

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

October 8, 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
Asst. City Attorney:	Quentin Morgan

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2. The invocation was offered by Councilmember Jacobs.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – August 27, 2014
4. Approval of Minutes of Meeting – September 3, 2014
5. Approval of Minutes of Meeting – September 15, 2014

Minutes of the Regular Meetings of August 27, 2014, September 3, 2014, and September 15, 2014 were approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic welcomed Dan Keefe. His return was October 7, 2014 and he will be the interim CAO for the next six months until we get through the different elections and referendums. He will be here on Tuesdays, Thursdays and Fridays and on Wednesdays as needed.

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Mayor Bendekovic mentioned that a message was received with regard to opposing the relocation of 200 beds that Plantation General Hospital was asking to transfer to Nova Southeastern University. She stated that staff has been working very hard to oppose it; she has attended Lauderhill Commission meetings and will be attending some HOA meetings to explain why we are opposing the relocation. City Hall can only do so much and this is a community issue. This will impact the healthcare and also the economic impact to our community. Plantation General Hospital will become a stand alone emergency room and possible out-patient. She requested the community to go to a template on the City website and mail it. They have 264 beds and from what she understands 200 beds will go to Nova Southeastern and the remaining 64 beds will be given back to the State. The public hearing will be October 22, 2014 from 1:00 p.m. to 5:00 p.m. at 200 Oakwood Lane, Suite #100, Hollywood, Florida.

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

- Free flu shots will be offered on Wednesday, October 21, 2014 from 9:00 a.m. to 12:00 p.m. at Central Park Gymnasium in conjunction with Walgreens. Plantation residents over the age of 55 or those who are chronically ill are available for the shot.
- We are hosting the Broward High School Championship Swim Meet on Saturday, October 11, 2014 between 7:30 a.m. until 8:00 p.m. at the Aquatic Complex.
- A Fall Local Tennis Championship Tournament will be held on Saturday, October 11, 2014 and Sunday, October 12, 2014 at the Frank Veltri Tennis Center. This event is for children ages 10 through 14.
- Tennis under the Stars will be on Friday, October 24, 2014 at the Frank Veltri Tennis Center between 6:30 p.m. and 10:00 p.m. This is a fundraiser for the Plantation Community Tennis Corporation.
- The Family Halloween and Safety Festival will be held on Saturday, October 25, 2014 between 10:00 a.m. and 2:00 p.m. at Volunteer Park.

Mayor Bendekovic made the following announcements:

- Please go online at www.Plantation.org/Library to learn more about Mango Languages sponsored by the Friends of the Library.
- There will be a puppet show at the Helen B. Hoffman Library on Saturday, October 11, 2014 at 10:30 a.m.
- There will be a fire truck visit at the Helen B. Hoffman Library on Wednesday, October 15, 2014 at 10:30 a.m.
- The Plantation Historical Museum general meeting will be this month. They are presenting Mark Newman, Mystery History Historian, and there will be a reenactment and they will be discussing Osceola and the Seminole Wars.
- There will be a Broward County Property Appraiser Outreach event every Wednesday in October between 12:00 p.m. and 2:00 p.m.
- The Plantation Farmer's Market is every Saturday between 8:00 a.m. and 2:00 p.m. at Volunteer Park.

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6. Annual Fire Prevention Awards

Mayor Bendekovic introduced Fire Chief Laney Stearns and Fire/Rescue Battalion Chief Joel Gordon.

Chief Stearns advised that this is the 38th year of the Annual Poster Contest. The theme this year is “Smoke Alarms Save Lives, Check Your Monthly”. He thanked the Helen B. Hoffman Library and Donna Evert (sic), for her and her assistants in reading all of the essays, the Plantation Art Guild, Judy Warlock (sic) and Edy Bryant, who grade all of the posters.

Chief Gordon announced the 1st place winners as follows:

The 1st place citywide poster contest winner was Andrew Gean (sic), a second grader at Ben Gamla.

The 1st place citywide essay contest winner was Molly Blightman (sic), a fifth grader at Peters Elementary.

Chief Gordon recognized all of the teachers and principals who drive and inspire the children to do this work.

Chief Gordon recognized the *Plantation Fire Department’s 2014 Business of the Year*, Douglas Management.

The award was accepted by Tom Framath (sic) and Bill Murphy.

This year’s *Plantation Fire Department 2014 Member of the Year Award* went to Firefighter EMT Mark DeWalt.

Mr. DeWalt accepted the award and thanked everyone.

Congratulations were offered

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Chief Gordon introduced Mark Johnson, the Vice President of the Association.

Mr. Johnson reminded everyone that Sunday, November 2, 2014 is the 58th Annual Firefighter’s Barbecue.

Mayor Bendekovic advised that this is the largest fundraiser they have. We cannot measure in numbers what the Volunteer Fire Department does for us. We have the largest Volunteer Fire Department in the State. She encouraged everyone to come out and support our Volunteer Fire Department.

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Councilmember Stoner introduced Fred Bellis from the Supervisor of Election’s Office.

Mr. Bellis commended the Council and the Volunteer Fire Department for all of their hard work. November 4, 2014 is the election. Early voting will begin on October 20, 2014 and goes through November 2, 2014. The closest location will be at the West Regional Library in Plantation. The voter turnout needs to be stressed because during a mid-year election a lot of people do not want to vote.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No.'s 27.

Item Nos. 15, 16 and 17 were pulled for discussion and voted on separately.

Mr. Morgan read the Consent Agenda by title.

