

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

July 27, 2011

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

1. Roll Call by City Clerk:

Councilmember:	Ron Jacobs Dr. 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 Tingom.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – April 27, 2011.

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Councilman Tingom referenced the section of the April 27, 2011 minutes that dealt with Jackson Land Management and he thanked Mr. Breitenkam for providing the DVD of the Police Department news report as to how Jackson Land Development handled the front to relieve their character as an institution. He feels good that we moved forward in paying them appropriately because they did not have any involvement in the wrongdoing in that case.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic introduced Jim Romano, Parks and Recreation Director.

Mr. Romano made the following comments:

- There will be one more two-week summer camp program, the Kids Camp Program, which will begin on August 8, 2011 and run through August 19, 2011 at Central Park. Registration is limited; therefore, he encouraged people to call.

- The Mother and Son Hoedown will be held on Friday, August 5, 2011 between 7:00 p.m. and 9:00 p.m. at Volunteer Park.

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Mayor Bendekovic introduced Senator Nan Rich.

Senator Rich provided an update on the Senate legislation and thanked Council for the opportunity to attend tonight's meeting. She stated that the 2010 election theme was about the economy and jobs. Senator Rich could not support the budget because it relied on the very young, very old and students. In addition, the Governor had a very hand with some of his vetoes; he vetoed \$615 million, \$170 million of which cut construction projects at State Universities and Colleges would have created a lot of jobs. There are currently hearings all across the State for redistricting and there will be hearings in Boca, Broward and Dade Counties on August 15, 16 and 17, 2011. She encouraged everyone to attend the hearings.

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Mayor Bendekovic presented Service Awards to the following employees:

Janice House	Police	20 years
* Sgt. Scott Lustigman	Police	15 years
Sgt. Humberto Pacini	Police	15 years
* Off. Lance Schurkman	Police	15 years
* Off. Craig Stalker	Police	15 years
Yvonne Vigo	Human Resources	15 years
Paul Hopkins	Public Works	10 years
Off. Sarah Boucher	Police	5 years
Off. Alexander Hanley	Police	5 years
Jenna Gottlieb	Utilities	5 years
* Maria Labarga	Finance	5 years
* Suzanne Newman	Landscape	5 years
Kareem Turnquest	Utilities	5 years

*Unable to Attend

Congratulations were offered.

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Mayor Bendekovic made the following announcements:

- The property tax exemption dates are Wednesday, August 10th and August 17th between 12:00 p.m. and 2:00 p.m. at the Plantation Outreach.
- The Farmers Market is at Volunteer Park between 8:00 a.m. and 2:00 p.m. on Saturdays.

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Councilwoman Uria appointed Jeff Holness to the Parks and Recreation Board.

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CONSENT AGENDA

Item No. 10 was removed and voted on separately.

As a Commissioner of the CRA, Mayor Bendekovic had a voting privilege on Item No. 14.

Mr. Lunny read the Consent Agenda by title.

4. Award bid for Umpire Service for Adult Softball Leagues to Broward County Umpires Association, Inc.
5. Approve purchase of twenty-nine (29) replacement Panasonic Toughbook computers for the Fire Department at a cost of \$136,361. (Budgeted - Fire)
6. Request for authorization to approve the final reconciliation change order for the relocations of the primary electrical feeds at the East Water Treatment Plant by Loveland Electric, Inc. for a final contract amount of \$173,602.67, which is \$3,997.33 less than the original contract. (Budgeted – Utilities)

Ordinance No. 2461

7. Second and Final Hearing of an **ORDINANCE** of the City of Plantation, Florida relating to the Police Officers' Retirement System amending Section 18-65(8) to update the definition of actuarial equivalence based on adjusted actuarial assumptions adopted by the Board of Trustees, providing for codification, providing for severability, and providing an effective date.

Ordinance No. 2462

8. Second and Final Public Hearing of an **ORDINANCE** of the City Council of the City of Plantation pertaining to Firefighters' Retirement System, amending Chapter 18 "Pensions and Retirement" Article III "Firefighters Retirement System", providing a mechanism for disability retirees to receive normal retirement benefits upon reaching the normal retirement age of 55, providing for clarifications to benefits, providing a savings clause, and providing an effective date therefor.

Resolution No. 11308

9. **RESOLUTION** pertaining to the subject of real property declaring certain real property located near Wimbledon Lake Drive and near SW 93 Terrace, Plantation as surplus properties having ad valorem folio numbers 5041 08 01 0013 and 5041 08 01 0042 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.

Resolution No. 11309

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 7 – July 20, 2011 for the Plantation Gateway Development District.

Resolution No. 11310

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 7 – July 20, 2011 for the Plantation Midtown Development District.

Resolution No. 11311

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 7 – July 20, 2011.

Resolution No. 11312

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period July 7 – July 20, 2011 for the City of Plantation’s Community Redevelopment Agency.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve tonight’s Consent Agenda as presented. Motion carried on the following roll call vote:

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

NOTE: Mayor Bendekovic voted affirmatively on Item No. 14.

