

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

**March 28, 2012**

The meeting was called to order by Councilwoman Uria, President of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Ron Jacobs
	Robert A. Levy
	Lynn Stoner
	Peter S. Tingom
	Sharon Moody Uria
Mayor:	Diane Veltri Bendekovic
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Councilwoman Uria.

The Pledge of Allegiance followed.

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3. Approval of Minutes of Meeting - September 14, 2011

The minutes of the regular meeting of September 14, 2011 were approved.

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**ITEMS SUBMITTED BY THE MAYOR**

4. ELECTION OF CITY COUNCIL OFFICERS.

Councilwoman Uria thanked her colleagues for allowing her to be President of the City Council for the last 12 months. She hopes that she treated everyone with kind, professional courtesy. It is truly an honor to represent the people in Plantation.

*Motion by Councilman Jacobs, seconded by Councilwoman Uria, to appoint Councilman Tingom as President of the City Council and Councilman Levy as Council President Pro-Tem. Motion carried on the following roll call vote:*

Ayes: Stoner, Jacobs, Levy, Tingom, Uria

Nays: None

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Councilman Tingom took over the meeting at this time.

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

- One of our tot lots was vandalized at Multi-Cultural lot; the tot lot was burned and totaled. He thanked Chief Harris and the Fire Department for putting the fire out and making sure that the rest of the park was not damaged as well as the homes around the park. We will be removing the tot lot first thing in the morning and that community will be without until we can get it replaced.
- Tinsel Town Auditions ended tonight and will be held on Saturday, March 31, 2012 between 9:00 a.m. and 2:00 p.m. at Volunteer Park.
- An Open Area Swim Meet will be held this weekend, March 30 – 31, 2012 at the Aquatic Complex.
- Kid's Day Off will be on Friday, March 30, 2012 at Plantation Kennedy Community Center between 7:30 a.m. and 6:00 p.m. for children ages 5 through 11.
- The Easter Royal Egg Hunt will be on Saturday, April 7, 2012 at Pop Travers Field at 10:00 a.m. for ages 3 through 10.

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Councilman Levy introduced Selvana who runs Hollydogs Greyhound Adoption Agency with her husband, Sergio. They have worked together for many years and have adopted out hundreds of Greyhounds.

Mayor Bendekovic read a Proclamation designating April 1, 2012, as ***Greyhound Adoption Day*** in the City of Plantation.

Selvana accepted the proclamation. She announced an event this weekend on Sunday, April 1, 2012 at John Williams Park in Hollywood from 11:00 a.m. to 3:00 p.m.

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Mayor Bendekovic read a Proclamation designating the month of March as ***Women's History Month*** in the City of Plantation.

Andrea John Baptiste, President of Commission on the Status of Women, accepted the proclamation.

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Mayor Bendekovic read a Proclamation designating Tuesday, April 3, 2012, as ***Plantation Toastmaster's Day*** in the City of Plantation.

Terry Conover (sic), member of the Plantation Toastmasters and currently the Area Governor in the Downtown Fort Lauderdale/Plantation area, accepted the proclamation.

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Mayor Bendekovic read a Proclamation designating the month of April as ***Water Conservation Month*** in the City of Plantation.

Hank Breitenkam, Director of Utilities, accepted the proclamation.

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**Resolution No. 11464**

6. **RESOLUTION** of appreciation to Robert Dean, Jr., for 29 years of dedicated service to the City of Plantation.

*Motion by Councilman Levy, seconded by Councilman Jacobs, to approve Resolution No. 11464.  
Motion carried on the following roll call vote:*

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

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**Resolution No. 11465**

7. **RESOLUTION** of appreciation to Officer Veronica Donohue for 24 years of dedicated service to the City of Plantation.

*Motion by Councilwoman Uria, seconded by Councilman Jacobs, to approve Resolution No. 11465.  
Motion carried on the following roll call vote:*

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

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Mayor Bendekovic presented service awards to the following employees:

*Detective Michael Capo	Police	25 years
*Brian Czajka	Public Works	15 years
Tracy Kaswinkle	Police	15 years
*William Riel, Jr.	Public Works	15 years
Krishna Ganaishlal	Engineering	10 years
*Officer Patrice Kilpatrick	Police	10 years
*Officer Rudolph Brown, III	Police	5 years
*Verlen Fox	Police	5 years
*Officer Brian McVeigh	Police	5 years
Thomas Rabbitt	Public Works	5 years
*Candace Ross	Police	5 years

\*Unable to Attend

Congratulations were offered.

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Mayor Bendekovic made the following announcements:

- The Friends of the Library are continuing their Wednesdays at 2:00 lecture series.
- Federated Road will be closed on Easter Sunday, April 8, 2012, at 12:01 a.m. and will reopen on Monday, April 9, 2012, at 12:01 a.m.
- Relay for Life is this Friday, March 30, 2012.
- The Broward County Property Appraiser's Community Outreach event is every Wednesday in April from 12:00 p.m. to 2:00 p.m. at 1 University Drive.
- Plantation Farmer's Market is open every Saturday from 8:00 a.m. until 2:00 p.m.
- We have a new window for utility payments.

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Mr. Breitenkam and Robert Castro, IT Director, announced the implementation of Hansen Software. Credit card payments should start within a month. He appreciates all of IT's help.

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5. Request to appoint Director, Alternate and Second Alternate to Broward League of Cities.

Mayor Bendekovic advised that she has not received the invitation; however, the dinner is on May 18, 2012. She serves on the Board of Directors and we need an Alternate. Currently Councilman Tingom serves as an Alternate and Councilwoman Uria is the Second Alternate.

***Motion by Councilman Levy, seconded by Councilman Jacobs, to elect Mayor Bendekovic as Director; Councilman Tingom as First Alternate; and Councilwoman Uria as Second Alternate to Broward League of Cities. Motion carried on the following roll call vote:***

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

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## **CONSENT AGENDA**

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 15.