7. Permission for Plantation General Hospital to have their Annual Outdoor Community Outreach Event (Pumpkin Patch) in their parking lot on Saturday, October 11, 2014 from 11:00 a.m. until 2:00 p.m.
8. Permission for St. Gregory's Catholic Church Youth Group to have a Pumpkin Patch Fall Fundraiser on their campus from Friday, October 17 through Thursday, October 30, 2014.
9. Permission for Central Broward Animal Hospital located at 200 NW 70th Avenue to have their Annual Pet Adoption Event in their parking lot on Saturday, October 25, 2014 from 9:00 a.m. until 4:00 p.m.
10. Permission for South Plantation High School to have a Community Yard Sale located on their property (Peters Road & SW 54th Avenue) on Saturday, November 1, 2014 from 7:30 a.m. until 12:00 p.m. (noon).
11. Permission for Hart-T-Trees/Big Bike Riders (Sears) to sell Christmas Trees at the northeast corner of the Westfield Mall parking lot adjacent to the University Drive/Broward Boulevard intersection beginning on Saturday, November 22 through Wednesday, December 24, 2014 with setup to begin November 14, 2014.
12. Permission for St. Gregory's Catholic Church (Knights of Columbus & Boy Scouts of America) to sell Christmas Trees on their campus beginning November 28 through December 14, 2014.
13. Permission for Publix Supermarkets to sell Christmas Trees in front of their six (6) locations here in Plantation beginning Friday, November 28 through Wednesday, December 24, 2014.
14. Request for authorization to participate in the SE Florida Co-Op Bid to supply water meter boxes and parts from August 18, 2014 through August 18, 2014. (Budgeted – Utilities)

Ordinance No. 2516

18. **ORDINANCE** Second and Final Reading of a Ordinance of the City of Plantation, Florida, amending the Police Officer's 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 1 Officers; amending 18-63.1 to change the maximum drop period; providing for codification; providing for severability; providing an effective date.

Ordinance No. 2517

19. **ORDINANCE** Second and Final Reading of an Ordinance pertaining to the subject of Comprehensive Planning; changing the Future Land Use designation of a parcel of property; specifically amending City of Plantation Ordinance No. 1626, as amended, which adopted the City’s Future Land Use Plan and Map, to redesignate a parcel of land containing approximately 14.3 plus/minus acres of property from Office Park to Office Park and Irregular Residential within a dashed line area in accordance with Policies 1.8.5 and 1.8.8 of the Plan; said parcel more particularly described as a parcel of land in the east one-half of Section 9, Township 50 South, Range 41 East, said parcel including a portion of Parcel 1, according to the Plat of Jacaranda Parcel 817 as recorded in Plat Book 143 at Page 1 of the Public Records of Broward County, Florida, and being more particularly described in the legal description identified as Exhibit “A”; property generally located at 8021 Peters Road; and readopting said plan and map as the Master Land Use Plan and Map, 1989, making said plan and map part of the Future Land Use Element of the Comprehensive Plan of the City of Plantation; providing for severability; and providing an effective date therefor.

Ordinance No. 2518

20. **ORDINANCE** Second and Final Reading of an Ordinance pertaining to the subject of PP13-0023 – Text Amendment Revision to Future Land Use Element Policy 1.7.6 of the Comprehensive Plan-Office Park-8021 Peters Road and 8050 SW 10th Street – Crossroads Residences and pertaining to the subject of Comprehensive Planning; amending the City of Plantation Comprehensive Plan; revising the Future Land Use Element and the Future Land Use Map regarding permitted uses in the Residential Land Use Designation so as to allow a dashed line area in such Land Use Designation; providing a savings clause; and providing an effective date therefor.

Ordinance No. 2519

21. **ORDINANCE** Second and Final Reading of an Ordinance of the City of Plantation, Florida, rezoning 14.3 plus/minus acres from “OP-P” (Office Park – Plantation District) to “SPI-3” (Plantation Midtown District); in accordance with the City of Plantation Comprehensive Zoning Ordinance; Chapter 27-681; property located at 8021 Peters Road within the City of Plantation, Florida; and described as a parcel of land in the east one-half of Section 9, Township 50 South, Range 41 East, said parcel including a portion of Parcel 1, according to the Plat of Jacaranda Parcel 817 as recorded in Plat Book 143 at Page 1 of the Public Records of Broward County, Florida, and being more particularly described in the legal description identified as Exhibit “A”; providing findings, providing a savings clause; and providing an effective date therefor.

Resolution No. 11961

22. **RESOLUTION** approving that certain Broward County Natural Resources Planning and Management Division’s Naturescape Irrigation Service (NIS) Program of Broward County, Florida and the City of Plantation, having the appropriate City Officers execute same and authorizing the City Administration or City Attorney to make minor revisions thereto; and providing an effective date therefor.

Resolution No. 11962

23. **RESOLUTION** of the City of Plantation opposing the transfer of hospital beds from Plantation General Hospital to the Nova Southeastern University Campus; opposing the elimination of in-patient beds, the cardiac care unit, a maternity and neo-natal facility at Plantation General Hospital; providing that Plantation General has operated in the same location since 1966; providing that among with other essential medical care services. Plantation General Hospital currently provides neonatal intensive care, pediatric care, high risk maternity and perinatal services, and serves as a safety net hospital to provide

hospital care for low income individuals in Central Broward County; providing that the prompt delivery of critical in-patient medical care to expectant mothers, infants and children will be denied if Plantation General Hospital transfers its in-patient beds; directing the City Clerk to provide copies of this Resolution; providing for an effective date.

