

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

May 13, 2015

The meeting was called to order by Councilmember Chris Zimmerman, President of the City Council.

1. Roll Call by City Clerk:

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

Absent:

Peter S. Tingom

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meetings

Minutes of the regular meetings of March 11, 2015 were approved as printed.

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ITEMS SUBMITTED BY THE MAYOR

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

- The Frank Veltri Tennis Center is hosting three tennis tournaments; the Plantation International Tennis Federation Tournament, which will be held on May 11 – 16, 2015; a Junior Tournament which will be held on Saturday, May 23 – 25, 2015 for boys and girls ages 12 – 18; and a Level III State Tennis Challenge which will be held on Saturday, May 30 – 31, 2015 for boys and girls ages 12 – 18.
- Summer class registration begins on Monday, May 18, 2015 through Sunday, May 31, 2015. The first day of classes is June 1, 2015.
- Summer Camp begins on Monday, June 8, 2015 through Friday, July 31, 2015. Central Park and Adventure Day Camps have already reached full enrollments for Sessions A and B. There are still openings at Volunteer Park Camp Elite and the Jim Ward Day Camp.
- The Plantation Aquatics Complex will be hosting the North Palm Beach Invitational Swim Meet on Saturday and Sunday, June 6 and 7, 2015. The event starts at 9:00 a.m. each day.

- The City of Plantation Memorial Day Program will be held at Plantation Veteran’s Park on Monday, May 25, 2015 at 9:30 a.m.

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Mayor Bendekovic made the following announcements:

- There will be a Shade meeting on May 27, 2015 at 6:30 p.m.
- Participants are wanted for the Independence Day Parade on Saturday, July 4, 2015. The City of Plantation Parks and Recreation Department are taking applications.
- The Plantation Farmer’s Market is every Saturday at Volunteer Park between 8:00 a.m. and 2:00 p.m.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 11.

Mr. Lunny read the Consent Agenda by title.

4. Request for approval for a “competitive procurement exemption” (City of Plantation Code Sec. 2-226(f) for the purchase of one (1) Peerless vertical turbine pump from Tom Evans Environmental, Inc. in the amount of \$81,564.63. (Budgeted – Utilities)

5. Request to award a purchase order in the amount of \$55,904.66 to Ferguson Enterprises, Inc. to supply and deliver two (2) AWWA rubber seated ball valves for the RWWTP. (Budgeted – Utilities)

Resolution No. 12055

6. **RESOLUTION** of the City of Plantation approving that certain amendment to agreement regarding audit services between the City of Plantation, Florida and Keefe, McCullough & Co., LLP; providing a savings clause, and providing an effective date therefor.

Resolution No. 12056

7. **RESOLUTION** of the City of Plantation pertaining to the subject of solid waste; authorizing the Mayor to sign an Interlocal Agreement with Broward County to provide use of temporary debris management sites and other related services after a natural or man-made disaster.

Resolution No. 12057

8. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 23, 2015 through May 6, 2015 for the Plantation Gateway Development District.

Resolution No. 12058

9. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 23, 2015 through May 6, 2015 for the Plantation Midtown Development District.

Resolution No. 12059

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 23, 2015 through May 6, 2015.

Resolution No. 12060

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 23, 2015 through May 6, 2015 for the City of Plantation's Community Redevelopment Agency.

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

Ayes: Levy, Stoner, Zimmerman

Nays: None

NOTE: Councilmember Jacobs was not present for the discussion or vote.

Mayor Bendekovic voted affirmatively on Item No. 11.

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item #12.

12. **REQUEST TO APPROVE HIRING A CONSULTANT TO ASSIST STAFF IN THE PREPARATION OF A REQUEST FOR COMPETITIVE PROPOSALS (RFCP) FOR EXCLUSIVE FRANCHISE FOR SOLID WASTE COLLECTION SERVICES AS OF OCTOBER 1, 2016.**

A Report and Recommendation, dated May 13, 2015, to Mayor and Members of City Council, from Horace McHugh, Chief Administrative Officer, Edward Consaul, Public Works Director, and Priscilla Richards, Strategic Operations Administrator, follows:

SUBJECT: Waste Management Franchise Agreement Extension

REQUEST: Approve hiring a consultant to assist staff in the preparation of a request for competitive proposals (RFCP) for exclusive franchise for solid waste collection services as of October 1, 2016.

ANALYSIS: The current contract with Waste Management Inc. of Florida for collection and disposal of solid waste has been in effect since July 1, 2007 (Ordinance 2386). City Council approved an extension of that contract until September 30, 2016 on April 15, 2015 (Ordinance 2525).

This lucrative, exclusive franchise agreement is for services for over 19,000 blue bag homes, 2,400 toter cart homes, 14,700 multi-family units and hundreds of commercial accounts within the City.

