MEETING OF THE CITY COUNCIL
PLANTATION, FLORIDA

May 23, 2012

The meeting was called to order by Councilman Tingom, 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 Lunny, Jr.

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2. The invocation was offered by Councilman Jacobs.

   The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – November 2, 2011.

Item was approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic read a Proclamation designating May 19, 2012 – May 25, 2012, as ***National Safe Boating Week*** in the City of Plantation.

Dan Hess, Plantation Flotilla United States Coast Guard Auxiliary, accepted the Proclamation.

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Resolution No. 11497

4. **RESOLUTION** of Appreciation to Edward Davis for 25 years of dedicated service to the City of Plantation.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve Resolution No. 11497. Motion carried on the following roll call vote:

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

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Arlene Raybuck, Plantation Acres Womans Club, presented scholarships to students. Ryan Nichols, a student from South Plantation High School whom was not present, was with the Plantation Police Florida Explorers and is majoring in Criminology at Florida State University and wants to work with the Plantation Police Department. Tom Lam, a student from Plantation High School, was the first generation in his family to go to college and he received a scholarship for $1,000. He will attend Florida International University and major in Information Technology.

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Jayne Flanigan, presented a check for $1,700 to be used towards summer camp.

Jim Romano, Parks & Recreation Director, accepted the check and thanked the Plantation Acres Womans Club for their support with the program.

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Mayor Bendekovic presented Service Awards to the following Employees:

*Officer Frank Legette	Police	25 years
*Officer Daniel Wagner	Police	25 years
Gretchen Cappiello	Building	15 years
Phillip Goodrich	Parks & Recreation	15 years
Gary Keys	Public Works	15 years
*Monica Merlucci	Fire/Rescue	15 years
*Orinthia Nesmith	Fire/Rescue	10 years
*Jillian Tang-How	Human Resources	10 years
*Stacey Baptiste	Police	5 years
Stephen Barry	Public Works	5 years
*Stephen Conroy	Parks & Recreation	5 years
*Officer Christopher Powell	Police	5 years
*Officer Muey Saetern	Police	5 years
Raymond Slavin	Fire	5 years
*Willie Smith	Central Services	5 years
Anthony Thomas	Building	5 years

*Unable to attend.

Congratulations were offered.

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

- The Memorial Day Service at Veterans Park will be on Monday, May 28, 2012.
- A Long Course Swim Meet at the Plantation Aquatic Complex will be on Saturday, June 9 – 10, 2012 for all age swimmers.

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Mayor Bendekovic made the following announcements:

- Plantation Junior Woman's Club Brick Program is having a 2-for-1 special on engraved bricks at Rae Carole Armstrong Liberty Tree Park Now – May 31, 2012. The cost is $75.00.
- Summer Reading Program Kick-Off sponsored by the Friends of the Library will be at the Helen B. Hoffman Library on Monday, June 11, 2012 at 7:00 p.m.
- The Plantation Farmer's Market at Volunteer Park is every Saturday 8:00 a.m. to 2:00 p.m.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 18.

Item No.'s 7, 8, 10, 12 and 17 were pulled and discussed separately.

Mr. Lunny read the Consent Agenda by title.

5. Permission for Wal-Mart located in Jacaranda Square to have a Fundraiser Event to benefit the Children's Miracle Network on Memorial Day Weekend (May 26 – May 28, 2012) from 11:00 a.m. until 5:00 p.m. Wal-Mart plans to sell hot dogs and hamburgers.

6. Request for approval of Financial Assurance Form for proposed TD Bank located at 1800 N. Pine Island Road.

9. Request for authorization to execute a three-year Hansen Utility Billing Support Agreement with Hansen Information Technologies, an INFOR company for $107,498.50. (Budgeted – Utilities)

11. Request for authorization to award a contract to Loveland Electric, Inc. for the supply and installation of five variable frequency drives plus extended three-year warranty at the Central Water Treatment Plant for $171,500.00. (Budgeted – Utilities)

Resolution No. 11498

13. **RESOLUTION** supporting the efforts of Students Working Against Tobacco (SWAT), The Tobacco-free Partnership of Broward County, Broward League of Cities Student Ambassador Carlos Mondesir and the American Cancer Society to restrict the sale of flavored tobacco products; providing an effective date therefor.

Resolution No. 11499

14. **RESOLUTION** of the City Council of the City of Plantation, Florida, to apply for the 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Local Grant through the Broward Sheriff's Office.

Resolution No. 11500

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 3, 2012 through May 16, 2012 for the Plantation Gateway Development District.

Resolution No. 11501

16. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 3, 2012 through May 16, 2012 for the Plantation Midtown Development District.

Resolution No. 11502

18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 3, 2012 through May 16, 2012 for the City of Plantation's Community Redevelopment Agency.

NON-AGENDA ITEM

Resolution No. 11503

18.5 **RESOLUTION** approving a State of Florida Department of Transportation Joint Participation Agreement for Street Lighting Upgrades along State Road 7 from W. Broward Boulevard to the City's Northern Corporate Limits; Authorizing the execution and delivery of a State of Florida Department of Transportation Joint Project Agreement for such purpose; giving Administration and the Legal Department the authority to make minor changes as appropriate prior to the appropriate City Officers executing the document; authorizing the appropriate City Officers to execute the document and perform same; repealing all prior resolutions on this subject; providing a savings clause; and providing an effective date therefor.

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

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

NOTE: Mayor Bendekovic voted affirmatively on Item No. 18.

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Mr. Lunny read Item No.'s 7, 8 and 10.

