwest corner of the site.

Councilmember Stoner noted that they have heard this comment before and had some conversations about it.

Mr. D'Arelli stated that it would be moving the pole. In looking at the total distance, there is a 50-foot distance to the property line so they might pick up 25 feet to the road.

Councilmember Jacobs commented that the northern property lines goes from 71 to 100; we are not worried about the southern property line and then there is a lake to the west.

Councilmember Zimmerman liked the idea all the way down to the corner. That would get it further off the roadway.

Councilmember Jacobs indicated that he would go along with the 150-foot.

Mr. Rupert's only concern was how to get the cabling for all of the carriers if they all end up on it. If it is in the corner there is only access from three sides and he is not sure how they would get over there. They can try to move it as far as they can.

Councilmember Stoner commented that the radius is 50 feet from the center so there would still feasibly be 20 or 25 feet that it could be moved straight across to the southwest.

Councilmember Jacobs stated that they are saying that they need to be able to get to the pole from all sides.

Mr. Rupert indicated that there is not a lot of extra room. There is a generator that will be used by all of the carriers because they were so constrained and it is going to be mandatory that they all hook into. If the power goes out the Law Enforcement and the Fire Department are the only ones left and everyone else is leaving, the site will work. Most of the time the carriers want to put in their own generators; however, we did not allow that. There is a lot of space there and they can try to move it.

Councilmember Jacobs suggested taking the equipment building in the corner and moving it to where the tower is now, in the center; swap the tower and one of the equipment buildings.

Mr. D'Arelli advised that Jack would be willing to make that accommodation considering there are no other technical issues. He questioned their recourse to come back to Council if they could not move it for whatever reason.

Mr. Lunny stated there would be no recourse.

Councilmember Jacobs commented that the way we approve it can be different or we can approve it in just that position.

Mr. Rupert questioned if both positions could be approved.

Mr. Lunny believes if both are approved then there are the issues that were discussed. If Council wishes tom they can make an approval subject to a certain height at a certain spot.

Councilmember Jacobs commented that if the southwest corner does not work they will go to PAC.

Mr. Lunny advised that they would have to apply for a new ordinance or a change in the lease area would have to be negotiated. To approach Council and say this is all they were able to get sounds a bit presumptuous. The appropriate safety setback from any adjacent property has been established by the Building Official and to the greatest extent possible the Council can push the tower away and maybe comply with a greater extent that which would be helpful.

Councilmember Jacobs stated that in his experience nine times out of ten the applicant says they will do it.

Mr. Bernardo stated that there are ports on the pole where the cables come down the pole and out. The cables then go to the individual pads. Each carrier has maybe six coaxes coming out going to their cable. They are usually placed on an ice bridge, which elevates them, supports them and keeps them heading straight to the equipment. The pole is usually centered in the compound for the fact that they can do a port in four different directions. If all four ports are done on one side then it could be affected structurally. You cannot go to the bottom corner and port out to everyone on the same side of the pole without making that side of the pole structurally weaker than it would be all around the pole.

Councilmember Stoner indicated that a mirror image could be done. Access would be down below, you come to the southwest quadrant and other things go up to the northeast quadrant. You just do a flip and pull it down.

Councilmember Levy questioned if we are talking about the height at all.

Councilmember Stoner stated that the height came into the safety of the radius and where it was within the radius is how this started with moving it.

Councilmember Zimmerman believed we were talking about moving it but he did not think we talked about buying it. We are still not meeting the intent of the ordinance.

Mr. D'Arelli advised that they are still concerned about what it does to the integrity of the pole if it is moved totally into the corner. They think they have some ability to move it as close as they can to the corner subject to solving any of the engineering issues with the pole.

Councilmember Levy indicated that we should talk about the height.

Councilmember Stoner stated that one of the reasons we started talking about moving it was because of the collapse of the height and where it would end up.

Councilmember Levy commented that it would go higher if we moved it and we would prefer 125 where it is located now in the center.

Councilmember Stoner noted that no one has said the 125.

Mr. D’Arelli questioned if they would stipulate to a lower height and leaving it where it is and that is a financial accommodation they cannot make. If they could get the proposed height approved they will stipulate to getting it down in the corner.

Councilmember Jacobs clarified that his intent was not to put the pole at the edge next to the fence.

Councilmember Stoner mentioned other staff comments.

Mr. D’Arelli clarified that if Council would support that then they would submit revised drawings and staff would process those in due course so they would not have to come back to Council.

Councilmember Stoner questioned the other staff comments.

Mr. D’Arelli stated that many staff comments pertain to height and setback.

Councilmember Stoner questioned if there was an amendment to Councilmember Fadgen’s motion.

Motion by Councilmember Fadgen, seconded by Councilmember Jacobs, to approve Resolution No. 11960, with the same height but moving to the southwest quadrant approximately half way to the corner. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS’ COMMENTS

Councilmember Zimmerman reiterated that he had some questions today and appreciates the work and responses he received. He thanked Mayor Bendekovic.

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Councilmember Zimmerman wished his wife a happy birthday.