We were recently informed that the cities of Coral Springs, Margate, Dania Beach and Lauderdale Lakes will be issuing requests for disposal services in the near future. Due to the complexity of Plantation's solid waste program, it is difficult to compare our services and costs with other cities. We estimate that it will take approximately seventeen months to complete the process as outlined below:

May-July 2015	Selection of Consultant
June 2015	Consultant submits draft RFCP for staff review
August 2015	Council approves RFCP for new franchise agreement
August-Sept. 2015	Finalize draft contract and RFCP documents
October 2015	Advertising
Nov. – Dec. 2015	Opening and scoring of proposals
January 2016	Recommendation to City Council for award of franchise agreement
February 2016	Negotiations
March 2016	Council approves final franchise agreement
April – Sept. 2016	Contractor prepared for 10/1/2016 commencement date
September 2016	Contractor receives equipment and delivers carts
October 1, 2016	New service begins

RECOMMENDATION: Approve (1) bidding of services for solid waste, bulk trash, yard waste and recycling collection services and (2) issuance of a Request for Letters of Interest for a consultant to develop the RFCP for the new franchise agreement and to assist staff with the process.

Mayor Bendekovic explained that they are requesting to hire a consultant. Council previously extended the contract for one year and one day to give them time to come back and speak to each one of you on the consultant. A timeline has been provided.

In response to Councilmember Levy, Mr. McHugh advised that there is no cost to send this out. The costs will be indicated at the time the solicitation is received. The assumption is that there will be a cost recovery. There are various options once there is a cost because it is perceived beneficial. Given the number of changes in the industry, the technology, collection process, recycling, etc. we would ask them to assist us in looking at what the optimal would be for the City of Plantation and then ultimately assist us in drafting a Request for Proposal and assist us in reviewing that. We see it to be a substantial benefit; however, we do not necessarily know what the responses will be.

Councilmember Stoner mentioned the information and the timeline presented and noted that the mandatory pre-proposers meeting would be June 2, 2015, which would mean that the RFP would have already had to be out on the street. She indicated that she has asked around and the number she has been given for a consultant for this type of preparation and project would be around \$70,000. Coupled with the time and energy of staff, she thinks we are talking about \$100,000.

Mr. McHugh stated that the draft has the selection in the May through July process. There may be a meeting that is moved one way or another. The objective is within the next 18 months to have it completed so we have a smooth transition to start in October.

In response to Councilmember Stoner, Ms. Richards advised that she has been working on this contract directly for about 3.5 years.

Councilmember Stoner indicated that for the last four years Administration and staff have diligently been reviewing contracts for savings and bringing them back to the Council. She is not inclined to spend \$100,000 of the citizens' money when she sees no reason to change providers. Good business practices always extend to cost efficiency. If it is cost effective and efficient one outweighs the other. She does not think it is best to put this out.

Mr. McHugh advised that this provider has been providing service for at least 30+ years in the City of Plantation. We executed a Franchise Agreement in 2007, which was subsequently renewed. In speaking to how frequently it is looked at, one thing we acknowledge are the number of changes within the industry and another thing is how unique we are. Ms. Richards is not preoccupied with on a day-to-day basis and that may be more of a reason why we should get a consultant who is an expert in this area to probably advise us on how we should address it. With regard to cost, we have not gotten an estimate of \$75,000 to \$100,000; our estimate is substantially less. We are prepared to allow the procurement system to work and when the responses come in we will present it to Council. If it is determined that \$75,000 is too high that is fine; we just ask that you allow the process so if an appropriate consultant comes in who we feel is qualified and ranked considerably to do the job at \$10,000; \$15,000 or \$20,000 which is a more realistic number, that a decision could be made.

Councilmember Stoner disagreed. She feels that Ms. Richards has a knowledge of this contract and what has gone into it. She understands about why we don't do things; it is called an addendum to the contract. Those are things that are always tweaked. Every contract evolves in one way or another; things change and different ideas come up. That does not mean that you discard something that works just to give it a try. She is not in favor of just giving it a shot.

Ms. Richards agreed. There is no complaint about the service and it is not broken. The solid waste is settling down; it has been unsettled for several years. More and more cities are going out to bid just to make sure that they do have the correct cost. It is difficult for us because no one else has the blue bag system. In looking at the numbers provided by Waste Management, the tote carts are a little on the high side. We cannot compare apples to apples anywhere in the County because we are so different. That is another reason to have some assistance with a consultant if you so choose to have us do that. As staff, we cannot tell you we have the best deal and we can't do better.

Councilmember Stoner indicated that it is an evolving contract that you go back and discuss the rates over and over. She mentioned that 88% of our customers are blue bags. Someone told her that Waste Management does a million bags a year in this City. Their survey feedback is at the top. In her opinion, it is working and it is all good; there can be discussion and negotiations in different terms in an addendum. Two of the cities on the list did their contracts two years ago; they are not putting them back out. There are a couple that did go out and tried this process because they felt they were in a political position where they had to do it for perception. She is not willing to go there when our service, performance and prices are good.

In response to Councilmember Levy's question as to how many years it has been since we tested the waters regarding our garbage, Ms. Richards stated that she has been here 13 years.

Councilmember Levy commented that it has been a minimum of ten years, maybe longer. There are so many changes in tipping fees, in costs, in charges, in requirements in EPA, etc. There are other competitors now that were not in the game when we originally created this contract. He cannot tell the taxpayers that they are getting

the best for their dollar. The only way he can know that is if we go out for bids and find out that we are getting the best. If a consultant costs a lot of money then he does not believe that we need one. He is willing to spend money to be able to confer with an expert in the field to make sure we put everything in; however, he is not willing to spend \$70,000. He believes that we need to know that we are giving the best service available and there are options we have not explored and do not know about; that is the reason we are asking for a consultant. No disrespect to Waste Management, they do a wonderful job and are doing a wonderful job.