7. Approve purchase of 23 replacement sets of Globe Bunker Gear for the firefighters from Bennett Fire Products Company in the amount of $37,260. (Budgeted – Fire)

8. Request for authorization to award a purchase order to Shenandoah Construction in the amount of $27,294 for the cleaning of the Gulfstream Master Pump Station wet wells. (Budgeted – Utilities)

10. Request for approval to issue a purchase order to Condo Electric for the rewind of four 300-HP pumps at the Central Water Treatment Plant for $19,920. (Budgeted – Utilities)

Item No.'s 7, 8 and 10 were pulled by Councilperson Stoner.

Councilperson Stoner, pertaining to all three items, questioned whether or not these bids were opened during that 30-day window so that they are not sealed and presented to Council for opening.

Mr. Lunny summarized what Councilperson Stoner said and asked whether these items are subject to the confidentiality provision where once you open a sealed proposal for 30 days it is confidential and wants to make sure it's appropriate to dispose of the item at this time on the agenda or whether it should be moved to the end of the agenda under the title of Sealed Competitive Solicitations.

Councilperson Stoner stated that on Consent Agenda Item No. 11 there was a date of when that proposal was opened but not on Item No.'s 7, 8 and 10.

Mr. Breitenkam, Director of Utilities, stated that No. 8 was not a sealed bid, it was a written proposal. These prices were not in dollar range for sealed bids. The prices were pretty competitive.

Chief Harris, Fire Chief, stated that the price was by the vendor. There wasn't a bid, the price was by what was bought.

Motion by Councilwoman Uria, seconded by Councilman Jacobs, to approve Item No.'s 7, 8 and 10. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 12 by title.

Resolution No. 11504

12. **RESOLUTION** approving that certain agreement between the Broward County and the City of Plantation in form attached hereto as exhibit "A"; having the appropriate City Officers execute same and authorizing the City Administration or City Attorney to make minor revisions thereto; and providing an effective date therefor.

A memorandum dated May 17, 2012, to Mayor Bendekovic and the City of Plantation Council Members, from Sharon Kent, Assistant Parks and Recreation Director, follows:

The City of Plantation has the opportunity to obtain $452,000.00 in Challenge Grant funding from Broward County for capital improvements done to outdoor and indoor recreation facilities. The funding comes from the 2000 Broward County Safe Parks and Land Preservation Bond Issue. Commissioner Lieberman offered the City of Plantation a portion of her discretionary Challenge Grant funding for a city facility. An eligible project must remain in public parks and recreation use for a minimum of twenty-five (25) years and there is a twenty-five

percent match (25%) which will come from the 2003 Bond. Grant funds are paid on a reimbursement basis and a resolution from the governing board must support the project.

The Parks and Recreation, Public Works and Design, Landscape and Construction Management Departments have identified Deicke Auditorium as the project for the grant funds. Deicke has been in need of renovations and upgrades; however, budget restraints did not allow for the work to be done. Staff has identified the following scope of work:

- Parking lot resurfacing and striping
- Replacement of two (2) aging air conditioning
- Lighting replacement and upgrades throughout
- New sound system featuring ceiling mounted speakers, wireless microphone, word sound mate for hearing impaired and sound board
- Kitchen renovation including demolition, new cabinets, appliances, fire suppression system, and flooring
- Renovation of four (4) restrooms
- Reconfiguration of core for additional storage area
- New flooring throughout including dance floor
- Miscellaneous items
- Contingency

Line items on the estimate sheet maybe adjusted to reflect the final total of the grant and match.

Project Total:	$570,857.38
Grant Funds	(452,000.00)
2003 Bond	$118,857.38

If we are approved for the grant, plans will be completed by December 2012 to be bid out in January of 2013. Construction would be done during the summer months, begin during May of 2013 with completion expected in July of 2013.

If you have any questions concerning this agenda item, please contact me at (954)452-2512.

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This item was pulled by Councilperson Stoner.

Councilperson Stoner questioned that given the Council's recent concerns with the Plantation Community Center, why wouldn't we use this Challenge Grant for the community center?

Mayor Bendekovic stated that the City has $2.1 million in a bond that can be used for the Community Center and that would cover whatever we would need for that. This facility is in Commissioner Lieberman's District and we have not had the chance to do upgrades, renovations and capital improvements because the City has not put back into Capital. When it was given the opportunity to do this, she felt since it does fall within the Historic District, it does have historic value. We didn't have the money to do this whereas if we had the money for the 2.1 million bond money, she felt that this was an excellent opportunity to get a lot of return for the investment. The City generates quite a bit of revenue from Deicke Auditorium and it is in need of these renovations.

In response to Councilperson Stoner, Mayor Bendekovic clarified that the Community Center does fall within Commissioner Lieberman's District. She didn't see placing $500,000 from this bond when the City already had $2.1 million for the Community Center especially without a definitive answer from Council on what it wants to do with the Community Center. This project, if approved, will be renovated by August 2013 for community use. The City has spoken to some of the different clubs and organizations that meet there and if their meetings have to be relocated then they will do that.

Councilperson Stoner stated that the $2.1 million in the bond for the Community Center has to be paid back. The City is already dealing with a deficit. If we can get $452,000.00 for the Community Center and only have to take $113,000 out to completely fix that community center why wouldn't we do that? We haven't had any issues, complaints or concerns about the liability of Deicke. She thought they would incur some legal fees in having to rework the bond documents to bring Deicke into that.

Mr. Lunny clarified that the Mayor said there is $452,000 for this Grant for Deicke and we have to do a 25% match. First he's not sure if Council would be able to do that, secondly it's an obvious public purpose and a qualifying project so if Council needs opinions or a City Resolution to do it your costs would be nominal. He was not sure Council would need to take the $113,000 from whatever is left from that bond proceeds fund.

Councilperson Stoner was not convinced that the grant money shouldn't be used for the Community Center that happens to be in much more dire need than Deicke Auditorium.