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Mr. Lunny read Item No.10.

Resolution No. 11313

10. **RESOLUTION** pertaining to the subject of municipal finance; providing changes to the actuarial assumptions of the City’s General Employees’ Retirement System; and providing for an effective date therefor.

Dennis Conklin, resident, commended the City on starting to make adjustments to the actuarial assumptions. He noted that the memorandum stated that the changes to actuarial assumptions will cost reduction of approximately 1% of the payroll and result in an approximate savings of \$180,000 for this coming fiscal year. In looking at the backup material it mentions the actuarial assumptions and provides the differences between the two; the current assumptions of 8% and the proposed 7.5%. The combined affect of all is actually \$711,000 more than the existing actuarial assumptions. This is the exact impact that occurs when doing an adjustment with the Defined Benefit Plan; the promised benefits have to be extended for the added years until mortality. He urged Council not to stop with the Two Tier Plan but continue progress to move to a Defined Contribution Plan where all of the taxpayers are relieved from making up that extra load of the Defined Benefit Plan once that is put to rest.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Resolution No. 11313. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS - None.

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 15.

15. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF PROCUREMENT; AMENDING THE CITY'S PROCUREMENT LAW SO AS TO CLEARLY IMPLEMENT THE REQUIREMENTS OF NEWLY ENACTED CHAPTER 2011-140, LAWS OF FLORIDA; PROVIDING DEFINITIONS; IMPLEMENTING TEMPORARY EXEMPTIONS FROM PUBLIC RECORDS LAWS AS PROVIDED UNDER CHAPTER 2011-140, LAWS OF FLORIDA; IMPLEMENTING EXEMPTIONS FROM PUBLIC MEETING REQUIREMENTS FOR CERTAIN MEETINGS AS PROVIDED UNDER CHAPTER 2011-140, LAWS OF FLORIDA (MEETINGS AT WHICH NEGOTIATIONS ARE CONDUCTED, A VENDOR MAKES AN ORAL PRESENTATION, A VENDOR ANSWERS QUESTIONS, AND AT WHICH TEAM MEMBERS DISCUSS NEGOTIATION STRATEGIES, AS PART OF A COMPETITIVE PROCUREMENT PROCESS); PROVIDING OTHER MISCELLANEOUS CLARIFYING CHANGES TO THE CITY'S PROCUREMENT CODE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Mr. Lunny advised that the Legislature adopted a new law that is designed to prevent an unleveling of the playing field and since our City ordinance uses terms that were slightly different than the State Law, it was necessary to amend our Code so that it more clearly implements the State Law. A large portion of this ordinance is housekeeping in nature. Staff seeks Council's advice as to how it wishes to address these matters. Two options would be that if a sealed procurement is put before the Council as recommended for approving a ranking for negotiation or approving a recommended award, if either the vendor seeks questions from the Council or the Council seeks questions from the vendor, the State Law would require that to be in a closed session. It was questioned whether Council would want to do this as a Shade meeting and convene in a different room or the other option would be to wait until the end of the meeting and clear the Chambers, as other Cities are doing. The operating rules for the Council need to be changed for this topic.

In response to Councilwoman Uria, Mr. Lunny indicated that a court reporter would not be needed for the City meetings; therefore, a room could be set up in advance of a Council meeting so that the Council could convene, go to that room with the vendor, the Department Head involved and the Mayor. The meeting would be recorded and then it could reconvene in Chambers to continue the meeting.

Councilman Jacobs voted for the Shade meeting format. He believes it is a little awkward to move everyone from the Chambers to a room and back; it would be better in the conference room prior to the Council meeting.

Mr. Lunny recommended that the President make an announcement so that people in the audience know the rules and if one of the Council members or the Mayor wish to ask questions of the vendor or if the vendor wanted to make a presentation to the Council the meeting would convene into a Shade session. The meeting would actually start and at some point convene it and the elected officials would leave the room as opposed to having the press and citizens leave.

In response to Councilman Jacobs, Mr. Lunny advised that it would not be in the Council Chambers if treated similar to a Shade meeting or a recorded collective bargaining session. It could be put on right after the Consent Agenda or even prior to approving minutes, the meeting could start and you could see if there are any requests from the vendors or from the elected officials that would cause Council to convene somewhere else. Mr.

Lunny's concern with rules establishing that a request be made in advance is if Council gets their package on a Thursday or Friday and one of the Council members decides to ask a question, it would be awkward. He does not feel that a requirement to make a request or waive it would be practical. A requirement would limit both the Council and the vendor's ability. If someone has a question the item can be deferred and wait until the next meeting to ask the question, which can be done in a way that you comply with the State Law. The only risk would be whether the 90-day firm price on the bid would expire and most of the time staff is fairly well within that time constraint.

In response to Councilman Jacobs, Mr. Lunny recommended that the session be held prior to adjourning the meeting.

Mayor Bendekovic stated that she was the one who suggested doing the session at the end of the meeting in an attempt to prevent any interruption within the meeting.