Resolution No. 11963

24. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period September 11, 2014 through October 1, 2014 for the Plantation Gateway Development District.

Resolution No. 11964

25. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period September 11, 2014 through October 1, 2014 for the Plantation Midtown Development District.

Resolution No. 11965

26. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period September 11, 2014 through October 1, 2014.

Resolution No. 11966

27. **RESOLUTION** approving the Expenditures and Appropriations reflected in the weekly Expenditure Report for the period September 11, 2014 through October 1, 2014 for the Plantation's Community Redevelopment Agency.

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

Ayes: Fadgen, Levy, Jacobs, Zimmerman, Stoner (except as to No. 11 for which she may have a conflict with relatives associated with Hart-T-Trees)

Nays: None

Mayor Bendekovic voted affirmatively on Item No. 27.

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Mr. Morgan read Item No. 15.

15. Request to approve "competitive procurement exemption" for the purchase of one (1) Peerless Vertical Turbine Pump from Tom Evans Environmental, Inc., in the amount of \$116,633.14. (Budgeted – Utilities)

A Memorandum dated October 1, 2014 to Mayor and the Members of City Council, from Chuck Flynn, Director of Utilities, follows:

The Peerless vertical turbine pump is necessary to maintain plant operations. The pump is one of six pumps used to pump the final effluent from the wastewater treatment plan into the injection wells for permitted disposal. This pump will be replacing a pump that is approximately thirty years old, which is well beyond the life expectancy of the pump.

The Peerless brand pump has been selected in an effort to standardize the injection well pump, making parts interchangeable and allowing us to keep fewer items in inventory for repairs. Tom Evans Environmental, Inc. has previously done similar business with the City of Plantation and is the closest vendor to the City.

In reference to Florida Statute 287.057(3)(C), the Utilities purchasing section electronically advertised on Intent to Source (ISS No. 006-13) from October 16, 2012 to October 23, 2012 for the purchase of genuine Peerless pump parts and accessories. Tom Environmental, Inc. was found to be the sole source supplier for Peerless pumps in the municipal market.

This information is provided for your review and approval for a competitive procurement exemption for the purchase of one (1) Peerless vertical turbine pump from Tom Evans Environmental, Inc. based on the information provided herein.

Capital Funding: 440-0000-166-9001; Project No. 626

Councilmember Fadgen was not convinced why we should create the exemption. Standardizing the equipment is wise and having a smaller inventory by having interchangeable parts is wise but he does not know what we are paying to achieve this. He questioned if there was other equipment that would do the job and what the cost of that would be.

Chuck Flynn, Utilities Director, advised that they have six pumps that are measurable to the operation to the Wastewater Treatment Plant that pump the effluent into the deep wells. Four of them are currently Peerless pumps and we have been replacing them as they have worn out with Peerless pumps in order to standardize. That is the primary reason. We have spare parts that are taken off of the old pumps as well as having to keep a smaller inventory. It is not that other pumps cannot do the work; however, it is more efficient because in a six-pump manifold it is a system curve. If the pumps are the same they work more efficiently, which is a minor issue. The major issue is the interchangeability and the fact that we would be standardizing and have fewer parts.

Councilmember Fadgen questioned what would be expected for the alternate equipment if this went to bid.

Mr. Flynn indicated that he would not think the price would deviate much. He was not aware of the last bid that went out on this particular equipment; however, he knows that they are fairly competitive. It is not the fact that they are that significantly different, it is for convenience and to save money for parts. There is also a large lead time on equipment like this because it is so large. We are trying to stay ahead.

Mr. Flynn stated that they are not behind; they have six operational pumps and want to replace the pump that is worn out.

In response to Councilmember Stoner, Mr. Flynn clarified that he said he wanted to do this for interchangeability of parts, not time.

Councilmember Fadgen commented that he did not have the cents as to the capacity of the pump; how many horsepower or how rapid the flow is in terms of volume that it would process.

Mr. Flynn stated that he can bring it back with more information. He will do the research and if they go out he is all right with that.

Councilmember Fadgen suggested that this be tabled until the next meeting.

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16. REQUEST TO APPROVE AN AMENDMENT TO THE JOHNSON CONTROLS, INC. (JCI) CONTRACT OF \$200,691 FOR ADDITIONAL METER INSTALLATIONS AND SUPPORT SERVICE FOR THE AUTOMATIC METER READING PROGRAM THROUGH THE END OF THE CONTRACT PERIOD IN 2020. (BUDGETED – UTILITIES)

A Memorandum dated September 8, 2014, to Mayor Bendekovic and the Members of City Council, from Chuck Flynn, Director of Utilities, follows:

RE: Request to approve an amendment to the Johnson Controls, Inc. (JCI) Contract for a total amount of \$200,691 for additional meter installations and support services for the automatic meter reading program through the end of the contract period in 2020. (Utilities – Budgeted)

This amendment would increase the number of meters covered by the original Johnson Controls, Inc. (JCI) Performance Contract (approved by Council and dated August 8, 2007) by 1,290 meters (990 1” meters and 300 2” meters) at a fee of \$179,419. Additionally, there will be scheduled payments for support services (installation oversight, monitoring and testing of the newly installed meters, reports, etc.) that will total \$21,272 over a six-year periods, as outlined in the attached amendment for a total amount of \$200,691. The meters will be purchased separately by the City under the existing competitively bid contract with Badger Meters.