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Councilmember Levy appointed the former President of Friends of the Library, Donna Ewart to the Library Board. He thanked Betty Lou Adams for all the time she has spent on that Board; she is not well and resigned due to health reasons.

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Mayor Bendekovic made the following announcements and comments:

- The next Mayor's Council is October 1, 2014 at Jim Ward Community Center from 6:30 p.m. to 7:30 p.m.
- City Hall will be closed on October 3, 2014.
- The next City Council meeting will be October 8, 2014, which is a Wednesday night.
- With regard to Plantation General Hospital, they are meeting with Dr. George Hanbury of Nova Southeastern University. Mr. Michael Joseph of HCA declined our invitation. We are presently gathering data to support others in opposition of the transfer.
- A hearing was set for September 11, 2014 for Hyatt and their attorney indicated that they could not meet either time on that date. Another hearing date was set for September 23, 2014 and the attorney stated that he could not make that meeting either. Another date has not been set as of this time but the City is preparing a plan of action for public safety so there will not be a reoccurrence of what happened last year.
- We are in a holding pattern with resource recovery.
- Several applications were received for the Pension Board and Mayor Bendekovic questioned whether any of the Council members other than Councilmember Jacobs made a decision as to whether they want to serve or not. If you have please let Administration know. A decision does not have to be made until December but she would like to make the decision prior to December because that is when the next Pension Board meeting will be held.

Councilmember Levy advised that he will be attending the Pension Trustees School the first week in October so obviously he wants to stay on the Police Pension Board.

Councilmember Stoner stated that she is also attending for her continuing education.

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Mr. Lunny mentioned e-mails he has been sending the Council. The Broward County Office of Inspector General has decided to make two significant changes going forward as to how such office wishes to enforce the Broward County Ethics Ordinance. The first is if you meet with a lobbyist at City Hall, under the Broward County Ordinance, the lobbyist is required to report the meeting and the office is of the view that if the report is not made by either the lobbyist or the principle of the lobbyist or the employer of the lobbyist, elected officials will be subject to enforcement action if they do not record the contact. That means that we are asking please, when you meet with persons who you suspect are a lobbyist or their clients or their employers, advise staff so that if they do not record the meeting staff can record a contact. Otherwise, you will need, in each case, to seek a safe harbor opinion from him and he will be required to give it in order to insulate you for liability for not recording the meeting if the lobbyist or their clients do not record the meeting. Under the Ethics Law, if you meet offsite it is your responsibility to record the meeting and if you meet onsite it is their responsibility to record the meeting. If they fail to do it the OIG is looking to you and will subject you to enforcement action. The second main point is that once a lobbyist registers, under the OIG's interpretation of the law, you cannot talk with the business man that hired the lobbyist or the firm that employs the lobbyist without recording a contact sheet. Under all the training you have received from the beginning, you only needed to report communications with the lobbyist because that is what lobbying activity was defined. The OIG is saying once a lobbyist is retained and communications thereafter, even though the lobbyist is not present and therefore, not communicating, must be recorded. You either need to record that information or in every case you need to seek a safe harbor opinion from him, which he is willing to give, but you do not need to do that. He suspects this will create quite a stir because now all of the City Attorneys are aware of what is happening. They are very

hopeful that the County Commission will clarify this law as the League of Cities has requested and please keep foremost in mind these concerns because the office of the OIG is adopting a value based and rather liberal interpretation of the law that is appropriate from their perspective but not what the law actually says in every case. It is very important to watch this issue and to immediately try to comply. Our philosophy at the City is when appropriate you ask for a safe harbor opinion but most of you are pretty good about trying to implement this law without always asking for opinions. He is saying do not hesitate to ask and please conduct meeting here. If there are telephone conferences, remember you must report telephone conferences; emails must be reported. One of the suggestions we asked the County Commission is if the e-mail is public record why do we have to fill out the contact sheet anyway. It is a requirement and Susan Slattery is really good about trying to get information out and you need to keep this foremost in mind because his concern is that that law will become a trap for the unwary as opposed to really an ethics based legislation.

Mayor Bendekovic indicated that emails are being placed with Priscilla Richards and Susan Slattery; they are logging in your emails.

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Councilmember Stoner appointed Dwight Brady to the Plantation Gateway Development District Advisory Board.

She commented that her Board appointments are her eyes and ears. If there is an issue she wants to know about it. Her Gateway appointment was someone with Plantation General Hospital and to be blindsided was unacceptable. She would have thought that if something were going on in the community that it would have been something that people would have known. She believes that Mr. Brady will be a positive addition to the Board.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

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

- After hearing the warning from Mr. Lunny, he does not know how Council can risk themselves.
- He mentioned the Defined Benefit Plans and used a graph that the three representatives used. The point he is trying to make is that we are basically borrowing money to pay off the pension that we, in good faith, bought into when the City began its Defined Benefit Plan.

Councilmember Stoner questioned where we are borrowing money from.

Mr. Conklin advised that the repetition on his part is factual.

- Next Monday, September 22, 2014, is the anniversary of the Emancipation Proclamation during the Civil War.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 9:30 p.m.

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Councilmember Lynn Stoner, Council 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