Item No.'s 10 and 11 were pulled to discuss separately.

Mr. Lunny read the Consent Agenda by title.

8. Request for authorization to participate in the Southeast Florida Co-Operative Bid to furnish and deliver liquid sodium hydroxide (caustic) from April 10, 2012 through April 9, 2013 from Key Chemical at a cost of \$1.959/gallon (full truck load, minimum 3,500 gallons) or from Allied Universal at a cost of \$2.29/gallon (less-than-full truck load). (Budgeted – Utilities)

9. Request for authorization of an emergency purchase order in favor of Jackson Land Development LLC in an amount not to exceed \$40,060 for the required repair and restoration of sanitary sewer line blockages in the area of 5370 Balsam Terrace. (Budgeted – Utilities)

**Resolution No. 11466**

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period March 8 - March 21, 2012 for the Plantation Gateway Development District.

**Resolution No. 11467**

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period March 8 - March 21, 2012 for the Plantation Midtown Development District.

**Resolution No. 11468**

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period March 8 - March 21, 2012.

**Resolution No. 11469**

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period March 8 - March 21, 2012 for the City of Plantation's Community Redevelopment Agency.

***Motion by Councilwoman Uria, seconded by Councilman Levy, to approve tonight's consent agenda as printed. Motion carried on the following roll call vote:***

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

**NOTE:** Mayor Bendekovic voted affirmatively on Item No. 15.

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Mr. Lunny read Item No. 10.

10. Request for approval of amendment to bid award for 84<sup>th</sup> Avenue Greenway Improvements.

A memorandum dated March 20, 2012, to Mayor and Members of City Council, from Brett Butler, City Engineer, follows:

On March 14, 2012 the City Council considered a procurement award recommendation for the subject project that resulted in the award of a contract to Weekley Asphalt Paving, Inc. The award contemplated that certain line items would be removed, and that the project not exceed a cost of \$3,407,061.87.

Subsequent to the Council's decision, staff learned that Federal and State funding sources (in the maximum combined amount of \$1,605,828) are not at this time able to approve the deletion of items that the City does not believe are necessary. Therefore, these funding sources were not able to assure the City that the funding would not be affected by the City either deleting the line items from the scope of work and executing a contract for the net amount, or executing a contract for the full scope of work and at the same time submitting a change order decreasing the scope of work as contemplated by the City's approval. The City Attorney has advised that either

process would be acceptable for the City's purposes given the City's practices and procedures and the procurement documents used.

Because the funding sources cannot commit at this time that the deletion of the line items will not affect their funding, the City will need to sign a contract in the full contract amount. Within a reasonable time thereafter (after further dialogue with the funding sources), the City may submit for review and consideration a change order. Staff is bringing this item back for reconsideration by the City Council as this would required the City to be contractually committed for the full project amount for some period of time while further evaluations are being made (if the Council wishes to take advantage of external funding).

The current budget for the project is \$3,600,000 and is comprised of Federal, State and County grants, together with an appropriation in the Designated Capital Fund. In order for the award to be in agreement with Federal and State funding sources, the award must include all items in the bid proposal, which results in proposed contract award in the amount of \$4,191,836.38. While staff cannot provide complete assurance of approval, the City can submit a change order request to the Federal and State funding sources in the future for deletion of contract items that were presented to the City Council earlier.

In order to fund a proposed bid award in the amount of \$4,191,836.38, additional funds in the amount of \$591,836.38 would be required. Funds are available in Designated Capital Fund balance assigned to capital projects.

Please be reminded that the County grant includes a non-negotiable deadline of March 31, 2012 to demonstrate a fully executed contract for construction. If this deadline is not met, the City will lose the County grant for this project in the amount of \$972,550.

Therefore, staff requests City Council approval to amend its previous approval to award a contract to Weekley Asphalt Paving, Inc., in the amount of \$4,191,836.38 and authorize staff to pursue future change orders as appropriate to the project.

Should Council have any questions, please do not hesitate to contact me at 954-797-2781.

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Councilperson Stoner pulled this item for discussion. She requested additional background information.

Mr. Butler advised that this project was bid and following the normal process a bid award recommendation was made to Council a few weeks ago. Subsequent to that, following the procedure that we follow through FDOT to have them give us approval of the contract that we would then present to the successful contractor, we then learned that the external grant sources, both Federal and State, not the County, took issue and would not support the bid award recommendation as we had presented to Council previously and would require us, in order for the funds to remain eligible to us, to award the full amount. It is a policy issue for them; in their view it is more of a competitive issue that they impose upon us in return for receiving the free money; therefore, we must comply in order for the funding to remain eligible to us. He first went to Administration to explain this issue to identify a funding source, if one existed, that could initially offset the additional funding required in order to do the full award and we do have available to us, through the process, a change order process that we would like to fully take advantage of with the intention of trying to reconcile this back to us in the future with FDOT's approval in the external grant funding approval.

In response to Councilperson Stoner, Mr. Butler indicated that they certainly audit but if they approve a change order at some point in the future subsequent to an award they have already approved, they will be auditing something that they previously approved. That would not be a concern of ours.

Councilperson Stoner clarified that their issue was not with the line items in the scope; it was that we were not taking the total dollars.

Mr. Butler stated that they did not have any objection with the scope of work. The job would never have been bid with the scope of work had they not previously approved the plans, which they also had to have beforehand. Everything is in order, we were just caught off guard subsequent to the original award that this is a requirement. He cannot make any guarantees on this because he cannot predict how FDOT will ultimately act on a change order, but we do have that mechanism available to us.

In response to Councilperson Stoner, Mr. Butler advised that the funding source is Designated Capital, which is a reserve for capital projects; that is a funding source that we have available to us immediately in order to be able to offset this. He has been advised by the Finance Department that we can take the money without a problem and it does not affect the rest of the budget.

***Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Item No. 10. Motion carried on the following roll call vote:***

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

In response to Councilman Levy, Mr. Butler explained that the City decided previously that there were certain elements of work that Engineering has determined are not necessary for the project; therefore, they thought it would be appropriate to deal with it then.

Mr. Lunny commented that the way he understands this is they cannot commit to approve the change orders whereas we did it quickly so we have to go through this other process.

In response to Councilman Levy, Mr. Butler noted that there is still a possibility that we will not need to use the full amount. He wants Council to understand that he wrote this in a carefully crafted way because it is an application that is made but you still have to get their approval. In fairness to FDOT, and we have been very challenged in working with these grants, the process to work with them to save this money and utilize it is extremely burdensome on staff. They have their own processes. He must give some credit to FDOT District 4; staff we have worked with have been tremendously helpful. They are at the same level as us; they are working with the same rules they have to throw in our direction. They have genuinely helped us in so many ways. This is a policy requirement that they cannot waive for us.

Councilwoman Uria commented that our only other option is not to do the project.

Mr. Butler stated that not doing the project is an option; that was an option afforded in the original award consideration. You always have that option but he gave a little caution because, in his opinion, if we were to decide at this late date then we are saying to Federal, State and County thank you but no thank you he would be concerned what kind of ramification there might be in the future if we wanted to apply for another grant.

Councilwoman Uria believes that if we do not do this now there is no money in the future in our budget for the City to do this.

Mr. Butler indicated that this is a significant type of project in Midtown; we did the first project for American Expressway very successfully and this is to keep the momentum going to implement those mandated capital projects to redevelop and encourage future business for our Midtown area.

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Mr. Lunny read Item No. 11.

**Resolution No. 11470**

11. **RESOLUTION** pertaining to the subject of real property; declaring certain real property located at 501 North State Road 7 as surplus property; such property having ad valorem folio number 504101010122; authorizing the disposal thereof; generally authorizing the Administration to take all actions and do all things necessary to perform the transactions approved by this Resolution; providing a savings clause; and providing an effective date therefor.

Councilwoman Stoner pulled this item for discussion. She mentioned that the location sketch should have been attached to complete the packet. She questioned the process for selling the surplus property; how is it advertised and who determines it.

Mr. Shimun advised that his understanding is that we have inherited, over a number of years, property that comes from the County and it has been the policy of the City to get rid of those properties in the most expedient way possible. There is an adjacent property owner who wants to do some remodeling and wanted the property. The process is that since the dollar amount for the property is only \$6,200 we can make an Administrative decision. It has been the policy of Council to divest ourselves of these properties because we do not want to maintain them.

In response to Councilperson Stoner, Mr. Lunny stated that this property was received as a result of a tax sale. It is being returned to the private sector, probably to the property from which it came or the neighbor and the dollar amount is such that no appraisal is required.

***Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Resolution No. 11470. Motion carried on the following roll call vote:***

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

Dennis Conklin, resident, questioned if this is similar to a utility easement.

Mayor Bendekovic indicated that it is a vacant property next to a restaurant that vacated.

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## ADMINISTRATIVE ITEMS

### 16. EVALUATION AND PROVISIONS FOR ADVISORY BOARDS.

Councilman Jacobs suggested drafting the ordinance and advertise.

Mr. Lunny indicated that we were supposed to come back and report to the Council on these interim changes and the Clerk has done so and is now seeking approval to move forward.

Mayor Bendekovic commented that one of the major concerns about changing the Code Enforcement and Special Magistrate was the attendance and she noted that attendance went up 54% with the Special Magistrate. The overtime from Code Enforcement went from \$8,082.93 down to \$211.90 and there was a significant difference in attorney fees. Attorney fees for Special Magistrate increased 23% but they were also hearing 54% more. We not only saved money here but we also saved overtime with Advisory Boards meeting quarterly; there are only two Advisory Boards that do not meet quarterly and that is Landscaping and Planning and Zoning. She thanked Council for their support.

Councilperson Stoner stated that she has received comments from several members of the Gateway and Midtown Boards feeling that possibly meeting quarterly was not sufficient. They were feeling disconnected because so much is going on and so many changes happening within these areas. She questioned whether every other month could be considered.

Councilman Tingom stated that all of the Boards have the right to meet more often. They can call additional meetings at any time but the scheduled meetings would be on a quarterly basis.

Councilperson Stoner noted that there is a difference between a scheduled meeting and a special meeting.

Ms. Slattery explained that before these changes were made we were having meetings every other month with Midtown and Gateway but there was a high absenteeism on those Boards. We could not get a quorum for the meetings. Staff has been very supportive of the quarterly meetings because they do not have a problem getting the members together. None of the members have called her or any of the staff.

Councilperson Stoner recalled this conversation last year and completely agrees. It is those who attend on a regular basis that want to continue to be a little more actively involved. She commented that the Mayor is right, we accomplished the task of saving dollars and employee time and she believes it was something very worthwhile.

Councilman Jacobs was going to support more frequent meetings for those two Boards; it would be six meetings a year instead of four. As Ms. Slattery reminded us, the problem was not the cost as much as the quorum. Perhaps we should set the ordinance at quarterly and if those two Boards want to try going to an every other month schedule let them do it themselves. As mentioned, they can have additional meetings; let them try internally if they want.

There was a consensus to proceed with drawing up the ordinance.

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## LEGISLATIVE ITEMS

Mr. Lunny read Item No. 17.