<u>Meter Size</u>	<u>1”</u>	<u>2”</u>
Installation Cost per meter	\$ 139.08	\$ 139.08
Number of Meters	990	300
<u>Cost for Meter Installation</u>	<u>\$137,689.20</u>	<u>\$ 41,724.00</u>
Sub-Total Cost for Installation		\$179,413.20
Cost Support Services		\$ 21,272.00
 <u>Overall Cost (installation and support)</u>		 <u>\$200,691.00</u>

The pricing for the installation work is equivalent to the original contract pricing from seven years ago in 2007. The price of \$21,272 for support services during and after installation is an extension of the negotiated hourly rate for technical support services included in the 2007 contract. There has been no increase in that unit cost for the support services.

This work is projected to generate an increase of \$52,564 in revenue from billed consumption through the elimination of under billing of water flowing through the existing (inaccurate) meters. The return on investment (ROI) for the total cost of this project including the payments for future support services is 3.8 years.

The Utilities Department requests City Council approval of this addendum for additional meter installations including support services through the end of the contract period in 2020 in the total amount of \$200,691.

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 City Council on December 18, 2013.

Mr. Morgan commented that this item would also be tabled.

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Mr. Morgan read Item No. 17.

17. Request to rescind prospective award to Wharton Smith, Inc. and reject all bids received for the WWTP Upgrades Project (RFSP No. 012-14).

A Memorandum dated October 1, 2014 to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follow:

On August 27, 2014, the City Council prospectively awarded a contract to Wharton Smith, Inc. for the City's WWTP Upgrades Project (FRSP No. 012-14). During the City Council's review of Staff's recommendation, the Council was informed that while Staff did not employ a score key to evaluate the proposals, the criteria listed in the procurement document was considered. Our legal research discloses no case which requires the City to utilize score keys in the evaluation of proposals; however, the utilization of score keys as a management practice helps to assure that proposals are evaluated uniformly. Additionally, the process for reviewing litigation history in accordance with the procurement document was questioned. In particular, it was asserted that more litigation concerning the prospective awardee would have been discovered if a search of the Central Florida database was conducted instead of a search of the South Florida database.

After the meeting of August 27, 2014, the City received a procurement protest from one of the unsuccessful proposers, Poole & Kent Company of Florida (the "Protest"). A copy of the Protest is attached hereto. The Protest raises many issues of fact and law that would, if no pre-emptive action were otherwise taken, need to be decided by the Bid Protest Committee, and then any particular allegation, many issues raised in the Protest concern "process" would, if successful, warrant the rejection of all proposals. Among other things, the Protest raises an issue whether the correct criteria were applied in evaluating the proposals. Suffice to say, if the Protest is litigated to conclusion through the City's administrative process and through the Courts, the commencement of the desire project would be delayed for a very long time, and then depending on the outcome, the successful Proposer could be called upon to perform a proposal that would in the very least be out-of-date, or the City would then need to start the procurement over again.

Regarding the procedural issues raised in the Protest, the Administration decided before August 27, 2014 to undertake a thorough evaluation of the City's procurement practices with the thought of evaluating:

1. Modernizing the code;
2. Making sure procurement forms are up-to-date and locked in an electronic library (so that they cannot be altered without Administration's approval);
3. Developing City-wide procedures notebook;
4. Developing a score key for all procurement types where increased discretion is permitted.

This task will be assigned to Mr. Keefe when he commences employ. The Members of Council have also asked for an opportunity to give advice and input with these matters.

In view of the fact that no score key was used to evaluate proposals and the procedural issues regarding the evaluation, the fact that the Protest could take a very long time to resolve, the fact that the project may be delayed for a lengthy and indeterminate time period if the Protest continues, and the desire of the Administration to revamp, standardize, and modernize the City's procurement practice, the Administration would request that the Council rescind its prospective ward to Wharton Smith, Inc., and reject all proposals received for the above referenced procurement. A new procurement can resume after the City's work on its procurement practices and procedures has been concluded. Notably, the procurement document provides:

“The OWNER shall not be obligated to any Respondent to enter into a contract with the Respondent despite the OWNER governing body prospectively awarding the contract to a successful Respondent. The OWNER shall be obligated to any Respondent for the project if and only if the OWNER enters into a contract for the project with the Respondent, and further, no action will lie against the OWNER to compel OWNER to execute any such contract, or to recover from the OWNER any damages, costs, lost profits, expenses, etc., that Respondent may incur if the OWNER chooses not to sign such contract. By bidding/proposing on this project, all Respondents acknowledge and agree that no enforceable contractual relationship arises until the OWNER signs the contract, and that no action shall lie to require OWNER to sign such contract at any time, and that Respondent waives all claims to damages, loss profits costs, expenses, etc., as a result of the OWNER not signing such contract.”

This matter is now ready for the City Council's consideration as an Administrative item. If the Council rejects all bids as requested by the Administration, the City shall refund the Protestant's filing fee.

Attorney Brady represents Poole and Kent Company of Florida and they were the lowest responsive and responsible bidder on this project. He is suggesting that you consider a substitute motion which would pull the award to Wharton Smith, Inc. and award the bid to the lowest responsible bidder; that would be consistent with Florida Statutes in his opinion. It would also be the right thing to do for the City, for the system and for Poole and Kent. The staff report making the recommendation was so adamant against the award for the lowest responsible bidder that it is worrisome. If he read it correctly, it was based on the notion that Poole and Kent were litigation happy and that they had some problem with Broward County; that is not true. This is a totally separate company and they currently have two contracts with Broward County. Litigation with Broward is not a consideration in this situation. What is a consideration is doing the right thing by the citizens, saving \$100,000+, getting timely and good performance by the local bidder. He introduced David Strickland, Senior Vice President of Poole and Kent and a resident of Plantation. He requested that Council adopt a substitute motion.

