

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

July 8, 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 Peter S. Tingom – (By phone) Chris P. Zimmerman
Mayor:	Diane Veltri Bendekovic
Asst. City Attorney:	Quentin Morgan

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – April 29, 2015

4. Approval of Minutes of Meeting – May 13, 2015

5. Approval of Minutes of Meeting – May 27, 2015

6. Approval of Minutes of Meeting – June 10, 2015

Minutes of the regular meetings of April 29, May 13, May 27 and June 10, 2015 were approved as printed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic announced that the State of Florida has honored one of our police officers, Officer Wade Walcott. He has been named the State's School Resource Officer of the Year.

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James Romano, Director for Parks and Recreation, made the following announcements:

- Summer Camp B Session began on Monday, July 6, 2015 and will run through July 31, 2015. There are still openings at Volunteer Park and at the Jim Ward Community Center. If interested call 954/452-2510. Kid's Camp will be held from August 3, 2015 through August 21, 2015 at Central Park.
- The 27th Annual USTA Girl's 14 National Clay Court Championships will be held at the Frank Veltri Tennis Center on Saturday, July 11, 2015 and Sunday, July 12, 2015. The Finals will begin at 8:00 a.m. on Sunday.
- The Daddy Daughter Sock Hop will be held on Friday, July 17, 2015 between 7:00 p.m. and 9:30 p.m. at Volunteer Park.

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Mayor Bendekovic made the following announcements:

- Mayor Bendekovic thanked Mr. Romano and his staff, Public Works and the Police and Fire Departments for a great 4th of July celebration.
- The Friends of the Library Used Book Sale will be on July 10 and 11, 2015 and on July 24 and 25, 2015 between 9:00 a.m. to 5:00 p.m. on Fridays and 9:00 a.m. to 4:00 p.m. on Saturdays at the Helen B. Hoffman Library.
- The Wine Jazz and Taste of Plantation will be on Friday, July 17, 2015 at the Plantation Renaissance Hotel. This is presented by the Plantation Chamber of Commerce.
- 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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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 23.

Item #10 was pulled for discussion.

Mr. Morgan read Items #11 and #12.

7. Consent to approve a purchase order to Thompson Pump & Manufacturing Company Inc. (Bid No. 14-12-0904) for a jet pump in the amount of \$60,834. (Budgeted – Utilities)
8. Request to approve a purchase order to Kelly Tractor Company in the amount of \$58,946 for a Flat Deck Trailer & Caterpillar Mini Hydraulic Excavator. (Budgeted – Utilities)
9. Request to approve the funds to upgrade Microsoft Dynamics Great Plains in the amount of \$45,560. (Budgeted – IT)
11. Second and Final Reading of **ORDINANCE #2532** pertaining to the subject of Zoning; amending the City Code regulations relating to amusements; amending the City's regulations for carnivals, bazaars, and festivals; revising the special rules for shopping centers; providing other miscellaneous clarifying amendments to the City Code to implement the forgoing; providing a savings clause; and providing an effective date therefor.

12. Second and Final Reading of **ORDINANCE #2533** of the City of Plantation, Florida, pertaining to the subject of wreckers; amending Article III of Chapter 12 of the Code of Ordinances relating to wrecker service for towing vehicles; providing that the fees and charges for such services as adopted and amended by Broward County shall be effective within Plantation subject to certain exceptions; providing that the City may have one or more wrecker franchisees; providing that the City may approve multiple five-year extensions to a Franchise Agreement; providing other miscellaneous amendments and clarifications to the City's wrecker and towing regulations; providing a savings clause; and providing an effective date therefor.

Resolution No. 12099

13. **RESOLUTION** of the City of Plantation, approving the first modification to the Agreement with A Superior Towing Company for Wrecker and Towing Services; approving A Superior Towing Company's acquisition of Giardina Enterprises, Inc. D.B.A. Interstate Towing, accepting Broward County's new rate schedule, approving an additional five-year term with A Superior Towing Company at an increased Franchise Fee of \$90,000 per year; and providing an effective date.

Resolution No. 12100

14. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property – 6531 NW 18th Court.

Resolution No. 12101

15. **RESOLUTION** pertaining to FY 2015 E. Byrne Memorial Justice Assistance Grant (JAG).

Resolution No. 12102

16. **RESOLUTION** of the City of Plantation, Florida pertaining to the subject of Municipal Administration; updating the administrative provisions relating to the Plantation Educational Board; providing for its composition, purposes, meetings, and other matters relating thereto; providing a savings clause; providing a conflicts clause; and providing an effective date therefor.

Resolution No. 12103

17. **RESOLUTION** of the City Council of the City of Plantation, Florida appointing Steven Eisenberg as Special Magistrate for the processing of certain code violations as identified in Chapter 6 of the City of Plantation Code of Ordinances, pursuant to Section 162.02 of the Florida Statutes and City Code Section 6-4.1; providing a savings clause; providing an effective date therefor.

Resolution No. 12104

18. **RESOLUTION** of the City Council of the City of Plantation, Florida, appointing Craig P. Rogers as Special Magistrate for the processing of certain code violations as identified in Chapter 6 of the City of Plantation Code of Ordinances, pursuant to Section 162.02 of the Florida Statutes, and City Code Section 6-4.1; providing a savings clause; providing an effective date therefor.

Resolution No. 12105

19. **RESOLUTION** of the City Council of the City of Plantation, Florida, appointing Richard Conner as Special Magistrate for the processing of certain code violations as identified in Chapter 6 of the City of Plantation Code of Ordinances, pursuant to Section 162.02 of the Florida Statutes, and City Code Section 6-4.1; providing a savings clause; providing an effective date therefor.

Resolution No. 12106

20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 18, 2015 through July 1, 2015 for the Plantation Gateway Development District.

Resolution No. 12107

21. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 18, 2015 through July 1, 2015 for the Plantation Midtown Development District.

Resolution No. 12108

22. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 18, 2015 through July 1, 2015.

Resolution No. 12109

23. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the periods June 18, 2015 through July 1, 2015 for the City of Plantation's Community Redevelopment Agency.

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

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

Mayor Bendekovic voted affirmatively on Item No. 23.

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Mr. Morgan read Item #10.