### **Ordinance No. 2468**

17. SECOND AND FINAL READING OF **ORDINANCE** PERTAINING TO THE SUBJECT OF STORM WATER MANAGEMENT; ADOPTING AND APPROVING A STORM WATER UTILITY; PROVIDING A STORM WATER USER FEE AND RATE STRUCTURE; PROVIDING FOR ADMINISTRATION OF THE STORM WATER UTILITY; PROVIDING FOR A STORM WATER ENTERPRISE FUND; PROVIDING FOR CODIFICATION; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Mr. Butler provided a brief overview of the ordinance. We have had several informal meetings, two forms of first readings; the second meeting resulted in Council making a motion to approve the ordinance at first reading. An approval for a fee was not made; however, the ordinance was moved forward. Presented in the backup is some revision to the draft at first reading that is intended to reflect their understanding of Council's comments and concerns. The draft also reflects some other housekeeping changes that we believe are important. Staff has articulated in the past that this program, present and future, will deliver service to all areas with the exception of P.A.I.D. The proposed fee that would follow along with this ordinance, if it were adopted and accepted, would largely offset expenses that are currently born mostly through the Road, Traffic and Control Fund and a smaller portion through General Fund. He emphasized that storm water is not the only thing that they do; Public Works does a wonderful job putting band aids on our roads and other things; however, the Road, Traffic and Control Fund is experiencing an expenditure that is affecting its ability to allocate funds for those other important needs such as roadway resurfacing. There are neighborhoods in this City that are in real need of resurfacing. In the absence of any other funding those projects may not happen anytime soon and they need to happen. If this fee were implemented it would provide the dedicated funding stream that would support the storm water program but it would also allow them to reallocate the funds that are currently being drawn away from roadway projects and put that money back to good use and do all of that other important necessary business to take care of our roadways and other infrastructure. Beyond that, we have articulated the fact that we have conveyance needs; we have real issues in Park East, and there are other needs in other neighborhoods. There was initial discussion about how a bond might solve the problem to initially be able to get some monies up front and then have the storm water fee pay that back as the mechanism responsible to do so. Information has been provided as to how a bond works and how a privately placed loan works. We can also discuss how we would implement the billing mechanism; they have looked at three different ways that it can be done and staff has recently decided what might be the better course of action.

Councilman Levy indicated that when we last discussed this we talked about rather than everyone but P.A.I.D. paying for this that we set up a special taxing district for those who are gaining actual physical improvements. He questioned whether that has been reviewed and what the conclusion was.

Mr. Butler stated that the conclusion is that it would be rather cumbersome at the least to do because a special taxation district might be set up in this neighborhood and other neighborhoods and there may be multiple taxation districts. It is not necessarily infeasible but it certainly, in his view, is impractical.

Councilman Levy commented that setting up a bond issue, in his experience, the middle men are the ones that take their cut off the top and that is usually more money than it would be for us to have a dedicated administrator working on this. He is trying to find a way to ease the burden on people that do not see any particular

improvement happening in their neighborhood. He questioned what improvements are being developed that would help the low ground versus what can someone see above ground.

Mr. Butler mentioned Park East and noted that they currently have aged infrastructure. There is a large record of flooding incidents and it is indicative of the deficiencies in that system. It needs underground infrastructure, pipes and new inlets. If we are going to spend money to redo infrastructure we might just as well take care of water quality issues in a proactive way so if we do get mandates that would dictate that we do something we will have it done. With regard to Country Club Estates, Mr. Lord was concerned that a benefit would not be provided in that neighborhood in the way of a capital project. He responded it may not be a piping project because he cannot say with any certainty that it needs to be done, but there are water quality issues that may be required of us in the future. He is concerned because the regulations are here; the Federal government has already implemented a mandate and now DEP has countered with our own way of doing it. The point is that there is going to be a regulation whether it is the Federal government or the State government, we are going to have to comply with nutrient criteria of some form and that is a real issue.

In response to Councilman Levy, Mr. Butler explained that he is attempting to be proactive rather than reactive. In this present funding environment it virtually makes it impossible for us to be proactive; we have nothing to work with and that is his greater concern. Staff previously educated Council on a program that we currently administer on behalf of all of the residents in Plantation; it is referred to as the Community Rating System. It directly affects the flood insurance costs. A community that voluntarily participates in this program will implement programs and services that are defined through this program by FEMA and as we implement any of these that have been approved we get points. As we garner the points, they give us a rating, which runs from a one to a ten; ten being the worst and one being the very best. The City of Plantation is currently at a rating of seven. The seven is getting every policyholder in the City a 15% discount on their flood insurance rates. Last year we went through a normal five-year cycle visit where the Federal government has an agent review our program to see that we are doing everything we are supposed to be doing. It is our opportunity to demonstrate additional programs that we would like to implement and garner additional points. We were successful in garnering enough points for the agent to recommend a new class rating for the City. FEMA already has this and if it is approved it would result in a class change to a six. Six means that each policyholder would derive an additional 5% reduction on their flood insurance costs. Information from FEMA on Plantation indicates that the average policy cost in Plantation is \$410 per year. If we get the extra 5%, that would be about a \$21 per year savings. If you examine the fee proposed, which would result in about a \$30 per year expense to the same policyholder, the net out of pocket expense would be about \$9 per year. Another thing is the soon to be implemented digital flood insurance rate maps. Last Fall we hosted public meetings on behalf of FEMA to promote the soon to be adopted digital maps. Those maps are the result of a much more thoroughly performed flood insurance rate study, much more accurate data, and it more accurately represents our hydraulic conditions, our terrain conditions and the result of the map is that approximately 70%+ of the current properties in the City of Plantation that are in a special flood hazard area would be removed from that area. That does not mean that the property would not experience a flooding condition, it means that there has been a reduced risk. That would afford that same policyholder an additional benefit that they can move to what is called a preferred risk policy. A preferred risk policy for that same \$410 policyholder would be reduced down to \$365 per year at current costs. There would be a savings of about \$45 per year and if a fee were implemented it would actually put \$15 in the pocket of the policyholder. Unless there is some large resistance on the maps, they are expected to be adopted in December, which is a very near term opportunity and it will affect a very large part of our population. If we get the rating change that picks up the difference for the other 30% that may not get the benefit of the removal of the special flood hazard area. These two opportunities will largely offset, if not entirely offset the fee we are asking for consideration.