Mr. Strickland is a professional engineer in the State of Florida and Senior Vice President of Poole and Kent. He is also the license holder so he would be pulling all of the permits and as such, responsible for the construction that Poole and Kent does. He was involved in the bid on this process. Poole and Kent is a qualified and very capable company; they are a local south Florida company and their headquarters is in Miami, Dade. They are currently doing work in Hollywood, Sunrise and Fort Lauderdale. They were recently awarded two projects with Broward County. They have completed over \$200 million worth of work in the last five years with Hazen Sawyer as an engineer on project.

Tom Tatum with Brinkley and Morgan was present as an Assistant City Attorney. What has been heard is what Poole and Kent would like to see happen. A memorandum was provided from Donald Lunny, Jr., City Attorney, dated October 1, 2014, which sets out the reasons that the Council should rescind the provisional approval and reject all bids. The purpose of this event to night is not to take evidence or make decisions based upon representations that are made as to a party's position. There is good reason for the Council to reject all bids. As Mr. Lunny pointed out in the memorandum, prior to this process for this particular procurement, the Council had already decided that it would be in the best interest of the City to review existing procurement procedures and practices in order to make the system better and in order to ensure that our procurement processes are fair to everyone involved. Poole and Kent, in their bid protest which is still pending, it has been abated pending the Council's consideration of this item tonight, raises issues that the City is not taking a position as to whether they are right or wrong but they do amplify the need for the City to have a better procurement policy and procedure if that can be achieved so everyone is handled in the same uniform way. Mr. Lunny pointed out other reasons in the memorandum but the process is the most important. The ultimate issue is to ensure that there is fairness to all involved in our procurement process. That is what the Council should be considering with respect to this recommendation from Administration.

Councilmember Stoner indicated that she has mentioned concerns with the procurement process and this one was especially concerning. She thinks that Attorney Brady has a valid point, if this Council chooses to throw everything out and start over it would behoove us to have a different Selection Committee. She thinks that using the existing Selection Committee to revisit a new submission is not wise in making it fair.

Mayor Bendekovic advised that they are going to be working on this; it is at the top of Mr. Keefe's "To do list". Three other staff members have been working on this prior to Mr. Keefe's arrival and he has also met with Legal. She would like to hold off for however long it takes to get to that point and not do any major procurements until we get the matrix and get policies and procedures in place. Once we do that it will be brought back to Council and we can move forward with the major procurements we need to do. It is a rather thick booklet and they are going through it page by page. This will probably not come back to Council for at least a couple of months.

Mr. Morgan commented that for this particular project, they are not taking a position that there was an error or anything. He thinks that Mr. Flynn and the Utilities staff bid the job that was sufficient; it could have been better on a lot of different parts, which is why we are here to rescind the offer of award and to reject all of the bids. We are all in agreement of making it better for everyone.

Attorney Brady mentioned Mr. Tatum's remark about fairness in the system. Fairness in the system dictates the very result that he requested. They bid honestly and were the lowest responsible, responsive bidder. The Statute says they should get the job and that is the right thing to do.

Councilmember Zimmerman indicated that he has had a lot of concerns with the procurement process. He is pleased to see it is going to move ahead; he thinks it is something that needs to be done. He is surprised that we did not ask our consulting engineers for a reference check to see what they thought. He heard that we now have a contractor bidding that has done work for them and he is thinking that we should have relied on some engineering input as well. He thinks that some of the information Council was given in the last memorandum was not fully thought out; he thinks there were a lot of legal cases. He is hearing a lot of concerns and has questions that maybe they were the lowest most responsive bidder. If we are going to delay this for three months it will be four or five months until we get bids back in. Currently construction costs are on the rise; every month costs go up. The percentage difference that we had in these two low bids was very small. We

could be paying more six months from now than the difference in the bids. He thinks this is a big decision and he does not take it too lightly.

Councilmember Fadgen believes it is embarrassing for the City to be in this situation. A decision was made by the Committee and it was not well documented. He suggested that we delay one more meeting to see if we can get some more input relative to why Poole and Kent should or should not get the bid. He thinks they should be given some more consideration. We cannot really document why the second lowest bidder is better.

Mr. Morgan advised that information was provided during the meeting when it was awarded to Wharton Smith. We are currently in a Protest with Poole and Kent, who has filed a Protest against the decision. If the determination is not to go with the recommendation of the Administration to rescind that award and to reject all of the bids we would go back through the Protest procedure. The decision has been made already, it is just a matter of whether or not that decision will be upheld by the Bid Protest Committee, should it come to that. He does not think a decision today would be proper to switch the award, as requested. We are already in a legal posture with Poole and Kent because they filed a Protest. If the Council decides not to rescind or to postpone that decision whether or not to rescind, it is going to push that decision back as far as going back to the Bid Protest Committee to complete that process or coming back to Council. There will not be any additional information to be presented without going through the Bid Protest process.

Councilmember Fadgen questioned who is on the Bid Protest Committee.

Mr. Morgan indicated that the Committee consists of Mr. Sabouri, the Building Official; Mr. Butler, City Engineer, and Mr. Consaul, Public Works Director. None of them had any input or knowledge of this particular project other than what has been done since the Bid Protest Committee convened.

Councilmember Stoner reminded everyone that the City reserves the right to accept or not accept or reject all bids and put it out again.