10. Deferred request for authorization for a Gravity Sewer Main Rehabilitation term contract for two years with an option to renew for three additional one-year periods – LMK Pipe Renewal SVC, LLC – Procurement ITB #042-14. (Budgeted – Utilities)

A Memorandum dated July 1, 2015, to Mayor Bendekovic and Members of City Council, from Quentin E. Morgan, Assistant City Attorney, follows:

RE: PROCUREMENT
ITB #042-14-Gravity Sewer Lateral Rehabilitation Project

At the June 24, 2015 City Council meeting the Council requested some additional information on whether a bidder's Form AIA bid bond, which was deemed to be non-responsive, was the same as the City's required bid bond language.

I. Background

In public construction, there are general two types of bonds; statutory bonds and common law bonds. In Florida, the only statutory bond in the context of public construction is a “payment” bond meeting the minimum coverage requirements of F.S. 255.05. A common law bond is a bond that is not required by any statute, code, or legislative rule. The general law of contracts and not the statutory law governs common law bonds.

II. City Bond Requirement

For ITB #042-14, the City’s bid bond language is not required by Florida Statute or other legal requirement; such as the Florida Administrative Code, County Charter, City Charter, or City Code. Accordingly, the City’s required bid bond language would be construed as a common law bond under Florida law.

In the ITB, the City’s required bid bond language is shown as follows:

“Now, therefore, if the obligee shall accept the proposal of the principal and the principal shall enter into a contract with the obligee in accordance with the terms of such proposal, and give such Public Construction, Performance and Payment Bond or Bonds as may be specified in the proposal or contract documents with good and sufficient surety acceptable to the obligee, and furnish insurance coverages to obligee as required by the contract documents then this obligation shall be null and void, otherwise Surety shall pay over to the obligee immediately the full penal sum of this proposal bond upon demand. The Surety, for the value received, hereby stipulates and agrees that the obligations of said Surety shall not be impaired or affected in any way by any extensions of the time within which the obligee may accept the proposal of the principal and said Surety does hereby waive notice of any such extension.”

The City required this specific language to be in the bid bond for ITB #042-14. It must be noted that the ITB process allows for potential bidders to ask questions about the meaning or intent of the bid documents, the response to which would be in the form of an Addenda. In ITB #042-14, there were seven (7) Addendums issued in response to questions from the bidders. None of the questions from the bidders related to the meaning or intent of the City’s bid bond language.

III. AIA A310 Bid Bond Form

The AIA A310 bid bond form is a form created by the American Institute of Architects and used nationwide in public and private construction. The AIA A310 bid bond form contains a savings clause that the bidder is attempting to rely upon in requesting the City to interpret the bid bond to comply with the City’s required language. The language reads as follows:

“When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the project, any provision in this bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this bond shall be construed as a statutory bond and not as a common law bond.”

The AIA bid bond form does not contain the City’s required bid bond language and would potentially impair or affect the City’s ability to collect on the bond.

IV. Discussion

It is clear and unambiguous that the AIA bid bond form submitted for this ITB does not comply with the City bid bond language. Specifically, the material differences are that the City's requirement that Surety shall pay over to the City immediately the full penal sum of the bond upon demand and the requirement that the Surety maintain its obligations under the bond while it unequivocally waives notice of any extension to the time for the City to accept the bid. These material differences would potentially impair or affect the City's ability to collect on the bond.

The lack of precise required language in a bid bond generally justifies bid rejection. *W.R.M. Constr., Inc.*, 69 Comp. Gen. 715, 715 (Sept. 18, 1990); See e.g., *Gibson Roofers, Inc. v. Terrebonne Parish Consol. Gov't*, 577 So. 2d 362, writ denied, 580 So. 2d 672 (La. 1991). In analyzing the savings clause, we have not uncovered a Florida case that has interpreted the savings clause to apply to common law bid bonds. Based on our research, it is apparent that the savings clause does not apply to common law bonds, and specifically, the City's bid bond.

The AIA commentary explaining the purpose of the savings clause states as follows:

"Statutory Requirements. Some public owners may require a bid bond to meet certain statutory requirements. In order to enable use of the A310-2010 on such public projects, language has been included in A310-2010 state that provision of the bond that fail to meet statutory requirements will be read out of the bond and provisions meeting the statutory requirements will be read into the bond."

Accordingly, the apparent primary purpose of the provision is to address the situation where the AIA A310 bid bond does not meet the requirements of a statute, administrative rule, or ordinance (i.e. a statutory or other legal requirement). The last sentence of the A310 bid bond compels this conclusion when it states: "[w]hen so furnished, the intent is that the bond shall be construed as a statutory bond and not as a common law bond".

In construing a similar savings clause for a bond, the Supreme Court of New Hampshire in *Fastrack Crushing Servs., Inc. v Abatement Int'l/Advatex Associates, Inc.*, 827 A.2d 1019, 1023 (2003), stated that the savings clause "anticipate that the bond may be used both in contexts where it is statutorily required, and in connects where it is not. If used in a non-statutory context, the terms of the bond control". This is consistent with the AIA commentary and the direct language of the AIA form that savings clause would construes as a statutory bond when supplied to comply with a statutory bonding requirement. As stated above, for ITB #042-14, the City's bid bond language is not required by Florida Statute or other legal requirement; such as the Florida Administrative Code, County Charter, City Charter, or City Code. As a result, the City's bid bond is a common law bond with the terms of the bond controlling as the Court stated in *Fastrack*.

Accordingly, as part of the ITB procurement (contract) process, the bid bonds submitted must contain the City's bid bond language and the failure to do so will cause the bidder bid to be deemed non-responsive.

V. Conclusion

Based on the foregoing, the Council has a few options in moving forward with this item.

1. We believe that the differences in the AIA bid bond and the City's required bid bond are material rendering any such bid bond submitted as non-responsive; therefore, we recommend that the Council award the contract as recommended by Staff to the responsive bidder with the lowest bid.

2. The Council may choose to find that the differences between the required City bid bond language and the AIA bid bond are not material and waive same. If the Council chooses to do this, then those bids that were deemed non-responsive for this reason would then need to continue to go through the bid review process. The next step in the bid review process would be for the bids to get examined for compliance with the required technical drawings and specifications. A bid that fails to meet the City's technical specifications would be rejected as non-responsive. Only after the City deems a bid compliant with the general requirements of the ITB and the specific technical specifications, would a bid be reviewed for price and considered for award.

If the Council chooses to do this, then we recommend that the Council waive this deficiency and allow the AIA bid bond for all procurements in the pipeline as of this meeting. This would mean that AIA 310 bid bonds submitted in response to City procurements that the bid opening has occurred as of July 8, 2015 (or such date as deemed appropriate by the Council) will not be deemed non-responsive due to the use of the AIA A310 bid bonds.