Councilman Levy questioned what is to prevent that fee from continuously going up and thereby no longer offsetting the reduction in the insurance rate. Currently you are advocating that this would result in a net increase in someone's pocket if this is done in all of the steps.

Mr. Butler indicated that this ordinance, as it is currently written, says that you are in charge and you will delegate to us whether or not we will have an incremental increase, no increase, or a reduction. You will have authority in this ordinance to do as you believe is best with the storm water program. He clarified that if the digital firm maps are implemented, and they will be implemented, a larger part of our population will result in an opportunity to have a rather significant reduction in their flood insurance policy costs, which should completely offset the fee they are currently requesting Council to consider. That is for the vast majority of the population; the smaller portion would still get a cost reduction because of the class change, which would still result in a net out of pocket expense for the average policyholder of about \$9 per year.

In response to Councilman Levy, Mr. Butler advised that a property owner must have flood insurance if they are in a special flood area and if they have a Federally backed loan, as the loan holder requires you to carry it. There is a caveat that the lender can actually waive that requirement if you are removed from the flood plan. He does not know of any lender who has ever waived a policy when you have remained in the special flood hazard area. At the present time, no more than 5% to 6% of our geographic areas are actually out of the flood plain; a very small portion of the City. The current maps reflect that all of Country Club Estates would be removed from the flood plain. He would discourage residents from terminating their policy if they qualify to do so; that would not be a wise decision. He would strongly encourage them to take advantage of the preferred risk policy option because they get the greatest savings.

Councilwoman Uria mentioned the reduction in flood insurance premiums and also mentioned rising costs in other areas. This is two parts; quantity of water and quality of water. When regulations are mandated and we have to do something with the quality of our water, we are going to probably revisit this again because from what she understands, we will probably have to inquire about some type of bond issue.

Mr. Butler reiterated that there will be regulations. The question that remains to be officially answered is will the regulation be imposed by the Federal or State government. He stated, as a staff representative, once we get this water quality issue as it gets mandated upon us in the future, wherever it may get mandated geographically in the City we are going to have to review it carefully. Once we review at staff level we understand it enough to explain it to Council. We will come back and explain the understanding and the consequences, both regulatory wise and fiscal wise and we are going to try to make a decision together. He will very likely make a recommendation based upon what he has learned and a decision will be made as to how we need to act on this.

Councilwoman Uria commented that this is to begin no later than January 1, 2013. She understands that we will review this every year at budget time as a line item. She questioned the thoughts on exempting churches and schools because they will receive a benefit.

Mr. Butler stated that is a current date based on what we were able to understand in terms of how, if this were to go forward, we would actually implement this fee. As declared in the draft ordinance, Council will have the authority every year, as it will require Administration and staff to expose it as a line item in the budget and you will either agree with the incremental increase that is proposed or you can reject it. Churches and schools will be exempt. The history in the State of Florida was examined as storm water utilities were adopted and implemented. There were times when challenges were brought to Courts as to whether or not a government entity should be exempt; whether a public school should be exempt; etc. To his current knowledge, the law has prevailed that a school is not necessarily exempt, nor is a church. It becomes a choice and the prevailing choice

throughout the State of Florida in most cases is that a business decision was made to exempt them. We thought we would just offer the consistent form in which most governments have chosen to go and exempt those; you do not have to. We also examined the revenue that would be lost is insignificant and it made it easier to automatically put it in there. The consequence is minimal and we can absorb that.

Mayor Bendekovic requested that Mr. Butler expand on what Country Club Estates will derive.

Mr. Butler advised that we currently do not have funds that he is aware of, to afford Mr. DeCelles to perform what he would like to perform and what needs to be performed in neighborhoods like Country Club Estates. That is not the only neighborhood but it is one on the priority list. If this is adopted it will allow the reallocation of those appropriate funds in the Road and Traffic Control Fund to allow Mr. DeCelles to get into those neighborhoods and do those projects that may otherwise not happen anytime soon.

Councilperson Stoner mentioned payment of real estate taxes and questioned when the City receives the funds from the tax bills. She questioned whether there is a separation as to ad valorem and non ad valorem.

Mr. Shimun indicated that it is ongoing; they begin collecting as soon as the bills go out and people start making payments. The majority will be in January and February and some in December. With regard to ad valorem and non ad valorem, we will get a payment from the County but it is up to us to segregate.

In response to Mayor Bendekovic, Mr. Herriman stated that we are currently at about 75% of the collection.

Councilperson Stoner believes we are being proactive on the clean water mandate and reactive on the infrastructure. To her knowledge, there has been discussion seven years+ on the need for this storm water system and the repairs to this infrastructure and for whatever reason; prior Administration did not bring it here. She thanked this Administration for being so persistent in pursuing this and also to staff for taking the time to address her concerns as to verbiage on this ordinance. The fact that this has been discussed for years is a little frustrating because Council gets bits and pieces and it is sometimes difficult to catch up to staff's thought process and knowledge as to where they are coming from. For her, deferred maintenance is something that is certainly not high on her list. She still has concerns on some of the verbiage in the ordinance. She received comments both ways on this and thinks that as a City, we tend to pay for everything across the City when these things happen and it is the City's responsibility to provide infrastructure and safety services, which we do pay collectively for all of those. She is also concerned about being so reactive.

In response to Mr. Butler, Councilperson Stoner referenced Page 15; 9016; #1- Sources of Funding. The Storm Water Management Program sources **may** include the following. She noted that the word "may" is completely different than "shall". You do not necessarily have to put all of these funds, if you get these funds, into the storm water fund.