Councilmember Zimmerman agreed with Councilmember Levy, no disrespect to Waste Management. We are the stewards of the taxpayers' money and it has been a long time. In talking with other cities that have put this out to bid, it was well worth their while to do so. They also thought it was extremely important to hire a consultant. He had the same concern as Councilmember Stoner with spending \$70,000 to \$100,000 on a consultant. He believes we need to proceed with the RFP and see what the fee is going to be; he tends to believe that it will not be that high. Then we will have some additional time to discuss whether we proceed or not. He thinks it is extremely important that we make sure we are getting the most value for our service as well as good service.

Councilmember Jacobs questioned what would happen if Council decided not to hire a consultant.

Councilmember Zimmerman stated that we would either have to decide whether to negotiate the Franchise Agreement or put out a Request for Proposals based on staff's ability to put the RFP together.

Mr. McHugh advised that Council previously authorized them to move forward with the bid. They feel it is more of a unique type of environment where a consultant would provide a lot of benefit in terms of looking at some options and perhaps offer some recommendations on how to structure the RFP or the proposal.

Councilmember Jacobs commented that if Council did not approve going out to hire the consultant, then Mr. McHugh would have to determine how to go out to bid. He questioned whether that would authorize Mr. McHugh to negotiate with Waste Management to continue the contract. He also questioned the consequences of the actions.

Mr. Lunny explained that what is on the bench is whether to start the process in obtaining a consultant, nothing more. The practical reality is that we are well equipped to put together competently a request for competitive proposals given the market, the service we have, and the information we have. He thinks that the effect of not approving this tonight is that you compress the time period for otherwise being able to go to market and at some point June-July, the business timeline will be such that we can no longer get this consultant on board and we will then need to re-negotiate when the time period is up.

Councilmember Jacobs questioned whether Waste Management requested to come back with a proposal last time this was discussed.

Mr. Lunny believes that a rate comparison memorandum was provided to Mr. Keefe. He indicated that Waste Management has not yet had a chance to speak.

Councilmember Jacobs stated that he would like to hear from Waste Management before saying anything else.

Tony Spadacia (sic), with Waste Management, was present.

Mr. Spadacia advised that Waste Management would like to meet with staff to visit and negotiate a further extension to their agreement. They provided a comparative analysis for the year 2015. In looking at that, 89% of the residents in Plantation as of 10-01-15 are paying an average of \$13.85 a month, which is by far the lowest in the County; 89% of the residents utilize blue bag service. Plantation carts are higher than the others at this point and time as the result of the disposal component that remains in that rate. The disposal component will dissipate on October 1, 2016.

A rate analysis that encompasses the City of Sunrise, Town of Davie, City of Miramar, City of Coral Springs, City of Pembroke Pines and City of Plantation was done with carts. None of the other cities have blue bags. Following next year's extension and reduction as a result of the disposal fee and some other considerations, Plantation residents will still have the lowest rates in the County. Waste Management continues to bill Plantation Acres, Hawks Landing and all of the areas that use carts; that is an additional cost and there is bad debt as a result of that. Waste Management are good corporate citizens; they have been involved. They pay good wages and health benefits; good training; safety protocol, etc. With regard to blue bags, they are responsible for the purchase, distribution and quality control of those bags to the supermarkets to make sure residents have access to them. At the end of this current extension agreement, Plantation will have the best service and rates in the County.

In response to Councilmember Levy, Mr. Spadacia advised that tipping fees do not affect Plantation and the hauling contract. Those are separate agreements. In the last few years tipping fees have gone down drastically. He clarified that disposal fees are set by others and Plantation's hauler abides by those terms as directed by the City. The disposal portion is separate from the collection contract in every situation. There is stand alone; there is separate. One has nothing to do with the other. The rates are a component of the collection costs and the collection cost is dictated by the price of disposal. The cost is \$42 and change with Wheelabrator Technologies so that is the cost of disposal. Those are the rates they predicate their pricing on.

Councilmember Levy mentioned that the tipping fee went down to \$32 in other cities on bids they received. He questioned whether Waste Management would consider looking at those if we kept this as our contract.

Mr. Spadacia clarified that they did not go down to those rates; the \$32 tipping fees were for bulk and yard waste collection exclusively. Their solid waste is a higher disposal fee than the City of Plantation and their Wheelabrator rate is at that rate as well.

In response to Councilmember Levy, Mr. Spadacia advised that Waste Management is requesting consideration to extend the agreement further.

Councilmember Jacobs questioned if we were to continue with a two-year extension whether we would be doing this again in May 2017.

Mayor Bendekovic indicated that it would be October 17, 2017.

Councilmember Zimmerman commented that he was not sure that he understands all of the fees associated with this. He would like some more time to understand it and then he may feel better about the suggestions. He does not think we should stop the process and to at least put the RFP out there and understand what it would take to hire a consultant to do this. At that point and time we would have that information and those consultants, he would feel better personally understanding what the rates are and if we are getting a better rate through Waste Management or something that is better than other cities that we can take back to our residents. At this

time he is not ready to stop the process and Mr. McHugh will have to come back to Council with the proposals from the RFP.

Mayor Bendekovic stated that they could bring back different numbers at that time.