3. The Council may reject all bids and direct Staff and the Legal Department to confer on the bid bond language to determine whether there are any changes that can be made that continues to protect the City's legal ability to collect immediately on a bid bond. However, unless the City begins to accept the AIA bid bond, any bond submitted in a procurement would need a specific rider or comply with any revised City's bid bond language by some other method.

The item is now ready for further consideration.

Bill Salem, Attorney, was present. He was at the meeting two weeks ago on behalf of their client and requested consideration of an AIA 301 bid bond form and questioned whether or not that conformed to the requirements of the ITB at issue. He has read the City Attorney's memo and does not disagree with the law he sets forth and concludes that he does not have any case law that says to the contrary that this is a common law bond versus a statutory bond. The City Attorney provided two additional options to pass this particular item; to waive the regularity or to reject all bids. He requested consideration as to the second recommendation because it is his opinion that the item regularity is waivable and conformant not only with the code but the specific terms of the ITB which says that the owner, the City, reserves the right to reject any and all bids, to waive any and all formalities in completeness or irregularities not involving price, time or material changes in the work. The bond issue does not relate to any of those items as the memo recognizes; you have the right to waive this particular irregularity. Three out of four of the bidders submitted the same bond form and were rejected for this reason. That bond form, as the memo recognizes, is used uniformly in the construction industry throughout the country. The bond was issued by the Hartford, one of the largest insurance companies in the country. In his opinion, the City was adequately and fully protected other than the notice issue as to a 5% penal bond as required. Most importantly, they are looking at \$58,000 in savings a year for this City over a possible five-year contract; that is over \$250,000 you are looking to save on the basis of a minor irregularity in the submission of an AIA bond form that is uniformly used throughout the country. He questioned whether the City wants to save money or get technical. He requested that they consider conclusion #2, that the irregularity be waived, and that this matter be referred back to the department for further consideration of all of the bids as to responsiveness and responsibility other than the bond issue or #3, that all of the bids are rejected and reconsider what the bond form should look like.

Bevin Boday (sic), Palm Beach County resident, was present. He retired as Utilities Director for Palm Beach County, where he served for 21 years. Palm Beach County has the same infrastructure repair and replacement issues as does the City of Plantation. They affect all utilities throughout the United States and he is very well informed on the technical requirements of this project. He mentioned that in the previous procurement for mean pipeline lining, this Council did not waive the bid bond requirements. A precedent was set for the sister contract to the lateral contract in not waiving that. His point is that the technical specifications specifically require what is called ASTM 2561. The firm that talked about long term savings does not meet that standard.

Mr. Morgan stated that that particular issue has not been addressed by the City at all. Once that bid was rejected for non-responsiveness for the bid bond the City did not review their technical specifications to see whether or not they meet the City's requirements so the issue raised is not relevant at this time. It would only become relevant should they waive that requirement. At this time no one knows if what you are saying is true or not and he believes it is a little premature.

Mr. Salem advised that the Independent Engineer wrote a letter on June 2, 2015 specifying that LMK Technology satisfies all of the acceptability and technical specifications of the bid proposal for the contract. There has been a review, at least by the Independent Consultant.

Mr. Morgan indicated that LMK is being recommended for award; the other one was not because they were rejected prior to going through that process.

Mr. Salem's point is that there are technical reasons why LMK should be considered as the best value to the City and the best long term performance because of the standard that they meet that is not met by the low bidder.

Councilmember Jacobs commented that there seems to be an issue that needs to be addressed with the process.

Mr. Morgan stated that the bid bond language that the City requires has been a requirement for quite some time and occasionally it has been an issue with some of the respondents. Whether it has been an oversight on their part or whether the requirement was not clear, the requirement was not met. In this case he is not sure what the reason was but it is. We are creating a form for the bid bond which will be a separate form for the procurement so if they miss that there will be a clear reason why they missed it.

In response to Councilmember Jacobs, Mr. Morgan advised that the form is ready to go.

Councilmember Jacobs questioned the unintended consequences of rejecting all of the bids and whether there is an additional cost to the City or a minor cost.

Mr. Morgan could not speak to the direct costs but the cost would be the time an energy to put the bid back together and put it back onto the street. He does not know the actual amount. Adding a different form will be a change in the bid procedure.

Mayor Bendekovic questioned whether the responsive bidder can challenge what the Council would do and if so, would we have legal costs and would it hold up the bidding process.

Mr. Morgan indicated that they could challenge but it probably would be unlikely that they would challenge the rejection of all bids because they would not be passed over for another bidder.

Councilmember Jacobs believes that would be the fairest thing to do.

Councilmember Zimmerman expressed concern because we put out a bid and we received bids. None of the contractors like to have numbers on the table and then have to rebid because now everyone knows everyone's number. There are other issues and chances to correct. We put out a bid spec; the spec is what the spec is; they followed the spec; someone did not. He believes we need to look at our bid language and include the form. He would like to see us use the standard AIA form, which is standard in the industry and is what most cities use. It makes it more consistent with the industry.

Mr. Morgan clarified that in the future, starting tomorrow, we are going to have the same language in a form format and then going forward we will look to see whether or not there is anything that needs to be changed as far as the language and moving towards using the AIA form.

Councilmember Zimmerman would also be interested to check with a few of the insurance companies to see if our bid form for the cost of the bid bond to the vendors costs them more to get a bid bond to meet our requirements versus that of the AIA. It does not cost us anything because they are bids; it is their cost of doing business but we should know that.

Councilmember Levy believes we should stay the course this time. He likes the changes that are in effect but he feels that we should move forward with this bid.

Councilmember Stoner commented that this is not the first time this has happened on this bid bond issue; this is a recurring thing and this time it was three out of four. As to them having their numbers out, it is a little more incentive for the three higher ones to come back to the table. There is quite a discrepancy between #1 and #4. Everyone has a fresh start and she thinks that 75% of the submitters having an issue says something about the package and how it was interpreted. In speaking with Mr. Morgan and Mr. Lunny, they acknowledged that there was room for clarification. You always want to tweak these processes along the way and she does not think that pushing it through, even though there is a glaring error, is the thing to do. Let's fix it and make it right.

Councilmember Zimmerman thinks that is a good point. As bids are done and as they are reviewed he looks at them and there is a huge discrepancy. That tells him that our bid documents are not very clear. He has seen bids come in with ten bidders within 10% to 15% and that says what they were bidding on was really clear.