Mr. Butler noted that the word "may" allows flexibility. That is not to be interpreted to mean that any revenue, if they do derive, could go anywhere else but here. The language preceding this makes it clear this becomes a dedicated revenue stream and it cannot go anywhere but here.

Councilperson Stoner referenced Page 17 and noted that basically there can be two appeal fees; one to appeal your decision to you and a second fee to appeal it to the Board of Adjustment.

Mr. Butler clarified the fee in Section 9109, which is the adjustment of a fee. This conversation will apply similarly to a credit. There is a fee of \$35 that is implemented; that it is an Administrative fee and is consistent

with what is already in Chapter 9, Section 77. That is a modest fee for us to be able to process the request for an adjustment; that is the initial application fee. If that adjustment is granted there are no other fees. The question is if the decision is that the adjustment should not be granted, the property owner has the right to this appeal process. If it is put through the mechanism we are recommending there would be an additional fee. The adjustment process is very straight forward and simple; it does not require a lot of staff time but there will be a meeting we would have to attend and some information we have to process and calculate. He would suggest that a \$200 application fee other than the \$750 fee, which is the current amount, would be a much more appropriate fee to incorporate. A credit requires a great deal more effort for staff because engineering criteria and design has to be evaluated. It is believed that they can cover themselves at a rate of \$400 opposed to the \$750.

Mr. Lunny went back to Councilperson Stoner's comment on Page 15 and thinks that in terms of storm water management utility fees, penalties and damage assessments, the Engineering Department and inspection fees and the other funds obtained from Federal, State, Regional and private sources, and he would add, "For storm water management utility program purposes, those would be required to be deposited in the funds" and the only discretionary one would be "F" because that would presumably be your money that you would add year to year. He would be happy to clarify in that fashion if that would add certainty.

Councilperson Stoner commented that it adds certainty for her and the other Council members concurred.

Mr. Lunny noted that he would also add, "Separate and different appeal fees to the Board of Adjustment for adjustments under Section 109 for \$200 and credits under Section 110 for \$400".

Councilperson Stoner referenced Page 21; Violations, Section C; "A daily fine of \$500 per day". We are talking about a \$30 a year charge to a homeowner and because they did not pay it you want to charge them \$500 per day.

Mr. Butler advised that this is an ordinance infraction.

Mr. Lunny stated that \$500 per day is the typical fine that is allowed for a violation of the municipal ordinance for County Court prosecution. Depending on the severity of the facts, the Administration will choose whether to prosecute the matter as we often do through Code Enforcement or whether it is a significant violation. It does not mean that we will always seek a County Court prosecution and even if we seek it the Judge has the discretion to impose anything up to \$500.

Councilperson Stoner noted that it says, "The city may prosecute and seek". She suggested saying, "...and may seek".

Councilwoman Uria mentioned Section C. She understands that a person is paying \$30 on a residential property and perhaps we could break it down to residential and something smaller.

Mr. Butler indicated that he would have to defer to Legal Counsel on how we have customarily handled daily fines though the Code Enforcement process.

Councilman Tingom stated that he attends the Code Enforcement meetings and there are many cases where the Special Magistrate could assess \$500 a day to people in violation. He believes that the Special Magistrates exercise good judgment in making the fine more applicable. It is already happening and there is a process.

Councilwoman Uria believes that Council is going to have to make a tough decision. Some of the Department Heads have encouraged this to come forward and it could have easily been taken care of years ago; it did not happen overnight. She thanked the Mayor for bringing this forward.

Mayor Bendekovic requested that the funding portion be explained.

Mr. Shimun commented that there are some things that have to be decided. Mr. Butler has suggested that there are a number of different options with regard to collection of the fee if it is implemented. Some options are better than others. We looked at having the County collect it on the tax bill on our behalf. The problem with that is that we would have had to have that information into them no later than this month and that was not accomplished because we have not gotten to the point of deciding whether we are going to do it or not. In contact with the Broward County Property Appraiser's Office, if we were to implement it for the upcoming year, there is a year delay in which we would be able to collect; therefore, nothing would be collected until the earliest of November 2013. Other options were reviewed where we could bill it ourselves through the utility bills but the property folios that we have do not match the customers that we have with the City; therefore, it would take a lot of effort to create new bills and some properties may actually be charged that do not get utilities from us so a different number would have to be created for them.

Mr. Butler clarified that we are going to attempt to use the Hansen utility billing process. It is believed that it will be better to set up the dedicated billing mechanism. After considering a few other options, he would recommend that the better option is the dedicated billing mechanism, which should be in place in approximately six months.

In response to Councilman Jacobs, Mr. Butler stated that the homeowner will receive a new bill in the mail in a separate envelope. They would need some more time to see what would be involved in taking credit card payments.

Councilman Jacobs does not feel that a new bill is the most desirable affect.

In response to Councilman Levy, Mr. Butler advised that we could begin with one system while waiting for the County to put it on the tax bill.

Councilman Levy indicated that the State is in a lawsuit with the Feds about the quality of water. He requested an update on that process and what it would mean to the City.

Mr. Butler advised that today EPA has already implemented a mandate; it is actually law. EPA is at least considering a similarly drafted law that has been adopted and passed by the Governor and sent to EPA in an effort to persuade EPA to delegate the authority to the State to administer a water quality mandate; let us do it because we believe that our science is more sound than the science that the Federal government used to implement the mandate. We are currently waiting for that decision. His point in earlier discussion is whether it is the Federal government that survives or the State, there will be a water quality regulation either way. The thresholds will be different if the State proposal is implemented versus the Federal and it will be much more sound for Florida to administer. The only affect it would have on any individual homeowner is if the City must implement an improvement to comply with a mandate. He cannot say that a property owner would never pay in some way for a future improvement.