Councilmember Levy clarified that they are requesting an additional two-year extension.

Councilmember Jacobs stated that the letter says, "Two-year extension effective October 1, 2016."

Councilmember Jacobs commented that Councilmember Zimmerman wants proposals for choosing a consultant.

Councilmember Levy added that he also wants what that consultant will do and for what price. Staff is saying they do not feel equipped to do it on their own. This is allowing them to go forward to find out what a consultant will prepare that they are not comfortable with and what the cost will be. We will make our final decision at that time.

In response to Mr. Lunny, Councilmember Zimmerman responded that he would like proposals to come back even if they are less than \$25,000.

In response to Councilmember Stoner, Councilmember Zimmerman advised that we would be paying them to assist the City in preparing an RFP to go out to bid. We are not hiring them.

Councilmember Jacobs commented that there is another component. You also want to get more educated in what Waste Management is willing to do and how it compares to other cities. What they provided is not totally understood.

Councilmember Stoner would prefer to allow 30 days to familiarize yourself and have them bring things back than to continue having staff put time into this RFP for a consultant.

Councilmember Zimmerman indicated that the RFP is 90% ready. The time has already been put into the RFP. If we wait then the time period is even shorter to accomplish the task we would like to do.

Councilmember Levy stated that he did not see that we would lose anything by moving forward.

Councilmember Jacobs mentioned that we could push the decision point back a little further back in time without losing anything assuming that Waste Management is still willing to maintain their offer. He suggested figuring out a time certain.

Mayor Bendekovic commented that all you are voting on is the process. Council will have the final say.

In response to Councilmember Jacobs, Councilmember Levy stated that the proposal due date is June 16, 2015.

Mr. McHugh indicated that if they get this this week and have it out for maybe 30 days they should be able to get it back to Council within the end of June or mid July timeframe.

Mr. Spadacia indicated that the comparative analysis takes them into 2016. These are public record numbers and are the result of other previous bids that came out. The numbers are legitimate and verifiable so there will not be any concern as to where the City of Plantation stands.

Councilmember Jacobs advised that he could not vote unless he hears from Waste Management that they can still offer us the extension they are offering tonight; things may be different two months later.

Mr. Spadacia stated that they have been with the City for many years and they are confident in their pricing models. They are prepared to deal with this.

Mayor Bendekovic commented that they will bring back the proposals and any other additional numbers at that time.

Councilmember Jacobs advised that based on everything he has heard he tends to agree with Councilmember Stoner that we should stay with Waste Management and extend for another two years. This is a fair compromise so he is willing to compromise.

Motion by Councilmember Levy, seconded by Councilmember Jacobs, to approve going out for a Request for Letters of Interest with the schedule that the back due date will be within a reasonable time between June and mid July 2015 and that this matter is heard at the July 8, 2015 meeting. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Zimmerman
Nays: Stoner

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LEGISLATIVE ITEMS

Mr. Lunny read Item #13.

13. DISCUSSION CONCERNING PROPOSED ORDINANCE PERTAINING TO SELF-STORAGE AMENDMENT.

A Memorandum dated May 13, 2015, to Mayor and City Council, from the Planning, Zoning & Economic Development Department, follows:

BACKGROUND

In 1977, the City amended the Zoning Code (Ordinance 2129) to allow the following:

- (a) Self-storage facilities as a permitted use in B-5P zoning district, and,
- (b) Self-storage as permitted conditional use in the B-3P and B7P* zoning districts if those district were located within the State Road 7 SPI-2 overlay district.

Subsequently, in 2002 (Ordinance 2287) the State Road 7 SPI-2 overlay district was changed from an “overlay zoning district” into a conventional zoning district. The previously existing underlying zoning district (B-3P) was eliminated and replaced with specialty sub districts. Ordinance 2287 also inadvertently listed self-storage

as a “prohibited use” in SPI-2 effectively allowing the use in the City’s single B-5P Zoning District, a small area in the southeast corner of Tech Park occupied by 1960’s era roll-up door warehouses.

Staff received two requests for self-storage facilities in the B-3P District including:

- (a) The north side of Sunrise Boulevard at the east end of the Mercedes Plaza. The City approved a self-storage site plan at this location several years ago. This site abuts a canal separating the City of Plantation from the City of Sunrise.
- (b) The north side of SR 84, west of the Publix Supermarket located on the west side of Flamingo Road. A single-family subdivision is located approximately 160 feet to the north.

Staff requests direction from the City Council before moving forward. Please see ordinance summary below.

SUMMARY

The code amendment allows self-storage facilities as a permitted conditional use in the B-3P and SPI-2HC (Hybrid Commercial) zoning districts subject to the following general parameters:

1. Self-storage permitted in SPI-2 Hybrid Commercial parcels located north of Sunrise Boulevard. The draft as written would continue to prohibit self-storage along the SR 7 corridor.
2. Self-storage permitted in B-3P parcels located north of Sunrise Boulevard or west of Flamingo Road.
3. Outside storage shall be prohibited.
4. New self-storage is required to meet architectural design guidelines.
5. Maximum height limited to 42 feet or three stories.