Mr. Morgan stated that as far as the bid documents are concerned, he knows this particular procurement spec was tight as far as what the City was looking for. We have gone through a process to correct and modify documents so they are clear for the respondents. We also have the ability to request clarification consistent with the process to get an addendum issued so they are clear on what they are required to do. In this particular issue they did not do that; there was several addendums issues for this project.

Councilmember Stoner indicated that if there were three out of four that did not ask the question they were very comfortable with what they were submitting. She believes they should all be rejected and put back on the street.

Councilmember Tingom concurred with Councilmember Zimmerman. We put the numbers out already and contractors would not want to come back in after being exposed. He also agreed with Councilmember Levy that if something is wrong with the language let's change it in the future. He believes we should move forward with this particular bid.

Motion by Councilmember Stoner, to reject all bids and put it back out on the street. There was no second to the motion.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to award the bid to the lowest responsible bidder. Motion carried on the following roll call vote:

Ayes: Tingom, Jacobs, Levy

Nays: Stoner, Zimmerman

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ADMINISTRATIVE ITEMS

Mr. Morgan read Item #24.

24. **DISCUSSION CONCERNING PROPOSED LANDSCAPE TREATMENT FOR WESTERN EDGE OF NOB HILL ROAD (BETWEEN BROWARD BOULEVARD AND CLEARY BOULEVARD).**

A Memorandum dated June 30, 2015 to Diane Veltri Bendekovic, Mayor, and Members of City Council, from Danny Ezzeddine, AIA, Director of Design, Landscape & Construction Management, follows:

Please find attached:

Exhibit A: Conceptual Plan for new planting at North Nob Hill Road and proposed images reflecting the design intent.

Exhibit B: Quotes for removal and replacement of plant material. Lowest quote is \$71,900.

Mayor Bendekovic indicated that a thorough explanation was provided; however, she provided a brief summary for the public. Nob Hill Road, the area between Cleary Boulevard and Broward Boulevard, came up in 2008. Many of the residents wanted a wall but at that time there was going to be a special assessment and it was not prudent to proceed. Since then we have found out that the City of Plantation has the right-of-way and the easement in that area. Some homeowners have kept up their fencing and other have a rambling of all kinds of growth and we are getting more and more complaints each day. She has asked Mr. Ezzeddine, Public Works and Engineering to see exactly what easements and rights-of-ways we have and what utilities are located there. She is looking for direction and if there can be a consensus to move forward letters will be sent out to homeowners that back up to that area and have an informational meeting at City Hall.

Mr. Ezzeddine stated that there have been complaints about this issue; therefore, we decided to research the situation. We looked at the main water line on the swale area as well as other utilities. The photographs depict the existing fence with vegetation. There are a variety of fences in that area from shadowbox to board on board to chain link to no fence to concrete fence to pvc fence. Once the vegetation is removed the fences are going to be exposed and then we have the option to waive the requirement to move the fences back to meet the code. They propose to have Coco plum hedges with trees every 50 feet or so and Faxahatchee grass on the bottom. He has three bids as to how much landscape will cost. Once direction is received they will move forward.

Mayor Bendekovic advised that the landscape is from the Tree Fund.

Councilmember Zimmerman commented that is nice because this is a public right-of-way and the Tree Fund is funded from all of the variances we get from developers. It is not coming out the General Fund; it is there to replace trees. He believes it is a good use of the fund especially on something as visible and open.

Mayor Bendekovic mentioned that one problem we were having is that there is no Homeowner's Association; therefore, informational letters will be sent to each of the homeowners that back up to Nob Hill Road. We are asking whether you want Design, Landscaping and Construction and Public Works to proceed and whether Council would waive the fence permit or grant a global waiver so as to allow homeowners to construct, repair or replace their fences along the rear property.

In response to Councilmember Zimmerman, Mayor Bendekovic indicated that a consensus is needed to move forward. The meeting with the homeowners will be a public meeting.

Councilmember Levy stated that he is all right.

In response to Councilmember Jacobs, Councilmember Zimmerman clarified that the recommendation is to allow a waiver for the permit fee.

Mr. Morgan advised that some portions of the fee are required; it is the waiver portion. For purposes of moving forward quicker it would be better if a motion were given on the waiver of the 27.637 section which will allow the fences to remain at the property line and that they can move forward without coming back.

Councilmember Jacobs questioned if all of the fences are at the property line.

Mayor Bendekovic and Councilmember Levy indicated that one is one.

Councilmember Jacobs questioned if that is a variance that will run with the land or whether it something that they will have to come back in the future to replace the fence.

Mr. Morgan indicated that another waive would have to be requested or put it according to the code because this is a waiver for fences that are in disrepair and need repair once all of the shrubbery is removed. A permit will be required and they will have to get a waiver.

Councilmember Jacobs questioned if there is a process for getting the waiver. He noted that the proper process would be a variance and questioned who grants that waiver.

Mr. Morgan stated that the requirement can be waived. They would have to go through the Zoning Department for that.

Councilmember Jacobs questioned whether they have ordinance authorization from the Council to do that.

Mr. Morgan did not believe that they have that on their own; they would have to ask the City Council. He was not sure how much the cost would be to appear in front of City Council. He thinks the purpose of the recommendation is to make it easy on the residents.

Councilmember Jacobs questioned whether a note or direction can be put in place in the future if the fence gets destroyed or knocked down that they do not have to come back to City Council for a waiver. A variance costs a few hundred dollars to file the papers and appear.

Mayor Bendekovic advised that this would be a one-time only. If the property owner sold the residence they don't get it anymore.

Councilmember Jacobs understands what we are trying to do but he can also see in the future it could cause a problem. We are going to end up without a process for people unless they go through the formal variance process. One idea is to vacate if they are right on the property line.

In response to Councilmember Jacobs, Mr. Ezzeddine replied that the setback is five feet.

Councilmember Jacobs stated that the setback was probably zero when they built it.

Mr. Morgan commented that they are legally non-conforming.

Mayor Bendekovic stated that they will have to look into that part.

Councilmember Jacobs mentioned that the property owners could be put on notice and they have to understand that if something happens to the fence they will have to move it back five feet when they put it back up.

Mr. Morgan believes that was the intent of the recommendation; to allow them for this particular period of time to make that happen without them incurring the co-provision.

Mr. Ezzeddine mentioned that there are a few houses that have a pool right against the property line.