Mr. Morgan stated that is a great point. There is no attachment at this point to any of the proposers and the potential or the selected awardee, which is Wharton Smith. We have not entered a contract because of the Protest. There is no attachment of any liability for a contractual relationship to the City or anyone at this point.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve the item and follow Legal Counsel's direction. Motion carried on the following roll call vote:

Ayes: Levy, Jacobs, Zimmerman, Stoner

Nays: Fadgen

Councilmember Levy questioned if we could add to the motion that there will be a whole new selection.

Councilmember Stoner noted that there will be an entirely new Selection Committee.

Councilmember Jacobs agreed to the amendment.

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ADMINISTRATIVE ITEMS – None.

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LEGISLATIVE ITEMS

Mr. Morgan read Item No. 28.

28. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF MEDICAL MARIJUANA; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memorandum dated October 1, 2014, to Mayor Bendekovic and Members of City Council, from Legal Department, follows:

RE: Medical Marijuana Ordinance

This Ordinance is sponsored by the Administration. In sum, the Ordinance is intended to prohibit medical marijuana establishments as a lawful use in the City in efforts to protect the public health, safety, and welfare of the residents of the City. However, performance and operational regulations for medical marijuana establishments have been created in the City's Industrial Zoning District should the prohibition be determined by law to be unenforceable.

By way of background, on November 4, 2014, Florida voters will be considering the approval of an amendment to the Florida Constitution to allow for broader medical use of any kind of marijuana (including euphoric strains) within the State. There is polling showing that the measure will pass. In addition, the 2014 Florida Legislature approved Senate Bill 1030 providing for the growing, processing, and distributing of specific forms of low-THC (non-euphoric) cannabis to qualified patients and their caregivers for the treatment of listed medical conditions, which became effective on June 16, 2014. The Florida Department of Health is currently adopting a rule to implement Senate Bill 1030, which rule must be effective by January 1, 2015.

The interaction between the State, Federal and Local Law is at the point uncertain. The Florida Statutes and the Constitutional Amendment are silent as to the role of cities to regulate in this area. The general rule under the Home Rule powers of the City is that a city may exercise any power for municipal purposes, except when expressly prohibited by law. Accordingly, the Administration finds it prudent to be proactive on regulating this field and present this Ordinance at this time.

The Ordinance is now ready for 1st Reading.

Mayor Bendekovic advised that Mr. Morgan has been working on this. The item was passed at the Planning and Zoning meeting.

Dennis Conklin, resident, was present. He thanked Council for putting the backstop in. He thinks that taking this action to block and prevent as much as possible is being responsible. He encourages every municipality to do likewise. Marijuana is not a drug and cannot be prescribed. The Federal Law prohibits any kind of distribution, consumption or administration of marijuana.

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Item No. 28. Motion carried on the following roll call vote:

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

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Note: Items No.'s 29 and 30 were voted in tandem.

- 29. REQUEST TO DEFER TO NOVEMBER 12, 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)
- 30. REQUEST TO DEFER TO NOVEMBER 2, 2014 RESOLUTION APPROVING A 3,572-SQUARE-FOOT DAYCARE AS A PERMITTED CONDITIONAL USE, TO BE LOCATED IN THE B-7Q (PLANNED COMMERCIAL DEVELOPMENT) ZONING DISTRICT, PROPERTY LYING IN SECTION 6, TOWNSHIP 50 SOUTH, RANGE 41 EAST, AND DESCRIBED AS JACARANDA PARCEL XX, AS RECORDED IN PLAT BOOK 114, PAGE 5, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED AT 10359 WEST BROWARD BOULEVARD, AND PROVIDING AN EFFECTIVE DATE THEREFOR. (CHABAD) –AND-DEFERRED SITE PLAN, ELEVATIONS AND LANDCAPE APPROVAL FOR CHABAD MIXED USE COMMERCIAL BUILDING LOCATED AT 10359 WEST BROWARD BOULEVARD AND ZONED B-7Q.

Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to Defer Item No.'s 29 and 30 to the November 12, 2014 meeting. Motion carried on the following roll call vote:

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

* * * * *

Mr. Morgan read Item No. 31.

- 31. CONSIDERATION OF A WAIVER REQUEST FOR WESGAMI MONTESSORI SCHOOL LOCATED AT 920 SOUTH STATE ROAD 7.

A Staff Report dated October 8, 2014, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Consideration of a waiver request to reduce the rear setback for a roofed patio and side setback for a trellis.

WAIVER REQUESTS:

1. From: Section 27-613.4(c), which requires a minimum rear yard setback of 25 feet in the SPI-2 district; to reduce the required rear yard setback from 25 feet to 13 feet; and
2. From: Section 27-613.4(c), which requires a minimum side yard setback of ten feet in the SPI-2 district, to reduce the required side yard setback from ten feet to seven feet. (Constructed without a permit)

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report, subject site map and Development Review application.

ANALYSIS:

The subject property is 8,179 +/- square feet in area and developed with a one-story, 1,500 +/- -square-foot daycare. A parking area with six parking spaces is located west of the building (along a frontage road) and playground area is located in the rear (east side). On March 15, 2012, a site plan modification was approved by the Plan Adjustment Committee to address compliance with development standards (landscaping, parking lot) to meet the Gateway Enhancement Ordinance. The applicant has not completed all of the March 15, 2012 PAC conditions.

The applicant has requested a waiver from the required rear setback to allow a 780 +/- - square-foot roof patio addition to the existing daycare extending 11.7 feet into the rear 25-foot rear setback, resulting in a rear setback of 13.3 feet. The side setback requirements for this structure will be met. The applicant has provided a Letter of Intent, which indicates a roofed patio shade structure is required by Childcare Licensing.