Mayor Bendekvoic stated that the needs of the Community Center will be met pertaining to whatever decision the Council make by being paid for with the bond money. This will not have any bearing on the Council's recommendation will be for the Community Center.

Councilwoman Uria added that both centers do need some work and wondered why we didn't choose the Community Center for the Grant Money.

Mayor Bendekovic clarified that the City has the bond money that will cover anything the Council wants to do with the Community Center. When you have the opportunity to upgrade two facilities in a historic area and within Commissioner Lieberman's District, she wanted to take that opportunity to do two rather than one.

Councilwoman Uria understood what was being said and stated that Mr. Ezzeddine sent her some cost calculations.

Mayor Bendekovic thought that when the City of Plantation does anything they do an exemplary job and we have a very classy facility no matter what we do.

Councilwoman Uria stated that given the budget restraints she felt like the City should do the Kennedy Community Center and wait on the Deicke Auditorium.

Dennis Conklin, resident, in looking at the memo and schedule of values was struck by the air conditioners being replaced because they are aging. He believed that Deicke Auditorium still looked modern and was not sure that it needed the renovation at this time. He agreed with Councilperson Stoner and added that the Community Center does need work and he would rather have the funds go there.

Mr. Romano illuminated that if a wedding was taking place there and the air conditioners died it would be unacceptable and that is only part of the issues that there are at the facility. There are restrooms that you can't get

a wheelchair through for ADA Compliance reasons. There is insufficient lighting and there is no water sprinkler system. There are a lot of things that do need to be renovated from the ceiling to the flooring. This was such a wonderful opportunity for the City to make a major capital improvement to this facility during a time where we do not have capital dollars. There hasn't been a capital improvement to that facility in years. This is a good opportunity to address these concerns, bring the facility back up to its safety purposes as a public building, and also provide newer air conditioning facilities or units to prevent certain issues when there is an event.

Councilman Levy mentioned that he was at Deicke Auditorium when they were trying to get a wheelchair into the men's room and it could not be done. He thought that the building needed to be renovated to meet ADA Compliance and that it should be a priority. If this opportunity will do that and avoid a possible law suit against the City he believed it should be done. He certainly empathized with the points made by Councilperson Stoner regarding utilization of the funds but he has been questioning the ADA Compliance of the Deicke Auditorium for a number of years. He's been told there are no funds because of the budget. The consequence of this is that we could not get $452,000 from Commissioner Lieberman's contingency fund and we have to put up $113,000 or 25 percent. This opportunity would probably not be there following year because this is an election year for Commissioner Lieberman and he thought she was being very generous.

Mr. Romano explained that this Challenge Grant goes back to the year 2000 when the Broward County voters voted to have the program and Safe Park Grant Program. The City of Plantation took full advantage of these grants when they just came out. There was an expansion to Central Park, the tennis courts were re-done and the Plantation Preserve was built. There were a lot of opportunities and what is happening now is the cities do not have the matching funds.

Councilman Levy read some of the other improvements on the list for the Deicke Auditorium.

Mr. Ezzeddine informed Council that when looking at the main part of the building away from the mail hall, the kitchen, the bathrooms and small offices in the front all need major renovation. That area is what they call the Core and there will be major demo in that area. Referring to the miscellaneous items, when the walls are opened you never know what you are going to find.

Councilman Levy made clear that unless facilities are continuously upgraded they will fall behind and eventually turn into millions worth of repairs. He understood the funding and believed the City needs to take advantage of what is available. Tax payers are the people who use the building, so using tax payer money from the county and/or the city is very important because they are the ones who will take advantage of it. Deicke Auditorium is used all the time by so many groups in this community but we are the custodians and it is up to us to make sure it's safe and applicable to all laws. Based on that he was in favor of the agreement.

Councilperson Stoner appreciated Mr. Romano's concern for the Deicke Auditorium and its present condition. She questioned where those kinds of comments were for the Community Center for the last six years as it deteriorated.

Mayor Bendekovic reminded Councilperson Stoner that the City has the fund to take of the Plantation Community Center. When the City can get two facilities to be upgraded in the historic district then it will be getting more bang for the buck. She did not want to pass up this opportunity and thought that it was very generous of the Commissioner to be able have the money to award to the City of Plantation.

Councilperson Stoner highlighted the fact that when there previous discussions about the Community Center, no one wanted to take the bond money with City improvements because they knew the City had to pay it back and it

was a debt service that the budget could not afford. To say that we are going to get two for one is not true. We have to have to funds to pay that bond back. The Community Center is the facility that has been on the desperate help list from day one so why is it being bypassed under the theory that we have bond money, but we don't want to spend the bond money because of the debt service.

Councilman Jacobs answered because the Council does not have a clear consensus that they want to do anything to the Community Center. He declared that he was not ready to spend a dime on the Community Center at Kennedy Park.

Motion by Councilman Levy, seconded by Councilman Jacobs, to approve Resolution No. 11504. Motion carried on the following roll call vote:

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

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Mr. Lunny read the item by title.

Resolution No. 11505

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 3, 2012 through May 16, 2012.

Motion by Councilman Levy, seconded by Councilman Jacobs, to approve Resolution No. 11505 with the exception of Check No. 062221. Motion carried on the following roll call vote:

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

Mr. Lunny read approved Resolution No. 11505 pertaining only to Check No. 062221.

Councilman Levy recused himself from this discussion and vote due to his retaining of the firm being paid to avoid the appearance of any impropriety.