In response to Councilmember Zimmerman, Mr. Ezzeddine indicated that by code the property owner is supposed to maintain that area. The current right-of-way is 20 feet. He understands that the County has a plan to put a sidewalk on part of the greenway. We have a main water line at 13 feet exactly so that is why we are going to do all of the landscaping after the 13 feet.

Councilmember Jacobs believed that it should be waived and in the future they will have to comply with the setback unless they can get a variance. We should give them some notice in writing. He mentioned all of the unhappy people who had their fences knocked down after Wilma and discovered there was a five-foot setback.

Mayor Bendekovic stated that there will be an informational meeting and certified mail will be sent to those who are unable to attend.

Councilmember Levy commented that other than the one property that is now exceeding the property line, they would have to go to the property line maximum. He questioned how to waive something that is already against the law.

Mr. Morgan reiterated that they are currently legally non-conforming. If they had to replace their fence they would have to comply with that section, which would require them to move the fence back.

Councilmember Levy questioned whether it creates a problem visibly.

Mayor Bendekovic indicated that there will be a Coco plum hedge.

Councilmember Jacobs questioned if an ordinance could be put together that would address this area so it would be better documented. There would be something more than the meeting minutes.

Mr. Morgan stated that an ordinance can always be done. He thinks for the purposes of this particular maintenance project the waiver would be fine but if we want to do more than just this one time going forward we may want to do something more formal. This is intended for this particular maintenance project.

Motion by Councilmember Jacobs, seconded by Councilmember Levy, to grant the waiver to allow all of the property owners along Nob Hill Road in the area designated to keep their fences where they are and if and when that fence is removed they need to comply; staff will notify all of the property owners in writing, by certified mail if necessary; and the City will move forward with the landscaping project. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Zimmerman

Nays: None

NOTE: Councilmember Tingom did not vote on this item.

Councilmember Zimmerman mentioned that this is a one-time waiver for the length of this construction project. He questioned if a time frame has to be set.

Mr. Morgan replied no because they will essentially be in the same position they are now, which would be legally non-conforming. If something were to occur in the future, unless they receive some other form of relief from the City, they would have to build in accordance with the code which is setback.

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Mr. Morgan read Item #25.

25. DISCUSSION CONCERNING SOLID WASTE COLLECTION.

A Memorandum dated July 1, 2015, to Mayor and Members of the City Council, from Horace McHugh, Chief Administrative Officer, and Donald J. Lunny, Jr., City Attorney, follows:

A.

As the elected official may recall, Staff advised the Council that it wished to seek proposals from consultants to assist Staff in the process of competitively procuring a replacement exclusive franchise for Residential and Commercial Solid Waste Collection. While the City's Code does not require consultant services to be competitively procured, the Administration advertised for consultant proposals and only received one response that exceeded the Administration's desire budget for this service. After the proposal was rejected for that reason, the proposer contacted the Administration and offered to revise its scope of work to be more in line with the Administration's expectations. Attached as Exhibit "A", please find a scope of services which has been approved by the Administration for the Council's review. Attached as Exhibit "B" is some background information about the proposed Consultant.

B.

In the past, the Legal Department has advised the Administration that neither the City’s Code nor State law requires that the City competitively procure a franchise for the collection of solid waste. However, the Legal Department has also advised that recent case law concerning the Federal Constitution’s Commerce Clause suggests that seeking competitive procurement makes an exclusive franchise contract defensible against a U.S. Constitution Commerce Clause challenge. [See *Southern Waste Systems LLC v. City of Delray Beach*, 420 F.3d 1288 (11th Cir. 2005) (holding that the Commerce Clause does not forbid exclusive franchise agreements for solid waste collection so long as the bidding process is open to all, and there is no requirement that local interests be favored in the performance of the contract), *Southern Waste Systems LLC v. City of Coral Springs*, 687 F. Supp. 2d 1342 (S.D. Fla. 2010) (determining that Coral Springs did not discriminate against interstate commerce by awarding an exclusive franchise for solid waste collection where bidding process that resulted in exclusive franchise did not promote local economic interests over out-of-state interests), and *Wheeler v. Charter Township of Shelby*, 697 N.W.2d 180 (Ct. App. Mich. 2005) (sustaining an extension of a solid waste collection exclusive franchise against a taxpayer challenge where the Township’s competitive procurement expressly provided for such extension)].

In the recent past, the City has completed several short term “stop gap” extensions (i.e. two (2) years or less) of the solid waste collection franchise without seeking competitive procurement, because of very significant changes to the County’s disposal system which practically impacted the City’s ability to procure a reasonable longer term agreement. The Legal Department recommends that any exclusive franchise contract for solid waste collection be competitively procured, unless as before, the Council makes a determination that local business conditions remain unsettled, and therefore, only another “stop gap” extension should be obtained.

C.

During the last discussion, the Council requested that Staff provide a more comprehensive summary of the costs and fee schedule involved in the collection process. A presentation will be provided at the July 8, 2015 City Council meeting.

Based on the information the City receives monthly from its provider, the anticipated gross revenues of the provider (upon which franchise fees are paid) in the current fiscal year is estimated to be \$9,100,000. This number should decrease given the rate and other reductions that take effect on October 1, 2015.

Listed below is the anticipated revenues and payments the City will incur during this fiscal year relative to this topic.

Money Collected by the City and Paid to Waste Management

	Rate	Month	Year
Solid Waste fee (blue bag homes)	\$6.49/month	\$126,632	\$1,519,595
Multi-family recycling fee	\$0.29/month	\$ 4,275	\$ 51,306
Blue Bag homes recycling fees	\$2.22/month	\$ 42,928	\$ 515,138
Non Blue Bag homes recycling fee	\$1.22/month	\$ 3,124	\$ 37,493
			\$2,123,530

Revenues to City

	Rate	Monthly	Year
Pass thru solid waste fee (bag homes)	\$6.63 x 19,512	\$129,365	\$1,552,375
Franchise fees (6% of revenues)	6% of revenues	\$ 45,500	\$ 546,000
<ul style="list-style-type: none"> • Commercial • Multifamily • Bag sales • Cart fees 			
Additional Franchise Fee – tipping fee Adjustment	Solid Waste (\$99,20-\$42.12) = \$57.08	\$ 67,000	\$ 804,000

	Bulk/Veg (\$45-\$33.50) - \$11.50		
Bagster Sales	6% of revenue	\$ 150	\$ 1,800
Organic	6% of revenue	\$ 250	\$ 3,000
Sun Bergeron revenue share	45.1% of AVI of recyclables	\$ 6,500	\$ 78,000
Total Revenue		\$248,765	\$2,985,128
(Less payments to Waste Management			(\$2,123,530)
Net Revenues to the City			\$ 861,615

D.