The side setback waiver request is for a trellis constructed without benefit of a building permit on the south side of the existing structure. A side yard setback of ten feet is required and a seven-foot setback has been provided. The applicant would like to keep the trellis and obtain the required permits.

STAFF COMMENTS:

PLANNING AND ZONING:

1. The development must be consistent with the site plan entitled "New Roof Structure", prepared by Graham A. Gerald, Architect, dated revised 8-8-14 and stamped received AUG 11, 2014. If changes to the site plan are subsequently pursued, appropriate approvals will be necessary.
2. Prior to the issuance of any building permits, the terms and conditions of PM12-0007 shall be satisfied. This includes removal of two covered canvas structures located in the rear yard that have been installed without permits and do not meet required setbacks.
3. Enclosure of the rear covered roof structure is prohibited. (Enclosure will require a parking waiver and an amendment to previously approved conditional use).
4. All illegal signage, including banners, shall be removed.

ENGINEERING DEPARTMENT: No objection.

TRAFFIC CONSULTANT: No objection.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: Staff has no objections to the requested waivers as the proposed plans do not appear to have an impact on the existing City Code required plant material. (Landscape plans were not include in this submittal)

At time of permitting, please submit the following:

1. A tree survey showing the existing tree canopy along the eastern perimeter. Please include locations, species, height, spread, caliper, condition and disposition of the trees.
2. Include a tree protection barrier detail to be placed around the existing trees in the vicinity of construction. (2" x 4" posts, 48" in height, with three 2" x 4" rails spaced equally)

BUILDING DEPARTMENT: No objection.

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

Motion by Councilmember Jacobs, seconded by Councilmember Fadgen, to approve Item No. 31. Motion carried on the following roll call vote:

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

* * * * *

Mr. Morgan read Item No. 32.

32. REQUEST FOR SIGN SPECIAL EXCEPTION FOR THE FRESH MARKET LOCATED AT 12171 WEST SUNRISE BOULEVARD.

A Staff Report to the City Council dated October 8, 2014, from the Planning, Zoning and Economic Development Department, follows:

SPECIAL EXCEPTION REQUEST:

1. From: Section 22-35(b), which allows center establishments to have one ground sign for each abutting public road 70 feet or more in width. (As per the approved master plan, the Center Establishment includes Fresh Market, Petsmart Plaza and all retail stores to the east).

To: Allow an additional ground sign for the Center Establishment (for a total of three ground signs, including two existing multi-tenant ground signs, one approved by a prior special exception).

2. From: Section 22-20(p), which allows a maximum height of nine feet for ground signs on properties that have six or more driving lanes (Sunrise Boulevard) adjacent to the frontage where the sign is to be placed.

To: Increase the height from nine feet to ten feet for the additional ground sign.

WAIVERS REQUIRED:

1. From: Section 13-40(a)(b)(c)(2)(c). Interior landscaping for parking areas:
Interior landscaping shall be installed in landscaped areas designed and arranged for the explicit purposes of controlling traffic, providing shade, screening unnecessary views into and within the vehicular use areas, and separating the parking, circulation and service areas. Islands in parking bays shall have a minimum size of 8' in width and 16' in length, not including curbing.
- 8' wide island required (exists) - < 6' would be provided in the parking island where the freestanding monument sign is proposed.
- Large shade trees shall be installed in all parking areas.
- 1 large shade tree required (exists) – 0 trees would be provided if the sign is placed in this island.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report, subject site map, Development Review application and sign details.

ANALYSIS:

The Fresh Market parcel contains 2.4 acres zoned B-2L and is part of the 13.2-acre master plan known as Petsmart Plaza. The Fresh Market site abuts a retention pond to the north, Sunrise Boulevard to the south, and commercial uses to the east and west.

The shopping center has multiple buildings with shared access and is considered a “center establishment” by sign code definition. Section 22-35(b) limits center establishments to one ground sign not exceeding 32 square feet for each side property that abuts a public right-of-way having a width of 70 feet or more on the site where shared shopping center access is provided.

Petsmart Plaza has a 15-foot high monument sign located approximately 75 feet east of the east Fresh Market property line at the center entrance. The applicant, Fresh Market, received an administrative approval by staff to allow two “The Fresh Market” tenant panels on this sign to have a green background with white letters in lieu of a white background with colored letters (to match all other existing tenant panels). Prior to the Fresh Market waiver, Petsmart Plaza received City Council approval for a second ground sign located east at the end of the plaza sign on April 25, 2012.

The City Council granted wall sign special exceptions to Fresh Market on June 11, 2014 to allow two 82.8-square-foot wall signs in lieu of the maximum allowable wall sign area of 60 square feet on the building front and 30 square feet on the building side. The applicant is now requesting a third ground sign ten feet in height and 60 square feet in area to be centrally located on the Fresh Market property within a required landscape island.

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code, attached hereto.

STAFF COMMENTS:
PLANNING AND ZONING:

1. The applicant has proposed a ten-foot tall by six-foot wide ground sign for a single use. Staff will support a lesser special exception subject to the following conditions:
 - a. The sign shall be nine feet in height and 32 square feet in area, the code requirement for a center establishment regardless of size.
 - b. Section 22-20 requires the sign to have architectural embellishments intended to avoid a plain, box-like appearance. Staff suggests a more substantial decorative cap on top of the sign and a decorative stone column or element, matching the building, on each side of the sign.
 - c. Based on the electrical plans, it appears the entire 60-square-foot green background panel will be illuminated at night. Applicant to provide a pierced metal sign where only the white letters would illuminate at night in lieu of the entire face.
2. The site plan provided by the sign company does not match the landscape plan provided.
3. If approved, PAID approval will be required at time of permit.