Mr. Lunny gave some background to Council about this item. There were two publicized matters that involved Elected Official Bendekovic. Case No. SP101087 was assigned due to a complaint made by a citizen that Bendekovic violated the Sunshine Law. This complaint was investigated and a found memorandum was made by the offices State Attorney that concluded that no violation at all had occurred. Subsequently, there was a complaint that was assigned Ethics Commission Case No. 10-152 and Dola Case No. 111238EC and this allegation was that Mrs. Bendekovic misused her public office. This was fully investigated by the staff at the Ethics Commission and it was determined that there were no merit in the allegations and the case was dismissed by the Ethics Commission. Elected Official Bendekovic then filed a petition to have incurred attorneys' fees and costs awarded. There was a hearing in front of an administrative law judge and in that hearing the complainant stipulated that the hourly rates, hours and fees were reasonable as reflected in that order. The administrative law judge determined that the complainant was filed with a malicious intent to injure Elected Official Bendekovic's reputation by filing complaints with a reckless disregard of whether the complaint contained false allegations.

She was therefore entitled to an award of attorney's fees and costs and subsequent costs and fees incurred. When an elected official is subjected to these types of proceedings, and then asks the state to award attorney's fees and costs, that is done so that the ultimate party and interests can try to recover them. If they are not paid then the Department of Legal Services of the State institutes an action and seeks their recoupment. These matters were then reviewed by the City's insurance carrier. The carrier has paid its obligation under the policy and then once the matter is now completed, it is before Council the obligation to pay the costs. Cities have an obligation to pay costs of elected officials when they are subjected to criminal and ethics proceedings which are determined to have no merit or in this case where there is a fact finding that the allegations were made with a conscience and reckless disregard for the truth. Council needs to discharge it's duties in an appropriate way without thinking these are going to be all your obligations if you are subjected to these types of proceedings. He closed with a quote from the Lamelo vs. Sunrise Case because it is his view that this is not a discretionary matter, "Municipal Corporation or other public body is obligated to furnish or pay fees for Council to defend the public official subjected to attack in either civil or criminal proceedings where the conduct complained of arises out of or in connection with the performance of his official duties. This obligation arises independent of Statute, Ordinance or Charter, is not subject to discretion to the keepers of the City's coffers." So the complaint in this case centered on misuse of official position. In both cases the allegations were found to be without merit. As an elected official you are entitled to Council of your own choice. For part of these fees they were stipulated to be reasonable as to hours, amount and dollars. The City has been reimbursed and reviewed by the insurance carrier and the City is now obligated to pay these and it is his recommendation that the fees be paid.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve the payment of Check No. 062221 as part of Resolution No. 11505. Motion carried on the following roll call vote:

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

Note: Councilman Tingom was not allowed to vote because he sat as Mayor during this vote.

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ADMINISTRATIVE ITEMS

Mr. Lunny read the item by title.

Resolution No. 11506

19. **RESOLUTION** PERTAINING TO THE SUBJECT OF STORM WATER MANAGEMENT; IMPLEMENTING THE STORM WATER MANAGEMENT UTILITY FEE IN ACCORDANCE WITH SECTON 9-105(5), PLANTATION CITY CODE (AS SET FORTH IN UN-CODIFIED CITY ORDINANCE NO. 2468); MAKING PROVISIONS WITH RESPECT TO HOW THE STORM WATER MANAGEMENT UTILITY FEE WILL BE BILLED AND COLLECTED; DECLARING THE OFFICIAL INTENT OF THE CITY TO FINANCE CERTAIN EXPENDITURES IN CONNECTION WITH CERTAIN DESCRIBED PROJECTS; MAKING CERTAIN STATEMENTS CONCERNING THE REASONABLE EXPECTATIONS ASSOCATED WITH SUCH MATTERS; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated May 17, 2012, to Mayor Bendekovic and Members of City Council, from Gary Shimun, Chief Administrative Officer, follows:

Introduction

As the elected officials are aware, the City enacted Ordinance No. 2468 which created a Storm Water Utility and an ordained Storm Water Utility Fee. When the Ordinance was adopted, the Council directed that the Administration report back to the Council concerning its recommendations as to how the Fee should be billed and collected. Since the City will at some time in the near future pursue tax exempt financing for Storm Water Capital Projects, the City will also need to declare its intent to seek financing in order to get reimbursed for expenditures out of the tax exempt borrowing. A Resolution is necessary for both of these items. Part I of this memorandum contains the Administration's recommendations as to the billing and collection of the ordained Fee, and Part II of this Memorandum concerns provisions in the Resolution designed to allow the City to be reimbursed from future borrowings.

Part I
Storm Water Utility Revenue Collection Methods

Administration met with the Utilities, Public Works, Engineering, IT and Legal departments to determine an appropriate means of collecting the revenue recently approved by Council for the Storm Water Utility. Three methods of collection were discussed as follows, each having their own set of advantages and disadvantages:

A. Water Utility Bill

The Water bill is an existing mechanism that staff expected would be convenient for the purpose of initiating revenue for the SWU. However, integration issues need to be addressed because the Water billing process is structured around a property address and a utility meter customer; whereas, the SWU will require a billing process structured on a parcel ID or folio number. More specifically, the Water bill is directed to individuals who may not represent property owners (i.e. – tenants), customers of the Storm Water System would not always be customers of the water and wastewater system (i.e. meters for Water service may not serve all parcels served by the SWU), and Storm Water fees are payable even in Water service is not being provided to a particular property. In order to integrated the different billing systems, geographic information system (GIS) data would have to be loaded into the billing process in order to identify individually billed properties by folio number. Significant resourced would be required to create a billing list that would require staff time to reconcile discrepancies.

Staff estimates a temporary billing mechanism through the existing water utility bill would require up to six months for implementation. Projecting this forward, staff estimates two to three months of additional revenue would be realized.