Mr. Leeds stated in 2014 we were approached by a company who wanted to build a self-storage facility on the north side of Sunrise Boulevard at the east end of the Mercedes Plaza. There is an open piece of property on the north side of Sunrise Boulevard just east of University Drive. They were told that the property was zoned B-3P and that it is not allowed in this district. Because of numerous changes that occurred between 1997 and 2007, there is some lack of clarity in the zoning code. There is a footnote that still exists in the zoning code that says you can only have self-storage facilities in B-3P districts if they are located on State Road 7. We have not had a B-3P district on State Road 7 since about 2002 when all of State Road 7 was zoned SPI-2 with sub-categories Hybrid Commercial. He told the applicant that he could not allow this to be submitted or approved because it is clearly not allowed. He also told them that he would bring this to the Council not as a proponent to change the code but as a request for direction. Before getting to that point he received another inquiry for a piece of land directly south of the bait shop behind Publix on Flamingo Road. The property owner said they also have B-3P and would like to put up a self-storage facility. He advised that it was not zoned for that and that he would have to ask Council if they want to consider it. The draft for purposes of discussion would continue to allow self-storage in IL-P and B-5P. IL-P is the Tech Park and B-5P is a small piece property southeast of the Tech Park filled with a lot of old warehouses. It has also been approved in several B-7Q districts throughout the City. These are special purpose districts where the use list is basically created based on location. If the ordinance is approved the individuals who want to build by the bait shop and at the east end of the Mercedes Plaza could apply for conditional use approval. The drafted ordinance is a beginning; there are three options. You can

direct staff not proceed and leave things as is; you can direct staff to move forward with the draft ordinance submitted; or you can direct staff to move forward with the draft ordinance with Council changes. He notified both interested parties so they could be here tonight; however, one could not attend. He is looking for some direction as to whether you want to change this code or change it in a way other than what is proposed. Staff is not recommending more than three stories because that is the highest self-storage in the City; the one that is proposed behind the bait shop is six stories. It is about 160-170 feet south of the nearest single family house. The one on Sunrise Boulevard is four stories. He is looking for direction so he can get back to the interested parties.

In response to Councilmember Jacobs, Mr. Leeds stated that the tallest facility is in a little shopping center on Cleary Boulevard and Pine Island Road. The third story is an apartment for someone to live in. There are not any other three-story buildings there. He indicated that the facility on Nob Hill Road and Broward Boulevard in the northwest corner behind the car wash is only two stories. He thinks that six stories is out of the question and four stories is an issue too. No more than three can be recommended.

Councilmember Jacobs recollection was what was found during research was the result of some concern by Council years ago about a proliferation of storage facilities in the City.

Mr. Leeds stated that if Council decides not to proceed he will still have to change the footnote because it creates some confusion in someone not familiar with the code.

Councilmember Jacobs commented that if they were to go with the ordinance it would be a limited number of locations.

Mr. Leeds stated that it would still be conditional use.

Councilmember Zimmerman mentioned the State Road 7 corridor. He questioned whether the properties south of Broward Boulevard would or would not be included. He has some concerns because we are starting to get some good redevelopment along the corridor and he is not ready to allow self-storage facilities at this time.

Mr. Leeds advised that they would be included just north of Sunrise Boulevard; it would not be allowed in the actual core State Road 7 corridor.

Bill Laystrom, Attorney, was present.

Mr. Laystrom commented that he is a strong proponent for having as many options for the City Council and for property owners to be able to do something with their property. Self-storage tends to be that little use that fits into the parcel that does not seem to work for anything else. He requested that Council keep it in there. Conditional use is fine because you want to be able to see exactly where it is. He encouraged Council to pass it as seen tonight so the owners in those areas have an opportunity to at least look at this use.

Mr. Lunny clarified that they are looking for direction to advertise and start the process.

Dennis Conklin, resident, was present.

Mr. Conklin mentioned the backup and the way he read it was that the Gateway or the CRA area would be excluded and that it basically dealt with everything north of Sunrise Boulevard and west of the Gateway or CRA district.

Councilmember Zimmerman believed it is not allowed in there except on the north side of Sunrise Boulevard. It is in the Gateway but on the north side of Sunrise Boulevard. He questioned whether the Gateway goes to the other side of Sunrise Boulevard.

Councilmember Jacobs indicated that the Gateway goes a little north of Sunrise Boulevard.

Councilmember Zimmerman questioned whether two stories is high enough. He believes we should relook at the overall height. Even at three stories it could be brought down to 32 feet or 35 feet.

Councilmember Levy mentioned the southeast corner of Davie Boulevard/Peters Road and State Road 7 where two huge storage facilities were recently built. We are getting these facilities just outside of our borders so we do not need to include more.

There was a consensus to advertise.

Mr. Leeds indicated that it will go to the Planning and Zoning Board; he will re-notify the two interested parties and try to make sure they are the Planning and Zoning Board.

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Mr. Lunny read Item #14.