ENGINEERING DEPARTMENT:

1. The sign company plans (location, dimensions) do not match the proposed plan, they do not include the proposed ADA connection to the public sidewalk. Please revise to match what is being constructed.
2. Please provide the dimensions for the sign location including from curb to sign in all directions. It may not block the line of sign for vehicles on either side of the sign.
3. Please include an existing tree survey for the trees within 20' of the proposed monument sign. Please include locations, species, height, spread, caliper, condition, and disposition of the existing tree/palm canopy.
4. If the existing code require tree is to be removed or relocated, tree removal permits are required through the Department of Design, Landscape & Construction Management.

UTILITIES:

No objection to Sign Exception providing proposed sign or any portion including footer is not installed in existing utility easement including temporary signage. Show all existing water and sewer lines on landscaping plans during permit submittal process.

Denise Williams, with Art Sign Company, representing Fresh Market, was present.

Ms. Williams explained that Fresh Market would like to have their own sign because it is 160 feet back from the property line and they would like to have some sort of name recognition closer to the street than just the wall signs. Currently they have panels on one of the existing multi-tenant signs for the Center. They are the sign closest to Fresh Market but they are not on the one that is a little more east.

Mr. Leeds advised that the applicant has requested a ground sign that is basically bigger than any other single store ground sign on the street. One thing we look at is the context and we try to establish some level of fairness when evaluating sign special exceptions. At the same time we are glad that Fresh Market has filled this empty box and know they will do well. He suggested rather than a ten-foot high sign with a 6' x 60' panel that the sign be 9' in height and 32 square feet in area, which is the code requirement for a Center establishment in

the zoning district. They are also requesting that the sign have architectural embellishments intended to avoid what the plans indicate is a plain and very box like appearance. Staff suggests and has mentioned the zoning code, a substantial more decorative cap on the top of the sign and a decorative stone column or element matching the building on each side. Based on the electrical plans, it appears that the entire 60-square-foot green background will be illuminated at night. He recommended a metal sign, which would only allow the white letters, "Fresh Market" to be illuminated at night. It is believed this is a very fair approach and is consistent with what exists on the street today.

Councilmember Stoner questioned whether on the street today means on Sunrise Boulevard or on Sunrise Boulevard within the City of Plantation.

Mr. Leeds clarified that it means on Sunrise Boulevard within the west portion of Plantation; the area on both sides of Sunrise Boulevard next to the Acres. Most of the signs are multiple tenant signs. It is believed that the 32 square feet could work; he would even agree to a ten-foot sign. He does not think one-foot will make a difference as long as the size is limited to 32 square feet.

Ms. Williams indicated that Fresh Market would be willing to do that. They would appreciate the ten feet since it was offered. They would do the clear space where only the letters illuminate 32 square feet and they would embellish the sign. They would work with Zoning to bring in some of the elements.

Councilmember Jacobs questioned if they will be on the other multi-tenant sign or if they are going to be left off.

Mr. Leeds stated that they will continue to have panels on both.

Ms. Williams clarified that they only asked for one.

Councilmember Jacobs questioned if all of the other signage on the building has been taken care of.

Mr. Leeds advised that the sign special exception has been granted by the Council.

Councilmember Jacobs commented that the focus is the one sign.

Mr. Leeds indicated that he is fine with ten feet and would include that in the motion.

Motion by Councilmember Levy, seconded by Councilmember Jacobs, to approve Item No. 32 based on the recommendations of our Planning Director; that a ten-foot sign and 32 square feet is allowed; and that the applicant has agreed to meet those requirements. Motion carried on the following roll call vote:

Ayes: Fadgen, Levy, Jacobs, Zimmerman, Stoner

Nays: None

Mr. Leeds mentioned the matter of the landscape waiver to be dispensed with.

Councilmember Levy clarified that the motion included the waivers.

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic made the following announcements:

- The next meeting is October 22, 2014.
- The Plantation Acres Woman’s Club Italian Night is next weekend; October 17, 2014, at Volunteer Park.
- A Referendum is coming up and voting is on November 4, 2014.
- Mr. Keefe is at Council’s disposal; he tried to contact all of you but was unable to reach some of you. He is very accessible.

Councilmember Stoner commented that a different name came up on the Caller ID.

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Dan Keefe, Interim CAO, indicated that he did call the Councilmembers and apologized if Caller ID came up as something else. He will make sure that everyone has the correct telephone number. If anyone needs anything he would be more than happy to meet and discuss it. If there is any information he can provide in the near future he will be glad to do so.

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Councilmember Stoner indicated that she attended a function at Plantation Park Elementary School. The Kiwanis Club distributes dictionaries to every third grader throughout the elementary schools in the city. The club handed out their 10,000th copy at Plantation Park Elementary. The Club has spent about \$25,000 over the years to provide these dictionaries to all public school students and hopefully there will be a Proclamation for them.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, mentioned that he requested a moment of silence at the closing of the last two meetings for two Americans that were beheaded overseas. He mentioned the plan from the Muslim Brotherhood that was confiscated in a Texas raid. In the time that has lapsed since the last meeting, an American woman in Oklahoma was beheaded. He requested a moment of silence for her.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 9:20 p.m.

* * * * *

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