Staff has negotiated a fee of \$38,230 with HDR Engineering (the proposed Consultant) for the revised scope of services described in Exhibit A. In considering the future of our Solid Waste Collection Service, there are a variety of issues that would impact the future rates to our customers, the fees paid to the City and the types/levels of services that our community receives. Some of the issues include:

- Should the solicitation offer a contract period of 5, 7, 10 years or other options?
- Should the City allow the proposer to provide an exclusive service for Construction & Demolition service?
- Should the City assume the billing of totter cart services?
- What is an appropriate franchise fee for the City to receive?
- What is an appropriate cost to be charged to customers?

It is recommended that the Council approve an agreement with HDR Engineering for a not-to-exceed amount of \$38,230, for the services described in Exhibit A. This will allow the City to incorporate the various issues relevant to the service delivery and to start formalizing a competitive procurement for solid waste collection.

Attachments: Exhibit "A": Consultant Scope of Work/Pricing

Exhibit "B": Information about Consultant Experience

Mr. McHugh indicated that they came to Council about four to six weeks ago and were given authorization to move forward with securing a consultant to consider assisting us with developing an RFP and considering the future of our Waste Management System. Because of the nature of the consultancy, we are not required by code or ordinance to bid that; however, we solicited bids for consultants. One bid was received, which exceeded our budgeted amount and as such, the bid was rejected. Subsequently, we spoke to a number of people to get a better sense of why they did not respond. Based on that feedback, the scope of service was revised. The additional purpose of the meeting is to discuss Waste Management System. Currently the services provided by Waste Management Systems is pick up and disposal and they have an exclusive franchise for residential solid waste as well as residential recycling and commercial solid waste. Commercial recycling and C&D is non-exclusive. About 89% of the households use blue bags and 11% are in carts. They also do the yard waste, the bulk and the recycling, again with an 87%/11% carts. The solid waste, yard waste and bulk are delivered to the Wheelabrator South site and the tipping fee for the solid waste is \$42+ per ton and the tipping fee for yard waste and bulk is \$33.50 per ton. Recyclable materials are delivered to the Sun Bergeron site and the processing fee for that is \$50.50 per month. The City receives about 45% rebate on the net average market value of those materials. The cost to the single family residents for the blue bag household, assuming the house would be

using two garbage bags and one recycling bag, is estimated at \$22.67 per month. Based on the individual household that may vary a little higher or lower based on the cost of the bags. Annualized that is about \$272. For the tote a cart homes, the availability fee is \$29.70 per month and recycling fees are \$1, which brings us to about \$30.70 per month. Annualized that is \$368 per month. The rate comparison on a residential basis based on the existing rates, the carts cost Plantation rates about \$30.70 and there are some comparisons with other municipalities that are in the \$17 and \$18 range. The blue bags cost about \$22.67 per month and we are unique in terms of the South Florida market. Since we are the only ones who do blue bags we were unable to do a comparison. There are various reasons for the \$30.70 rate in Plantation, recognizing that the cost for the blue bags and the cart system are substantially different and to what degree one subsidizes the other. All of that would be included and factored into the rate. As mentioned, the initial bid was \$80,000 for this consultant. After negotiations, we were able to get that figure down to about \$38,000. Their recommendation would be to authorize us going forward with this consultancy in the \$38,000 range to the HDR Consultancy to assist us in refining and preparing the RFP and issuing it to be consistent with the proposed schedule.

Councilmember Levy commented that other cities are looking at the same issue. He questioned what they have done and whether Mr. McHugh has looked at their RFP's and received ideas.

Mr. McHugh stated that they have looked at what other cities have done. One of the issues is that we have a unique system. Most people have carts; therefore, they may need one vehicle, capital costs for the cart and the costs can be projected. With our blue bag system it is a different kind of vehicle for the capital and it is more operating because we need an operator and someone collecting. It is not a true comparison.

Councilmember Levy mentioned that the suggestion is that we go ahead with the recommendation to bring in the consultant because of the differences of our pay as you throw system versus the cart availability system.

Mr. McHugh indicated that others may have gone through the process over the last three or four years. The system itself has undergone a number of substantial changes over the last two years, which is one of the reasons why our City Attorney's office recommended that we were offering an extension that we do so on a limited basis, maybe a one or two year period, until all of the issues have stabilized. He thinks we are at the point where they have stabilized and the City Attorney's office is suggesting that in order to protect us from the challenge of someone saying that we are offering one entity with an exclusive franchise fee without giving the others a benefit and allowing others to compete. When that selection is made we will satisfy and reduce, possibly eliminating that concern.

Councilmember Levy commented that one of the other options we have looked at is different size blue bags and draw string blue bags. He questioned if that is part of what the consultant would take up or whether Council discusses it first and provides recommendations and then they put it in the RFP.

Mr. McHugh believed that they would talk about the system itself, some of the refinements of the system whether the cart is blue or black, some of the specific issues are preferences and policy issues. We are moving forward assuming that based on the survey, the percentage and the previous direction that we are going to continue with the blue bags and continue with a certain percentage.

Mayor Bendekovic advised that you have already given us direction to move forward with the drawstring kitchen bags; that will start on October 1, 2015. Currently we are trying to find places to put them on the shelves at Publix.

Mr. McHugh stated that those are minor details that could be worked out. The bigger issue would remain the same in terms of what kinds of bags or if there are changes that could be worked out.

Councilmember Levy commented that the recommendation is because our system is so unique in Broward there is very little that you can garner from other cities and what they are doing in order to decrease the dependence on the consultant.

Mr. McHugh indicated that it is not a standardized comparison. The uniqueness of the system, the fact that the value of the contract is \$11 million per year; if we are going to a five or ten-year agreement the value is so significant that he believes a \$40,000 investment in a consultant who could help us suggest an appropriate franchise fee or appropriate term; he thinks it is a small investment given the life of the contract and giving the potential benefit to the City.

Councilmember Jacobs questioned whether we are going to prepare RFP's once the consultant is hired. Once we do that we either have to reject them all or award a bid.

Mr. McHugh stated that is correct. There is already a draft so there is a starting point.