Resolution No. 12061

14. **RESOLUTION** pertaining to the subject of Comprehensive Planning; approving an agreement extending the period of time within which, after receipt of agency comments, the City of Plantation must approve a Local Land Use Amendment; the amendment being described as Application No. PP13-0030, which changes the City of Plantation Comprehensive Plan Future Land Use designation from “Industrial” to “Irregular (19) Residential”, for the following described real property. A parcel of land lying in Section 34, Township 49 South, Range 41 East, commencing at the north one-quarter (N1/4) corner of said Section 34, run on an assumed bearing of due south, a distance of 100.91 feet along the west line of the northeast one-quarter (NE1/4) of said Section 34; thence run south 89degrees06’23” east, along a line 100 feet south of and parallel to the north line of said Section 34; a distance of 130.01 feet to the point of beginning; thence continue along said line a distance of 900 feet; thence run due south 425.01 feet to the point of curvature of a curve to the right; thence run southwesterly 54.98 feet along the arc of said curve, having a radius of 75 feet; and central angle of 42 degrees, to the point of tangency; thence run south 42 degrees west, a distance of 374.13 feet to the north right-of-way line of west Sunrise Boulevard; thence southwest, having a radius of 1482.69 feet, a central angle of 27degrees32’47”, and a chord bearing of north 63degrees13’20” west, an arc distance of 712.84 feet to a point 130 feet east of the west line of the northeast one-quarter (NE1/4) of said Section 34; thence run due north a distance of 449.20 feet to the point of beginning, said lands situate in the City of Plantation, Broward County, Florida; providing that the adoption hearing on such amendment will be scheduled for May 27, 2015; providing other implementing provisions with respect thereto; providing a savings clause, and providing an effective date therefor.

A memorandum dated May 7, 2015 to Mayor and Members of the City Council, from Donald J. Lunny, City Attorney, follows:

As staff informed the City Council at its last meeting, the Broadstone Land Use Plan Amendment has been deemed withdrawn since the City did not conduct an adoption hearing within 180 days of the last date the City received Agency comments resulting from inter-governmental review conducted in accordance with the Community Planning Act (the "Act"). As the City Council is aware, inter-governmental review occurs after First Reading of Land Use Plan Amendments when they are "transmitted" (hence the name of these hearings being "transmittal hearings").

The Act allows an extension to the 180-day time period with notice to the State and any persons commenting upon the application. While the Acts provisions are relatively new and there is no case law construing the operative provision, the plain language of the statutory provision allows an extension agreement to be made after the 180-day time period has run.

It is an applicant's overall responsibility to monitor all applicable time limits and procedures relative to his or her application. Staff has confirmed; however, that commenting State agencies do not send the applicant their comments, and instead, only send comments to the City. This State practice makes it difficult for applicants to keep track of the applications they initiate.

As reported to the City Council at its last meeting, the City could choose not to approve the Agreement proposed to extend the 180-day time period, and required the applicant to reapply for its proposed Land Use Plan Amendment in the next application cycle. On the other hand, the City may approve the Agreement in view of what appears to be a simple processing glitch that has no bearing on the merits of the application – especially here the time period expired within the last calendar quarter and no material adverse comments were received from the inter-governmental review process.

The Agreement provides that the Adoption hearing will be held on May 27, 2015, which date is consistent with the discussion at the Council's last meeting. If the Council desires a different date, please let us know.

Should the City decide to approve the Agreement, the Agreement contains provisions to the effect that the applicant entities will reimburse the City for any costs and expenses incurred in connection with this matter through the City Cost Recovery System, and shall cooperate with the City Director of Planning, Zoning and Economic Development in providing information concerning addresses for the notice contemplated in Section 2 of the draft Resolution, and shall also execute and deliver and perform any other further or collateral assurances, opinions, applications, documents, and undertakings as deemed appropriate by the City's Administration in connection with this matter. One of the Collateral Documents is a Release and Indemnity Agreement, a draft of which is provided in your agenda package. The Legal Department will also require a due execution Opinion for the Agreement and the Release and Indemnity Agreement and a title Opinion identifying each record owner of the property affected by the Amendment.

The Resolution approving the Agreement is now ready for consideration as a Legislative Item.

Mr. Lunny advised that he has been informed by Attorney Emerson Allsworth that the Release and Indemnity Agreement as well as the underlying and main Agreement have been executed by the applicant. He has seen scans of those documents and Mr. Allsworth is prepared to tender them should you approve this matter.

Motion by Councilmember Stoner, seconded by Councilmember Levy, to approve Resolution No. 12061. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Zimmerman
Nays: None

NOTE: Councilmember Jacobs was not present for this discussion or vote.

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QUASI-JUDICIAL CONSENT AGENDA - None.

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Councilmember Zimmerman referred to the guidelines for those addressing the Council as witnesses having been sworn in.

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

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QUASI-JUDICIAL ITEMS

15. REQUEST TO APPROVE SITE PLAN AMENDMENT (PARKING WAIVER) FOR FRESHMARKET/PETSMART PLAZA. PROPERTY LOCATED AT 11901-12171 WEST SUNRISE BOULEVARD AND ZONED B-2L. (PP14-0026)

Motion by Councilmember Stoner, seconded by Councilmember Jacobs, to defer Item #15 to the next meeting. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Zimmerman
Nays: None

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Mr. Lunny read Item #16.

Resolution No. 12062

16. **RESOLUTION** APPROVING A 9,715-SQUARE-FOOT RELIGIOUS FACILITY (SHILOH APOSTOLIC CHURCH) ON 2.5+/- ACRES AS A USE VARIANCE TO BE LOCATED IN A B-2P ZONING DISTRICT ON PROPERTY LYING IN SECTION 33, TOWNSHIP 49 SOUTH, RANGE 41 EAST; AND DESCRIBED AS A PORTION OF EVERGLADES PLANTATION COMPANY SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE 7, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; GENERALLY LOCATED AT THE NORTHEAST CORNER OF UNIVERSITY DRIVE AND SUNRISE BOULEVARD (PLANTATION CROSSROADS SHOPPING CENTER); PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Staff Report dated May 13, 2015, to City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Use variance approval to allow a 9,715-square-foot House of Worship in a B-2P zoning district.