In response to Councilperson Stoner, Mr. Butler advised that at the \$2.50 rate the dollar value is \$1,247,000 roughly, which is an annual revenue generation. The question is how we will upstart some of the more

expensive projects. It was initially thrown out that bonds can serve that purpose but we did not get into how a bond or any other upstart mechanism would work. The fee and the breakdown was shown during the Focus Group and the \$500,000 was the incremental amount that the \$2.50 would generate that would be allocated to the capital project, which is what the Focus Group decided would be an appropriate funding level for capital projects. We did educate the Focus Group as to what \$500,000 might buy and upon grading ourselves they said they would like to see us as a "C". At a level service "C" we would generate roughly \$500,000 annually that would be dedicated for capital projects because the balance of the "C" would offset those things that are otherwise being paid by the Road and Traffic Control Fund. It was noted that this did not seem like a lot of money to work with up front to get the larger projects done and it was said that it has been a practice in most governments to upstart larger, more expensive projects through a form of a loan or a bond. Information has been prepared and they are ready to discuss the typical funding mechanisms that could be considered if you want to upstart some of the higher priority projects and as the revenue comes in it will begin to repay that in the dedicated fashion discussed; it would not get paid through other mechanisms.

Mr. Shimun mentioned that with the \$500,000 generated annually we could look at bonding, which would be based on the revenue available. We would not be looking at this as a general obligation bond because we do not want to pledge the full faith and credit towards this; we just want to pledge the amount of money that we anticipate receiving from the fund itself. There are two options within that; we could do a revenue bond, which would up for the traditional bonding where we would advertise and then take proposals from potential bond issuers or we could get a bank initiated loan because anything less than \$10 million we can go that route and then there will not be all of the expenses involved. That would allow us to jumpstart this project. He noted that total projects are a little over \$18 million so we could probably get a third of that based on the \$500,000 a year on our initial bond.

Councilman Levy suggested that if we can go the local route and help a local community bank he would prefer to do that.

Councilman Tingom opened up comments from the public.

George Lord, resident, spoke for the Country Club Estates Homeowners' Association in opposition to this fee at this time. He agreed with Councilman Levy as far as going with a loan at a bank instead of a bond. He would suggest starting with this fee for a short period and then put it on the taxes. He believes it should be spread evenly over Plantation. He referenced Page 4, Item L, and he would like Section 4 removed from the ordinance regarding the Plantation Acres Improvement District. In his opinion, they do benefit because they use our streets.

Nancy Burch, resident, supports any system that protects our environment, canals and water. While many are in favor of this project, she would like to address the means of funding. She understands that there are two ways that funding can be obtained; one is to assess a special tax with some exemptions and the other would be to include a small tax increase on everyone with no exemptions. Through no fault of their own, residents in Plantation Acres found themselves in an area that is easily flooded so they collected their own money and fixed the problem; therefore, it is proposed that that area would be exempt even those residents would enjoy the improvements when driving through the streets in the rest of Plantation. Again, residents, through no fault of their own, around the area of the Fort Lauderdale Country Club find themselves in an area of sugar sand, which never floods; however, they will benefit through the use of the roads in the rest of Plantation. They feel that if exemptions are being made that they should also be exempt. The fair way would be to have all residents in Plantation share equally without any exemptions.

Kingsley Smith, resident, stated that the discussion about water is not only local; it is international to look at clean water and to look at how you receive it. The only thing he wants to hear about is the funding and how much it will cost the residents of this City. Our City is proactive and he supports the movements towards implementing this project.

Priscilla Hawk, resident, commented about the money that could be used to possibly repave the streets in their area. She feels that they have already paid for that because other parts of the City have already been repaved. When talking about where the money will be spent, someone said that the money will not be spent on anything other than what it is collected for.

Mr. Butler explained that the funds that would be derived from the proposed fee could only be spent on anything related directly to the storm water program. The majority of the monies that are currently available for storm water come from a revenue stream that we call the Road and Traffic Control Fund. That Road and Traffic Control Fund is not dedicated expressly for drainage; it does a host of things for our public rights-of-way, one of which is to take care of our roads.

Ms. Hawk believes that if a fee is imposed everyone should get the same taxing. She emphasized that she does not want to be taxed at all.

Ken Nelly, resident, agrees with what Ms. Hawk originally said. Despite Mr. Butler's presentation, he does not believe that Country Club Estates is going to derive much, if any, benefit from this. It would make sense to him that Country Club Estates might be exempted somehow. Plantation Acres does not pay anything into this because they will not get anything out of it and Country Club Estates does not need any of this; it does not do anything for them.

Councilwoman Uria clarified that Plantation Acres pays for the quantity of water and because Plantation Acres is going to be exempt, they are going to be a part of the legislation that Mr. Butler is talking about so they are going to pay for the quantity of water as well as an additional payment for the quality of water.

Mr. Nelly indicated that about six months ago the EPA had recommendations about the air quality nationwide and they were talking about making the allowed ozone levels going from 75 parts per billion down to about 60 parts per billion and that would be almost unattainable for a place like Broward County and a lot of metro areas. It would be so drastic that driving would have to be limited and there would be brown outs and black outs. They obviously did not do it and he believes that it was mainly for political reasons. That is an aspect that you might consider; these mandates are not here and they may never get here.

Councilwoman Uria stated that when you talk about the quality of water you are talking about the nutrients in the water. She was on P.A.I.D. and knows that water was tested because South Florida Water Management made them do so. Because there are some practices that are already put in place to clean the water and those things are expensive and that is why this will be reviewed every year. If this goes away the line item can be changed.

Mr. Nelly commented that if Country Club Estates were to put in its own sewer system they would have to pay for it and they would not expect other residents to pay for it. For that reason, he believes that Country Club Estates should be exempted; they are not planning on doing anything and they do not need it.

Mr. Butler clarified that this is about a matter of when we will have that regulation, not if we will have it.