Motion by Councilmember Levy, seconded by Councilmember Zimmerman, that we proceed as recommended. Motion carried on the following roll call vote:

Ayes: Levy, Zimmerman, Mayor Bendekovic
Nays: Jacobs, Stoner

NOTE: Councilmember Tingom is no longer on the phone.

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LEGISLATIVE ITEMS

Mr. Morgan read Items #26, #27 and #28.

- Resolution No. 12110**
26. **RESOLUTION** ADOPTING THE PROPOSED MAXIMUM MILLAGE OF 5.9000 MILS, WHICH THE CITY OF PLANTATION CAN ASSESS DURING THE NEXT ENSUING TAX YEAR; ESTABLISHING A TIME AND A PLACE FOR A PUBLIC HEARING TO CONSIDER SUCH PROPOSED MILLAGE AND THE TENTATIVE BUDGET; AND OTHERWISE DIRECTING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE BROWARD COUNTY PROPERTY APPRAISER BY AUGUST 4, 2015 PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memorandum dated July 1, 2015, to the Honorable Mayor Diane Veltri Bendekovic and Members of City Council, from Anna C. Otiniano, Finance Director, follows:

SUBJECT: FY2015-2016 Maximum Millage Rates

The State requires that the City set the maximum millage rate so that the Property Appraiser can use these rates for notices that they send to the individual taxpayer. The millage rate forwarded to the Property Appraiser is

the maximum millage that the City of Plantation can levy for the next year's budget without going through an expensive mailing process. City Council always has the option of lowering the amount of the millage at either of the two Public Hearings scheduled in September.

The three attached Resolutions set the maximum millage for the City's funds as follows:

- | | |
|--|-------------|
| 1. City of Plantation Operating Millage | 5.9000 mils |
| 2. Plantation Gateway Development District | 2.0000 mils |
| 3. Plantation Midtown Development District | 1.0000 mils |

Local governments must conform to the maximum millage limitation requirements first imposed by the Legislature in 2007. These requirements were further amended by a Bill passed in 2008 (CS/SB 1588). The requirements applicable to 2015/16 are in S.200.065 F.S.

For the City of Plantation Fiscal Year 2015/16 budget, the maximum millage requirements applicable to the operating millages for all local governments except school districts are:

- By a majority vote (3 votes in the City of Plantation), taxing authorities may levy a maximum millage equal to their rolled-back rate adjusted for the change in per capita Florida personal income (1.0196% for FY2015/16) or 5.5588 mils for the City of Plantation.
- By two-thirds vote (4 votes in the City of Plantation), taxing authorities may levy a millage equal to 110% of the majority vote maximum millage rate or 6.1147 mils for the City of Plantation.
- By a unanimous vote or a referendum, taxing authorities may levy any millage up to their constitutional or statutory maximum millage (10.0 mils for the City of Plantation).

The General Fund millage rate of 5.90000 mils recommended for your consideration is an increase of 0.15 mils from last year requiring a two-thirds (2/3) vote from City Council. This rate will generate a total of \$44,294,731 in ad valorem tax revenues. The millage rate increase set on July 8th will set the maximum millage rate for FY2016. The maximum millage rate may be revised only downward at the September 3rd and 9th public hearings.

For the Plantation Gateway Development District (PGDD) Fiscal Year 2015/16 budget, the maximum millage requirements applicable to the operation millages for all local governments except school districts are:

- By a majority vote (3 votes in the City of Plantation), taxing authorities may levy a millage equal to their rolled-back rate adjusted for the change in per capita Florida personal income (1.0196% for FY2015/16) or 1.9252 mils for PGDD.
- By two-thirds vote (4 votes in the City of Plantation), taxing authorities may levy a millage equal to 110% of the majority vote maximum millage rate or 2.1177 mils for the PGDD.
- By a unanimous vote or a referendum, special district taxing authorities may levy any millage up to their constitutional or statutory maximum millage (2.0 mils for PGDD).

For the Plantation Midtown Development District (PMDD) Fiscal year 2015/16 budget, the maximum millage requirements applicable to operating millages for all local governments except school districts are:

- By a majority vote (3 votes in the City of Plantation), taxing authorities may levy a maximum millage equal to their rolled-back rate adjusted for the change in per capita Florida personal income (1.0196% for FY2015/16) or 0.9524 mils for the PMDD.

- By two-thirds vote (4 votes in the City of Plantation), taxing authorities may levy a millage equal to 110% of the majority vote maximum millage rate or 1.0476 mils for the PMDD.
- By a unanimous vote or a referendum, special district taxing authorities may levy any millage up to their constitutional or statutory maximum millage (2.0 mils for the PMDD).

The recommended maximum millage rate for Plantation Gateway Development District is 2.0 mils; no increase from FY2015 millage rate, this millage rate requires a two-thirds (2/3) vote from City Council. The recommended maximum millage rate for Plantation Midtown Development District is 1.0 mils; no increase from the adopted FY2015 millage rate, this millage requires a two-thirds (2/3) vote from City Council. The recommended millage rate for these two districts will continue to reposition them to be financially solvent and to be able to support future capital projects.

Per the Property Appraiser property values increased for the City of Plantation 5.70%, Plantation Gateway Development District 6.05%, and Plantation Midtown Development District 7.54%.

Mayor Bendekovic presented a brief presentation as follows:

- In 2011 the City faced a deficit of \$12.9 million.
- There was \$935,000 for rainy days or unassigned reserves; they were the lowest in the County.
- Today we have \$5.2 million for unassigned reserves.
- Our taxable value had dropped 25.6% and that reduced our ad valorem revenue significantly.
- This Administration does not balance the budget by reserves or using one-time revenue and speculation on what might happen.
- We almost had eliminated or postponed capital projects; there was no substantial capital projects going on during those four years.
- Despite all the economic situations the City of Plantation continued to provide a level of service to our residents.
- In 2010 our taxable value was down 25.6% and today we are up 5.7%.
- Gateway has increased to 6.05% and Midtown is up 7.54%.
- We are one of four cities in the entire County that has consecutive increases over the five years; even though it was up 1% it was a plus instead of a minus.
- If we had kept the property values at 4.5142 for the last four years we would be \$8 million in the hole.
- With regard to the \$12.9 million deficit we would be \$4 million in the hole; we would not have unassigned reserves.
- There are approximately 3,000 property owners that do not pay taxes.
- She thanked the Council for making the tough decisions.
- The proposed maximum millage rate is 5.9 and even at that we are midway between the 31 municipalities. We are 15th. The one that is realistic is the County, which shows us in the bottom 25 percentile even with our storm water fee, which is \$30 per year.
- If the maximum were 5.9 there would be a monthly increase for a home in Plantation Acres of \$6.48; Park East \$1.05; Royal Palm \$1.95; Country Club Estates \$2.52; Jacaranda \$1.88; Plantation Park \$1.11 and Fox Run \$3.29.
- The change in ad valorem revenue shows that we were at 4.5142 mils in 2011 and this year the proposed maximum millage rate is 5.90 mils.