The above considerations have caused Staff to determine that utilization of the existing water utility billing system is not cost efficient when compared to the amount of time it will be used and the amount of revenue it will collect before moving the SWU fee to the County property tax bill.

B. New Dedicated SWU Billing Mechanism

To overcome the issues identified with utilizing the water bill, the group explored the development of an independent (dedicated) billing mechanism for the SWU. The IT Department manages a parcel database in the

City's existing GIS system associated with parcel folio numbers that can be used to develop a billing list, and which can be associated with a grogram written by the IT Department to calculate SWU fees for each parcel. The IT Department advises they can develop and have a dedicated billing mechanism up and running within 6 months with little start-up cost.

There will be costs incurred through an outside vendor to process mailings and receipt of paid bills. These costs are estimated to approach $2.50 per mailing, which is comparable to the $2.50 monthly SWU fee itself. It was obvious to staff that there is no rational economic reason to create a monthly billing that would cost the same amount as the bill being sent. This will require that an independent billing be on a less frequent basis than monthly.

The most significant additional disadvantage to independent billing is collection experience. The City's consultant, CDM, advised that the most recent and most local example of independent billing collection experience was the City of Jacksonville, whose collection rate is approximately 75%. Staff does not know the extent to which this collection rate was influenced by the need for Jacksonville's citizens' to get used to paying a new separate and additional City bill. Suffice it to say, if independent billing were implemented in Plantation and the City experienced this same collection rate, this would cause shortfall of revenues, cause everyone else's bills in the Enterprise Fund to have to be materially increased, and require some effort for collection. Consequently, the group felt this was not the most appropriate option.

C. Non Ad Valorem Assessment on County Tax Bill

Finally, staff looked at placing the SWU fee on the Broward County tax bill as a non-ad valorem assessment. The County would handle the process and charge the City a collection fee of $0.50 per parcel. Since this would be an annual billing, the overall cost for collection fees is thought to be a reasonable operational cost for the SWU to absorb. Utilization of the County tax bill would require the City to pass the necessary approvals to have it placed on the next tax cycle. A non-ad valorem collection would mirror the ad valorem collection of one year in arrears. Based upon inquiry to the Broward County Property Appraiser's Office, the earliest the City could begin collecting revenue would be November 2013.

D. Hybrid System

In an effort to offset the loss of collectable revenue through the tax bill, staff evaluated a hybrid billing approach that would send out one billing using the dedicated billing method prior to converting to collection through the County tax bill. However, the time required to set up the billing system, coupled with operational costs for mailings/collection and low collection rate as experienced by Jacksonville, does not make a hybrid approach any more feasible than the water utility billing or dedicated billing mechanisms. Therefore, staff reached the ultimate conclusion that waiting to collect the SWU fee through the County tax bill would be the better choice for the City.

Recommendation for Part I

Accordingly, the proposed Resolution attached indicates that the Storm Water Fee will be placed on the Non Ad Valorem Tax Roll, that the Fee will commence January 1, 2013, and the Fee will be annualized purpose. Revenues from the Fee will begin in November of 2013 as citizens start paying their tax bills.

Part II
Reimbursing Incurred Expenses from Future Borrowings

The City Staff will be formulating recommendations to the Council, for the Council's future approval by Resolution, concerning financing the costs of certain capital projects for Storm Water Management purposes. Tax regulations provide that once the City adopts a Declaration of Official Intent to begin looking at tax exempt financing, money that the City spends on pursuing the capital projects (i.e. preliminary engineering designs, etc.), and on pursuing the financing, can be "reimbursed" by the proceeds of the financing. From an accounting perspective, since the Storm Water Utility has no money to pursue these endeavors at this time without the City "fronting" the expenses, and since the Storm Water Utility is an Enterprise Fund, the City should be "reimbursed" for these expenditures. It is desirable for the City to leave open the City Council's option for later to determine whether and to what extent it wishes to finance these kinds of preliminary expenditures (i.e. cause the City to be reimbursed by the Utility's loan proceeds). For this reason, Staff is recommending that the Resolution contain certain "boilerplate language" required by applicable Treasury Regulations to declare that the City may seek such reimbursement, so that if the Council decides to do so in the future, as much of these expenditures as possible can be reimbursed.

Mr. Lunny stated that the discussion is centered on what option Council wants the City to follow in terms of trying to bill for the Storm Water Management Utility Fee.

Councilperson Stoner asked that pertaining to page 1 of the Resolution, the area where it reads, "WHEREAS, the City expects to finance…" She requested that it is written as "WHEREAS, the City *may* finance…" With regard to Section 4, Declaration of Official Intent to Finance Expenditures, who is going to decide which expenditures are financed? Are they hard costs, does it come down to employee cost allocations?

Mr. Lunny stated that if Council decided to go forward and come back and propose to Council a plan, the City will inform Council what expenditures have been incurred that there is intent to finance.

Mr. Shimun added that it will come up in the budget each year and the budget is passed by Council so they will know ahead of time how the City is allocating those costs.

In response to Councilperson Stoner, Mr. Lunny stated that this concept is a function of tax law. The kinds of things that you would finance are issuance costs for the debt service which are disclosed to the Council as part of the issue, they are any preliminary engineering and architectural expenses, they are consulting costs in terms of implementing the fee and legal fees.

Brett Butler, City Engineer, explained that during the discussion that took place when the Ordinance for the utility was passed it was established that there was a defined allocation of those revenues that the City was going to accomplish up front. That allocation has already occurred.

Mr. Lunny informed Council that if the City ever comes back with a proposed tax exempt financing, Mr. Shimun may tell you in his report memorandum the pre-issuance obligations that the City is going lump in with the principal amount that we are borrowing. Then Council may see them and decided whether they want to include those or not. Right now the Storm Water has no money, it is an enterprise, so whatever we do we're going to be advancing funds to that until we can generate some capital.