WAIVER REQUEST:

- From: Section 27-742, which requires one parking space for each four fixed seats plus one parking space for each 50 square feet of floor area in assembly rooms with moveable seats;
- To: Reduce the required parking from 176 parking spaces (based on 704 fixed seats) to 76 parking spaces.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; development review application; Planning and Zoning Board Meeting minutes February 3, 2015; and Review Committee Meeting minutes of June 24, 2014.

PLANNING AND ZONING BOARD RECOMMENDATION: APPROVED subject to staff comments (4/1; February 3, 2015).

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

ANALYSIS:

The subject site is the former theatre located in the Plantation Crossroads shopping center (fka Mercedes Plaza) at the northeast corner of University Drive and Sunrise Boulevard. The site is developed with nine freestanding buildings containing approximately 116,000 square feet of retail, office, restaurant, day care, auto repair, pharmacy, and movie theater uses.

The movie theater is centrally located on the north side of the site, does not have visibility from Sunrise Boulevard or University Drive, and had been vacant since 2012.

Houses of Worship are not listed as a permitted use in the B-2P zoning district. The applicant has applied for a use variance approval to allow the 9,715-square-foot religious facility to continue to operate at this location. *If approved, the use variance would allow all four of the original theatres (704 seats) to be occupied simultaneously.*

The applicant indicates:

- 1) The administrative office is open Monday through Friday from 9:00 a.m. to 5:00 p.m.
- 2) Worship services are held from 10:00 a.m. to 1:00 p.m. on Sunday.
- 3) The church holds small group meetings:
 - a. Daytime on Tuesday, Wednesday, and Thursday.
 - b. Evenings on Wednesday and Friday.

Peak occupancy of approximately 100 persons appears to occur on Sundays at 11:00 a.m. The application indicates there are no plans to expand day care, school, or community outreach programs.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. This request must undergo a local concurrency review for water, sewer, streets, drainage, and solid waste. The applicant has presented the form to the appropriate City departments for sign off prior to City Council approval.

Zoning: Use variance approval at the discretion of City Council.

ENGINEERING DEPARTMENT: No objection.

TRAFFIC CONSULTANT: No objection.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

1. Staff has no objection to the use variance request as this project has no impact on the existing code required landscape.

BUILDING DEPARTMENT:

1. Complete floor plan drawings will be required to verify compliance with the current life safety codes.

FIRE DEPARTMENT: COMMENTS FROM PLANNING AND ZONING STAFF REPORT.

1. Provide correct and scaled floor plans to verify proper compliance with fire and life safety codes.
Applicant Response: Floor Plan outlining Fire and Life safety codes submitted herewith.
Fire Department Reply: Complied.
2. Provide correct and scaled site plans to verify proper compliance with fire and life safety codes.
Applicant Response: Scaled Site Plan showing compliance with fire and life safety codes submitted herewith.
Fire Department Reply: Not complied.
Applicant Response: Scaled Site Plan showing compliance with fire and life safety codes submitted herewith.
Fire Department Reply: Not complied; still no site plan submitted to show proper egress discharge from large seating rooms and new exterior stairs.
3. Provide scaled life safety plan showing all proper means of egress requirements.
Applicant Response: Scaled Life Safety Plan with egress specifications submitted herewith.

Fire Department Reply: Submitted plan shows numerous issues that do not comply with proper means of egress requirements, such as insufficient exit signage, insufficient emergency lighting, excessive common path of travel, etc.

Applicant Response: *Scaled Life safety Plan with egress specifications submitted herewith.*

Fire Department Reply: Submitted plan still shows issues that do not comply with proper means of egress requirements, such as insufficient exit signage and insufficient emergency lighting; as examples, no exit signs are shown in large seating rooms, no emergency lighting is shown in large seating rooms; additionally, dimensions on plans do not correlate with existing conditions, such as the width of existing stairs is less than the 3' shown.

4. All aspects of fire and life safety shall comply with 2010 Florida Fire Prevention Code as new construction.

Applicant Response: *Compliance with 2010 Florida Fire Prevention Code relating to new construction shown on Plans.*

Fire Department Reply: Due to code change, all aspects of fire and life safety shall now comply with 2014 Florida Fire Prevention Code as new construction. Submitted plan shows numerous issues that do not comply with proper means of egress requirements, such as insufficient exit signage, insufficient emergency lighting, excessive common path of travel, etc.

Applicant Response: *Compliance with 2014 Florida Fire Prevention Code relating to new construction shown on plans. Sufficient exit signage and emergency lighting corrected by architect Sandra Puerta.*

Fire Department Reply: As Fire Chief Laney Stearns confirmed and stated to Pastor Vaughn Smith, all aspects of fire and life safety shall comply as new construction under the Florida Fire Prevention Code 5th Ed. (previously known as 2014 Florida Fire Prevention Code) with the exception of any existing structural means of egress dimensions.