- We had \$935,328 in unassigned reserves and we are up to almost \$5.3 million. The assigned reserves and non-spendable reserves have increased and the total reserves have increased from \$21 million up to \$33 million, which is a difference of \$12 million.
- We have made significant increases in our capital expenses. We still need \$21.9 million of operating capital but when we add projects and construction in the total needed is \$57.4 million.
- With regard to medical expenses we went up 3.6%; the average increase is between 10% and 15% on medical. The only reason we went up was due to pharmaceuticals; they went up 37%. This has been addressed with the Council and we are looking into ways to reduce that.
- Pension costs for General Employees is \$6.7 million and FOT is \$6.3 million. With Collective Bargaining we have a savings of about \$1 million with the FOP.
- Compensation adjustment is at 3%, which would cost General Employees \$882,951. It is unknown what FOP would cost pending contract negotiation. That meeting will be on July 20, 2015.
- The cost of living and the cost of doing business has gone up about 2.2%
- At this time the proposed General Fund budget is \$93,966,402.
- The objection of Administration is to provide a sustainable budget, keep healthcare and pharmaceutical costs down, fund operating capital, negotiate and approve an FOP Collective Bargaining Agreement, discuss and approve General Obligation Bond Referendum, establish competitive compensation for employees, and stimulate commercial development.
- The recommendation is to approve a maximum millage rate at 5.90.

Dennis Conklin, resident, was present. He urged that the rolled back rate be considered. He noted that it was mentioned that the property values had already gone up 5.7%. If the millage rate is not raised and the City does not go with the rolled back rate and gets the same amount of dollars, there would still be a 5.7% increase in the ad valorem budget. Part of the budget was mentioned as pension costs.

Mayor Bendekvoic indicated that the rolled back rate would have been 5.5. She stated that this is a fluid document; there will be changes. The First Budget Hearing will be on September 3, 2015 and the other one on September 9, 2015.

Motion by Councilmember Jacobs, seconded by Councilmember Stoner, to approve Resolution No. 12110. Motion carried on the following roll call vote:

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

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Resolution No. 12111

27. **RESOLUTION** ADOPTING THE PROPOSED MAXIMUM MILLAGE OF 2.0 MILS, WHICH THE PLANTATION GATEWAY DEVELOPMENT DISTRICT CAN ASSESS DURING THE NEXT ENSUING TAX YEAR; ESTABLISHING A TIME AND A PLACE FOR A PUBLIC HEARING TO CONSIDER SUCH PROPOSED MILLAGE AND THE TENTATIVE BUDGET; AND OTHERWISE DIRECTING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE BROWARD COUNTY PROPERTY APPRAISER BY AUGUST 4, 2015; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

*Motion by Councilmember Stoner, seconded by Councilmember Jacobs, to approve Resolution No. 12111.
Motion carried on the following roll call vote:*

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

* * * * *

Resolution No. 12112

28. **RESOLUTION** ADOPTING THE PROPOSED MAXIMUM MILLAGE OF 1.0 MILS, WHICH THE PLANTATION MIDTOWN DEVELOPMENT DISTRICT CAN ASSESS DURING THE NEXT ENSUING TAX YEAR; ESTABLISHING A TIME AND A PLACE FOR A PUBLIC HEARING TO CONSIDER SUCH PROPOSED MILLAGE AND THE TENTATIVE BUDGET; AND OTHERWISE DIRECTING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE BROWARD COUNTY PROPERTY APPRAISER BY AUGUST 4, 2015; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

*Motion by Councilmember Stoner, seconded by Councilmember Jacobs, to approve Resolution No. 12112.
Motion carried on the following roll call vote:*

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

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LEGISLATIVE ITEMS – None.

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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.

* * * * *

QUASI-JUDICIAL ITEMS – None.

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COUNCILMEMBERS' COMMENTS

Councilmember Stoner appointed Jayne Flanigan to the Parks and Recreation Board as the regular member and Betty Cobb as the alternate.

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Mayor Bendekovic reminded everyone of the September 3, 2015 Council meeting.

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Councilmember Zimmerman commented that he enjoyed lunch at the Plantation Preserve. He extended his thanks to the staff.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, complimented the City on the great Independence Day parade. He suggested that perhaps sometime in the future we might be able to have 12 people from the community read about 100 words each of the Declaration of Independence.

* * * * *

Tracy Thompson, resident of Townhouses of Jacaranda, was present. Her and her neighbor needed construction on the balconies, which are done in pairs. The construction took six months and she paid over \$47,000. Similar units had a cost of \$17,000 and she does not know why her cost was so high. The balcony is not pitched and is ponding water and it has other multiple issues. She has two engineering reports. Since October she has requested that the City do an inspection so she can close the ceiling in the garage, which is wide open. There is no inspection on file other than for the roof. She spoke with Jeff Sabouri, Building Director, who told her to submit a private Engineer report. She got the private report and submitted it to staff. She later received a call from Adam Attah. She is asking for help and would like a neutral third party to meet with her and tell her if either of the reports are correct. The permits have expired.

Mr. Sabouri explained that the private Engineer provided a report contradictory to the Engineer who certified it. We have to assign a Special Inspector. The Association asked and paid for the private Engineering report. The buildings are owned by the Association and residents own the interior of the building. The Association applies for the permits. Mr. Sabouri stated that the Special Inspector rebutted everything; the private Engineer was correct. The Building Department cannot get involved in this issue. There are two law suits going on at this time between the contractor and the Association; therefore, he cannot get involved on behalf of the City. He reiterated that there is a report that says the construction was done correctly.

Ms. Thompson indicated that her report says it was never inspected and that is the problem.

Mr. Sabouri advised that the Engineer has to talk to the Special Inspector who gave a report. A number of permits have expired. Pending the resolution the City cannot open something that we have never inspected before.

Councilmember Stoner commented that this is a Civil matter.

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SEALED COMPETITIVE SOLICITATIONS - None

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WORKSHOPS – None.

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Meeting adjourned at 9:05 p.m.

* * * * *

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