Councilperson Stoner questioned what kind of dollars is the City looking to advance and where is it coming from when the revenue starts to be generated.

Mr. Shimun responded that all the costs right now are internal costs to the individuals doing the work. There is no funding mechanism to work with at this point. The City is looking at planning internally with resources that we have that will not cause an imbalance of expenditures. There will be work within the internal resources to plan out the capital projects up front that have been talked about and as we have a defined funding whether it is up front or after the fact when the revenue starts pouring in, whatever the Council's wish is, that is when the City would try to embark on some of the Capital expenses.

Mr. Lunny added that Council will see in the budget for the Storm Water Utility, the allocation of costs that are going to be required to operate those functions that are going to have to be paid for by someone or something and Council will decide when they approve the budget whether it agrees with that allocation or not.

Mr. Shimun informed Council that the City does not have to wait until the following November or December when it starts receiving the funds as long as we know that this is in place it can be started earlier in which that will be another discussion.

Councilman Levy stated the assumption that this is a proposal from Administration regarding the Bond. Historically he is not in favor of bond issues when there are other financing mechanisms. He requested it say "*Proposed* Bond" everytime the Resolution mentions "Bond".

Mr. Lunny clarified that this Resolution is not going to obligate the Council to issue a bond. The longer Council waits to adopt the Resolution, if the City is occurring any fees and costs, then you lose the ability to have the option to recoup them later. The tax part of this Resolution doesn't obligate Council to do anything it just gives you an option later to include more money if you it wants to.

Councilman Levy just wanted to make that point clear that this does not obligate us to a $9 million bond.

Mr. Lunny stated that it does not obligate to any financing but you have to have some reasonable expectation that Council is going to look at the issue in order to then apply the tax regulation to make sure the City can have the option to recapture the money. If Council is going to decide now that it is never going to look at a tax exempt financing of any type, then don't adopt the Resolution.

Councilman Levy clarified that he is not saying that, he just didn't want to vote on something at this meeting that someone can read it saying that the City is obligated to create this bond issue.

Mr. Lunny pointed out Section 7, *Further Authorizations Required* , it reads "This Resolution does not authorizes the issuance of the Bond. An additional and future City Resolution will be necessary prior to the City's issuance of the Bond."

Councilman Jacobs asked if the word bond applied to a letter of credit.

Mr. Lunny answered yes, the word "bond" in this concept applies to publicly issued ones, privately placed ones, any debt service obligation. He can amplify it by changing it to say "Bond or Debt Service Obligation."

Dennis Conklin, resident, stated that this Resolution is very fundamental to the Storm Water Management Utility that was passed by the Ordinance. He requested that the Council reconsider the "base line budgeting" of continuing automatic escalation of the cost.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Resolution No. 11506 with the recommendations for Part C of the memorandum titled "Non Ad Valorem Assessment on County Tax Bill". Motion carried on the following roll call vote:

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

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LEGISLATIVE ITEMS – None.

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS – None.

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic announced that she needed a voting delegate for the Florida League of Cities Annual Conference from August 23, 2012 through August 25, 2012 in Hollywood Florida.

Councilman Levy was delegated as voting representative at the conference.

Mayor Bendekovic updated Council about the Plantation Community Center. She stated that she was directed to contact the Broward County Planning Council. In an attempt to avoid any type of legal expenses, she contacted Bertha Henry's office and asked about setting up a meeting with her along with Tom Tatum and Priscilla Richards. The response that she received informed her that there is a process that Administration needs to follow was to write a letter asking to have the item deferred. The reason for which the item needed to be deferred was because the City Council has not made any definitive decision with regard to the Plantation Community Center. This will give Council time to make a decision. She also sent correspondence to the Broward County Planning Council and the State of Florida, in which she asked them to remove the facility off of the register that they have because the Council never indicated that as their wish. There has been no response from the State of Florida but there was a response from Barbara Blake Boyd, the Executive Director to Broward County Planning Council, and said that they will honor the City of Plantation's request and delay it.

Mayor Bendekovic also announced that on June 13, 2012 there will be a City Council Meeting and June 14, 2012 at 6:30 p.m. there will be an Informational Budget Workshop at City Hall and the next City Council Meeting will be on June 27, 2012.

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Councilman Tingom announced that seven Broward County students were awarded with a National Merit Scholarship. This award can be up to $2,500 a year for four full years and there will be $35 million awarded this year. Two of the students that were awarded were from Plantation High School and South Plantation High School. The students names were Michael Kumer (sic) and Nicole Wood.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, spoke about the City's Defined Benefit Pension Plans.

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SEALED COMPETITIVE SOLICITATIONS – None.

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At this time the meeting has been closed to public comment.