5. Whole building/structure shall be entirely protected by an approved, supervised automatic fire sprinkler system.

Applicant Response: *Economy Fire Protection, Inc. 2110 Lincoln Street, Hollywood, Florida 33020, phone: (954)925-0113; e-mail: ecofireinc@aol.com has been contacted to outfit the building with an automatic fire sprinklers. Contact person is Ralph Edmondson.*

Fire Department Reply: Mr. Edmondson informed me that he was contact but turned down the work.

Applicant Response: *Following a walk through by Fire Chief E. Laney Stearns, III and Tony Martins, (Pastor Vaughn Smith being present) it was determined based on the observation and comments of Fire Chief Stearns that a fire sprinkler system is not needed providing a staircase is constructed for proper egress from the second floor; second floor is cleared of projector equipment; all theaters are kept clean having walk paths clear and unobstructed; and all drapery removed from theater interior walls.*

The following conditions have been addressed based on the recommendations:

- a. *The Plans submitted herewith outlines a designated plan for the staircase construction- Permit to be applied for;*
- b. *Theater Projector equipment have been removed from the second floor;*
- c. *All theaters have been cleaned and walk paths cleared;*
- d. *All drapes have been removed from the theater interior walls.*

Fire Department Reply: As Fire Chief Laney Stearns confirmed and stated to Pastor Vaughn Smith, the installation of an approved, supervised automatic fire sprinkler system will not be required as long as the following conditions are met and/or adhered to:

A new exterior stair is constructed providing egress from the second floor (life safety plans do not show new stair and new emergency egress paths).

- a. Building is not to be occupied/used until this exterior stair is constructed and all fire and life safety issues are corrected.
- b. All projector equipment is removed from building.

- c. All four large seating rooms (theaters) are cleaned, organized, and egress paths are maintained.
- d. All combustible wall covering is removed or professionally treated with a "UL" listed fire retardant.

6. The following issues are known at this time and will required correction:

- a. Second floor means of egress are not of the proper width.

Applicant Response: Use of the second floor is irrelevant Church's purpose and therefore will be locked and remain unused. See plan.

Fire Department Reply: Locking and/or not using an area does not provide compliance with applicable codes.

Applicant Response: Second floor means of egress to be corrected by construction and installation of installation of staircase as shown on plans.

Fire Department Reply: Complied.

- b. Second floor does not have remote egress.

Applicant Response: Use of the Second floor is irrelevant Church's purpose and therefore will be locked and remain unused. See plan.

Fire Department Reply: Locking and/or not using an area does not provide compliance with applicable codes.

Applicant Response: Building to be fitted with construction of a staircase with flow from the second floor to the southern exterior of the building.

Fire Department Reply: Complied.

- c. Fire alarm system does not have up to date inspection, test and certification.

Applicant Response: Up-to-date inspection, test and certification will be performed by "Mr. Wireman" www.mrwireman.com (EC13005166).

Fire Department Reply: Fire alarm system shall be inspected, tested and certified immediately, not wait until building is occupied.

Applicant Response: Up-to-date inspection, test and certification completed by "Mr. Wireman" www.mrwireman.com (EC13005166).

Fire Department Reply: Fire alarm company did not provide required report to this Fire Department.

7. Any new construction will require permitting plans.

Applicant Response: No response.

Fire Department Reply: Not complied.

Applicant Response: Permit for staircase construction will be applied for by licensed contractor.

Fire Department Reply: All new construction, including exterior stair, stage and sound booth, will require permitting plans.

8. Additional conditions may arise upon review of any required permitting plans.

Applicant Response: No response.

Fire Department Reply: Not complied.

Applicant Response: The organization is prepared to review and comply with additional concerns that may be necessary to ensure proper safety.

Fire Department Reply: Complied.

POLICE DEPARTMENT: No comment.

UTILITIES: No objection, although additional capacity charges may apply once building plans or Occupational License are submitted. Should Fire Department comments require a sprinkler suppression system, additional Utility requirements would apply.

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

WASTE MANAGEMENT: No objection.

Fire Chief Laney Stearns indicated that he has met with the applicants several times, the first time in January. At this point there are still several outstanding issues on the staff comments; therefore, he would like to see this item deferred.

Motion by Councilmember Stoner, seconded by Councilmember Levy, to defer Item #16. Motion carried on the following roll call vote:

Ayes: Levy, Stoner, Zimmerman
Nays: None

Mitch Cesar, Attorney, was present. He understands the possibility of a delay. He stated that the plans and comments were submitted today. As best that he could tell, they complied with everything. He requested that if continued, that a motion be made contingent upon complying with all staff requests so they could keep the project moving.

Councilmember Stoner advised that she was not amending her motion.

In response to Councilmember Stoner, Ms. Slattery indicated that we do not have to re-advertise if we come back on June 10, 2015.

Mr. Cesar advised that they would be fine with that.

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic reminded everyone of the Shade meeting and of the Memorial Day Services on May 25, 2015 at 9:30 a.m.

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Councilmember Zimmerman commended the Plantation Preserve for a great Mother's Day Brunch.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS – None.

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SEALED COMPETITIVE SOLICITATIONS - None

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WORKSHOPS – None.

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Meeting adjourned at 9:03 p.m.

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Councilmember Chris Zimmerman, 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 _____, 2015.

Susan Slattery, City Clerk