Sandra Gracey, resident, thinks that Park East is a priority. This is something that has been going on for seven years and no decision has been made. This is an ordinance that needs to be approved and to find out how we could get better funding to reduce the amount. Investment in the infrastructure now will exhibit a mantra that she has heard a lot about and that is financial responsibility. Strong leaders have to make tough decisions sometimes in order to be effective.

Councilman Levy advised that the last time we discussed Ms. Gracey's particular situation, especially in front of her house, and saw the pictures surrounding her house, didn't we request that some special attention be paid to that area to see what we could do even with today's budget prior to all of this being set up. It is going to be a while to set this up but we need to do something about her flooding problem now.

Mr. Butler is confident that if Ms. Gracey could speak with Mr. DeCelles after the meeting or tomorrow she can get an update.

In response to Councilman Levy, Ms. Gracey indicated that she spoke to Mr. DeCelles.

Bob Knox, resident, finds it interesting that the Council is going to set a fee or tax tonight and no one knows what it is going to cover. No one knows what the provisions from the EPA and the mandates are going to be so this is taking a serious shot in the dark and he worries about that because we have no idea what is coming down the road and probably will not for another year or more.

Mr. Butler reminded everyone that we have not just spoken about water quality issues; there is the quantity issue. The Park East primary issue is a conveyance issue; it is a moving the water issue; it is a storage issue. A large part of what the program needs to do is fund the conveyance issues to stop the flooding. Mr. Knox has a good point; however, he has some concern down the road that once the regulation is enforced and if there is impaired water that we have to deal with, it may come to fruition and it would be unwise of us to not at least prepare for that.

Dennis Conklin, resident, advised that he has spoken against this every time it has been brought up and he is going to do that tonight for the same reasons. This is basically being driven by quality issues but we are dealing with two issues; quality and quantity. The unfunded mandates that are being pushed by the Federal government have been interrupted by the State. As he has urged the City on other occasions to be proactive and set a good example for other levels of government, Local, State and Federal, he thinks in this case we should perhaps follow the State and resist the quality issues of this. He hopes this is not approved.

Larry Ebberts, resident, mentioned the price of past and current water bills and believes the same thing will happen with the storm water utility. He thinks it is strange that we are allocating \$700,000 from the City budget under the storm water utility fee. Just like Country Club Estates, the Plantation Isles area is not going to receive any benefit. During the field trip meeting with the Focus Group it was mentioned that the idea of the storm water drainage was to get the water off of the streets within 24 hours. The City has given Plantation Isles very little support against I-595, which was the bulk of their canal problem. Residents in Plantation Isles are within the Plantation district but they are not within any of the drainage districts. He does not see any benefits to the Plantation Isles area with regard to the storm water drainage; he only sees negatives.

***Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Ordinance No. 2468 and decide about the billing mechanism independently. Motion carried on the following roll call vote:***

Ayes: Stoner, Jacobs, Tingom  
Nays: Levy, Uria

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**QUASI-JUDICIAL CONSENT AGENDA – None.**

\* \* \* \* \*

**QUASI-JUDICIAL ITEMS – None.**

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### **COUNCILMEMBERS' COMMENTS**

Mayor Bendekovic made the following comments:

- The next City Council meeting is April 11, 2012.
- She thanked staff for the effort they put into the storm water explanation.
- She wished everyone a Happy Passover and a Happy Easter.

\* \* \* \* \*

Councilperson Stoner commented that we are six months into the budget year and she questioned whether we could have an informal accounting of the first six months of where we are.

Mayor Bendekovic stated that quarterly report to Council is in the process. Budget concerns will be discussed at the end of April 2012.

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Councilman Levy reminded everyone that he would see them on Sunday at the Hollydogs Greyhound picnic.

\* \* \* \* \*

Councilwoman Uria stated that between 4:30 p.m. and 8:30 p.m. on Friday at the Relay for Life they are looking for participants in the Cancer Prevention Study; about 120 to 130 people are needed.

She wished everyone a Happy Passover and a Happy Easter.

\* \* \* \* \*

Councilman Tingom made the following comments:

- He thanked Councilwoman Uria for her service as President of the City Council.
- He hopes to see everyone at the Relay for Life.
- The Plantation Woman’s Club has their “Woman of the Year” luncheon this Saturday.

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**PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS – None.**

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**SEALED COMPETITIVE SOLICITATIONS**

Mr. Lunny read Item No.’s 18 and 19.

18. REQUEST FOR APPROVAL TO AWARD STOP LOSS INSURANCE BASED ON SEALED RFP’S OPENED ON MARCH 6, 2012.

**Awarded To: Symetra**

19. REQUEST TO AWARD CONTRACT FOR JIM WARD COMMUNITY CENTER FITNESS STATIONS BASED ON SEALED BIDS OPENED ON MARCH 20, 2012.

**Awarded To: Eagle Enterprises, Inc.**

Mr. Lunny indicated that as he understands, these items are being taken out of order to dispense with it at this time in the meeting. He reminded the Council that if they want to ask any questions of a proposer or if the proposer wishes to make a recommendation you will have to convene in the room upstairs that has been prepared. Assuming nobody wishes to do that, you may act on this as you wish.

***Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Item No.’s 18 and 19. Motion carried on the following roll call vote:***

Ayes: Stoner, Jacobs, Levy, Uria, Tingom

Nays: None

Mr. Lunny advised that Item No. 18 approved the Stop Loss Insurance to continue with Symetra and raising the Stop Loss coverage threshold and it represents a \$339,932 increase for a total premium of \$1,145,012. Item No. 19 is to award a contract to Eagle Enterprises, Inc., for an amount of \$48,770 subject to review by Administration and Legal.

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**WORKSHOPS – None.**

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Meeting adjourned at 10:13 p.m.

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Sharon Uria, President  
City Council

**ATTEST:**

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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 \_\_\_\_\_, 2012.

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Susan Slattery, City Clerk