WORKSHOPS

20. CONTINUED DISCUSSION CONCERNING PARKING AMENDMENTS.

Larry Leeds, Director of Planning, Zoning & Economic Development, stated that he was directed to notify a number of the major developers and interested parties in the Plantation Midtown District of the proposed changes to the Zoning Code relating to the parking requirements in Midtown. He also notified the Chamber of Commerce, the Chair of the Midtown Advisory Board, the Representative of the Stiles Corporation, Mr. Granville Tracy (sic), Mr. Paul D'Arelli Representative of Westfield Broward Mall, the Fountains, and Bill Laystrom Representative of Veranda Phase II. Correspondence went out and he had not received any response that questions the proposals. He mentioned some changes that he would like to make after having an opportunity to hear from the Council and also to discuss the ramifications of making a code change. There is zoning in progress for the Townhomes only and he asked for zoning in progress for the rest of the report. He took another look at the single family parking requirement and most of the issues with residents using their garages for storage or not having enough parking on site deal with existing townhomes in the City of Plantation. There are not a lot of issues with single family homes and most of those portions of the City are built out. The largest undeveloped infielder area of single family homes is Plantation Acres, vacant lots in Hawks Landing, and some other lots in Historic Plantation peppered throughout the City. For all practical purposes the single family component is built out. He was concerned that requiring four parking spaces, two of them in a garage for a single family home is going to render a great many homes in the City nonconforming structures. He preferred to stay with the current parking requirement for single family homes which is a low parking requirement but has not been an issue. The parking requirement for a single family home is one space per unit but there is also another requirement elsewhere in the Code that requires every home to have an enclosed garage or carport. If the City goes to a requirement of two garage spaces per unit and a resident with an existing two-car garage wishes to enclose a portion of their garage and use it as a storage room or another inhabitable living area they cannot do so and will then be required to build a replacement half garage which is for one car which is a relatively expensive proposition. They will be required to build in such a way as to match the current roof line design and materials of

the existing house. In some instances that can trigger building code requirements which add to the cost of the replacement space. His first recommendation is to keep the single family requirement the same. He will also look into circumstances in which a resident would like to enclose one car of a two-car garage, the City may require them to set the room back three feet from the garage door so from the street you still see the facade of a two vehicle garage which will add to the value of the neighborhoods where it is predominant. If a resident has a one-car garage with a smaller lot, they will have to replace it with a carport or garage but the department sees that as a less common situation. He wanted to make sure that if residents want to enclose a portion of their garage they can come in and get a building permit and not be penalized. His second recommendation was that Council adopts Zoning in progress. There are some technical issues that he will discuss with the Legal Department. The substance of the code will be staying the same. In terms of required parking for Midtown, the parking requirement for multi-family is going down five percent in response to waivers that have been granted by City Council allowing up to a 10% reduction. A five percent reduction is as low as the City can go. Council can entertain a waiver to reduce below the new requirement but he has tried to lower it in such a way as to meet minimum standards and to be fair. A developers interest may only be 5 – 10 years but the City, in a different way, owns that building for 40 – 50 years. He wants to encourage quality development as a quality product down the road.

Councilwoman Uria stated that a single family dwelling home should never have less than a double car garage or two spaces.

Mr. Leeds agreed with Councilwoman Uria pertaining to new single family homes but he believed if you require the two-car garage then residents who want to use their garage for storage will be forced.

In response to Councilwoman Uria, Mr. Lunny clarified that the Code talks about space for one car. People who come in with plans that will convert that two-car facade to just one and the City is required to approve it. In planned community districts you cannot convert a garage no matter what the size or plan. On the other side which is large areas of the City of Plantation the code says you have to have a garage for one car and in the balance of the City it's a garage or a carport for one car which has been the requirement.

Councilwoman Uria added that in Plantation Acres usually residents have plenty of room to park a car even if they use their whole garage for storage but in other neighborhoods that have zero lot lines but there are single family dwellings are planned community. There has to be a distinction.

Mr. Lunny stated that it would be an easy regulation to say that any existing two-car garage cannot be converted to less than a two-car garage. It wouldn't make anything nonconforming because if the garage is a two-car garage, it would stay a two-car garage.

Mr. Leeds responded if that is the wish of the City Council it will be an easy Ordinance to enforce. Residents have come into the Department that wanted to convert a portion of their garage. Residents are trying to expand their homes because it is too expensive and not practical to move to a larger home like it was 30 years ago. That ordinance can certainly be adapted if it mentions the resident having a two-car garage that cannot be changed nor walled in even a portion in size. There may be some people that will end up going to the Board of Adjustment if a two-garage will not fit on their sight and have no other real options. If Council is comfortable with those ramifications then it can be done.

Councilperson Stoner stated that when a community is designed, it is designed with maximum space for that community. Someone cannot just decide after the plat is done, the site plan approved and everything is done that

they can just be allowed to change their garages and add an additional living space. A majority of residents who close in garages are not putting in the correct floors, they are not pulling permits or building to code.

Mr. Leeds added that he is not talking about planned communities, he was talking about older neighborhoods like Country Club Estates.

Councilperson Stoner believed the word "carport" needed to be removed from the Ordinance pertaining to any new developments. If a carport currently exists that would be fine but no future ability to build a carport.

Mr. Leeds clarified if a resident has a one-car carport that exists and they decide to enclose the carport the City will tell them that will be fine as long as they replace it with a garage. That will be perceived as an expensive proposition. On some lots there is no room to build another garage next to the existing garage.

In response to Councilwoman Uria, Mr. Leeds stated that the resident that wants to enclose their carport and turn it into living space and does not want a carport or garage will have to get a variance. Getting a variance involves paying $750 for the Board of Appeals to prove that they have a hardship.

Mr. Lunny added that the resident would have to obtain a variance because it is a requirement that you have to have a garage or carport with a one-car capacity currently.

Mr. Leeds stated that if a resident comes in and they have a two-car garage and does not want to build an addition nor spend the money and wants to create some inhabitable space in half of that two-car garage the City would say "no unless you replace it with another garage". If the resident doesn't want to do that they would have to go to the Board of Adjustment, pay $750 then have no certainty that they will be approved.

In response to Councilman Jacobs, Mr. Leeds suggested that Council leave the code as it is which would allow people to enclose their one-car garage if they replace it with attached carport. Council could also require a two-car garage or take a middle ground by requiring three spaces, one of which must be an enclosed garage.

Councilman Jacobs asked about the demand for the amount of people who come into the Planning Department asking to get rid of their carport or garage.

Mr. Leeds answered that there are people who come in and ask for that request because they want to have more interior space and the best thing is to just build an addition. It's less expensive to enclose that portion of the garage or the entire garage, put a window on it and move forward.

Councilman Jacobs stated that the garage was not constructed as space to be occupied and thought that garage conversions were not permitted by the City.

Mr. Lunny clarified that garage conversions are not permitted in Planned Community and if a resident wishes to enclose as a living space a garage or carport outside of a PUD then you need permits because there is not only flood prevention but there are egress issues for fire, HVAC issues and other life safety and structural issues that need to be examined by the City. It's not that a resident cannot do this outside of a Planned Community, it's that you have to do it right. The question then becomes an aesthetic one in terms of the way it will look.

Councilman Jacobs stated that one alternative is a garage conversion is permitted if the front facia of the structure still looks like it has a garage.

Mr. Lunny believed that scenario is more difficult to enforce and might be more simple and cleaner to require a one/two-car garage to stay as a one/two-car garage. If a house is destroyed and needs to be rebuilt then it has to be rebuilt with a two-car garage. He digressed that years ago there was a debate about concrete tile. Does Council want a regulation that says if you have a concrete tile roof leave it concrete tile. He wondered if Council tried to decide to look at residential communities and try to maintain them or get them back to where they were when they were originally constructed, would you get more bang for your buck aesthetically looking at that issue as opposed to this parking issue. Over time the residential areas have been permitted to have a different appearance than their original construction and 10 years ago City Council said "no" but would Council like to put that on an agenda and bring it back to think about again in the future.

Councilwoman Uria believed that there was a major difference between a parking garage and making a resident replace the roof on their house.

Councilman Jacobs stated that what residents do is get rid of the more expensive concrete tile roof and replace it with a less expensive asphalt tile roof.

Mr. Lunny asked if Council would like to look at the topic or pass on it.

Councilman Jacobs answered that topic has merits to discuss.

Councilwoman Uria hypothesized that if a resident has a concrete tile roof and there is a hurricane which causes them to have to replace the roof, with what is being stated what they have to do is now replace with a tile roof.

Mr. Lunny responded that if the house was constructed originally to accept the weight and loads of a tile roof does the City as a separate topic want to re-address the topic now that Council has seen how the prior decision played out. Does Council want to consider a regulation that says that if a house originally had tile, it has to go back to tile within some time period.

Councilwoman Uria negatively answered that if that was her roofing decision, she might like a shingle roof better than a tile roof.

Mr. Lunny agreed that is true just like you would prefer a carport as opposed to a garage.

Councilwoman Uria was concerned about the garages pertaining to any new construction.

Discussion ensued pertaining to the topic of setting a regulation for concrete tile roofing.

Councilman Tingom informed Mr. Lunny that Council will probably not want to bring the concrete tile roofing topic back and he believed that there was a consensus from this point forward to have a two-car garage in the plans.

Mr. Leeds asked for understanding that if a resident has a two-car garage and they want to enclose any portion of an existing garage or carport they will have to replace it with a garage, not a carport. He believed Council needed to make a policy decision that if a resident is going to enclose their two-car carport, can they replace with another two-car carport or will Council require a garage.

Councilwoman Uria believed that there were some pretty carports in certain areas of the City.

Councilman Levy pointed out that the City has a lot of residents that park on the swales because there are more cars than what a one-car garage can hold which the City does not allow. Unfortunately the Police Department has more important things to do than to ticket them.

Mr. Leeds stated that residents are going to want to come in and enclose their carports. When you are dealing with a built out City you are dealing with a lot of multiple scenarios.

Councilman Jacobs believed that if a structure is built in a certain way then that is the minimum that it must maintain. If a residence is constructed with a two-car carport and a two-car driveway that is the minimum and the resident must maintain. If there is a two-car enclosed garage and a two-car driveway then that is the minimum. A carport is a lower standard than a enclosed garage. You can upgrade, you cannot downgrade but you must keep the minimum.

Councilman Tingom stated that you cannot take a two-car garage and make it a two-car carport but you could take a one/two-car carport and make it into a garage.

Mr. Leeds informed Council that if they are going to allow a resident to replace a garage for garage and carport for a carport the garage is clear. There are no standards for a carport right now outside of matching the existing home. There is neighborhood that is south of Broward and west of the Turnpike, there are a lot of interesting homes there with very interesting carports.

Councilman Levy believed that the City shouldn't determine the design and thought that the individual homeowner will not going to put in something that will not match their house resulting in lower the value of their house.

Mr. Leeds disagreed that in a lot of cases when people do not have a lot of money, they will put in something like that.

In response to Councilman Levy, Mr. Leeds clarified that a resident can meet hurricane standards but still put in something very unattractive. It needs building code.

Councilperson Stoner stated that she has been to Midtown at night and there is no parking such as the Fountains.

Mr. Leeds clarified that the Fountains was based on the concept of mixed use. It was originally two separate owners, the apartment side and the retail side. One of them was sold off and the garage for the apartments is not situated close enough to the retail and you can only get in if you are resident or a guest of a resident. Another thing is that Council has granted a number of waivers. The waivers were granted in order to encourage restaurant development in Midtown. There is parking but you will have to walk.

Councilwoman Uria asked if there was a problem with a number of spaces in Midtown going forward.

Mr. Leeds answered that every project that has come in including Veranda has received a significant parking waiver or was allotted a significant reduction based on mixed use however mixed use isn't happening in Midtown.

There was a concensus to leave the standard parking regulation in Midtown as is.

Motion by Councilwoman Uria, seconded by Councilman Tingom to add single family home to zoning in progress. Motion carried by the following roll call vote:

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

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Meeting adjourned at 9:44 p.m.

_____
Peter S. Tingom, 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 _____, 2012.

_____
Susan Slattery, City Clerk