Mr. Lunny advised that Council can have the session prior to the meeting in Chambers with the doors closed. He believes the better practice would be to start the meeting in the Sunshine and at some point, perhaps at the end, clear the Chambers and turn off the television; however, you would still be on the recorded session.

Mr. Keefe indicated that there was a staff meeting to discuss this with the City Attorney. The staff recommendation would be that the session be held at the end of the meeting. Keep in mind that there might be more than one vendor and each of them might wish to have a meeting, which could take some time.

In response to Councilman Tingom, Mr. Keefe stated that it could always be tabled and set for a time certain at the next meeting. The problem may be that there is more than one vendor who wishes to speak to Council so you would have to convene and reconvene different times.

In response to Councilman Tingom, Mr. Lunny indicated that the amount of time the vendor can present can be limited.

Councilman Tingom liked Councilman Jacob's idea about doing it before the meeting and if it will take time it will be tabled to the next meeting and it will be done prior to the meeting.

Mr. Lunny advised that the procurement documents would need to be amended. There would have to be a rule that if one Council member or vendor had a question there would be an automatic tabling. The only question is whether everything could be done so you are well within the 90-day period.

In response to Mayor Bendekovic, Mr. Lunny stated that normally presentations are not made to Council as part of the process; it would be unusual that somebody would want to address the Council but it has happened in the past.

Councilperson Stoner has received feedback from some people involved in the process and she spoke to several people at the County, including the County Attorney's office, to get an indication as to how the County was going to proceed with this. Their comment was something that she agreed with; she believes that 30 days is a little excessive. The County does not believe that the Commission will go along with closing the meeting; they feel that will be a breaking point on this issue. Councilperson Stoner believes that anytime there is a closed door the perception is what is going on. No one has put this into effect; we are following the lead of the State; therefore, she would request that the 30-day time element be reconsidered.

Mr. Lunny believed that the 30-day time element was a function of State Law; however, he will look at that again. The public may not be aware that the Council has the privilege of meeting privately for recorded sessions with him and unrecorded sessions in connection with labor negotiations and this would be another opportunity for a private discussion with recording sessions. The intent of the State Law is to not allow proposers to gain advantages because they listen to presentations or obtain information during the procurement process. Some of his colleagues are requesting proposers to waive this and that may or may not be enforceable. His task is making sure that our Code matches what the State Law requires. Once the Council decides their wishes he would recommend that something similar be done like many years ago with the Quasi Judicial proceedings; that he be asked to write something so Council can adopt it as a rule of procedure and the move forward.

Councilman Levy expressed concern with the session being held early because if there is a long discussion there would not be enough time and people will be waiting to come into the Chambers. His feeling was to have the session after the meeting rather than before if they are going to remain in the Chambers.

Councilman Jacobs commented that his thought was that the session would be like a Shade meeting in another room.

Councilman Levy and Councilwoman Uria concurred with Councilman Jacobs.

Councilperson Stoner and Councilwoman Uria did not have a time preference for the session.

Mr. Lunny indicated that in the event this clause is triggered, the City Clerk will set up a room in advance and when the item is addressed by Council you can determine whether to table it or address it then and there, depending on whether it is one or more vendors. This will be brought back to the second hearing.

In response to Councilman Tingom, Mr. Lunny clarified that the Council wishes to have, as an agenda item, after Quasi Judicial, Sealed Procurements and then all sealed procurements would be listed under that item and in the event any Council member or vendor wishes to ask a question the Council would convene to a room that was set up in advance or if it looks like it will be a lot of requests or a significant amount of time or it comes up at too late, the item can be tabled and addressed later. After the Sealed Procurements, the agenda would list Comments by Council members; therefore, everyone would return to Chambers and then adjourn.

In response to Councilman Jacobs, Mr. Lunny advised that Council member Comments can be done prior to the session; however, you would have to come back to Chambers and adjourn the meeting in the public. He requested that everyone watch what other agencies do and if someone has a great idea we can adopt it.

***Motion by Councilperson Stoner, seconded by Councilwoman Uria, to approve Item No. 15 on first reading.
Motion carried on the following roll call vote:***

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

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Mr. Lunny read Item No. 16.

16. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA 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 THE 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 thanked Council for allowing staff to move forward with this discussion on a funding need for an important program for the City. We need to get through some formalities; he would like to introduce some Legislative disclosure on the findings of fact for the considered implementation of a stormwater utility fee for the City of Plantation. He would like to provide a brief chronology of previous discussions that have led to tonight's discussion and then he would ask that we navigate through the City Attorney's summary memorandum of all of the documentation provided along with the draft ordinance. He would then ask the City Council at closure if there are any questions or comments.

Mr. Butler thanked Mr. Keefe, Mr. DeCelles, Scott McClellan, consultant with CDM, and Donald Lunny, Jr., City Attorney.

Mr. Butler referenced the draft ordinance, Section 9-100 and made the following comments:

- The City of Plantation is obligated to comply with certain State and Federal mandated regulations as it applies to managing the City's stormwater, both from a conveyance or moving the water perspective and also from a water quality perspective.
- For a number of years the City of Plantation has participated in a mandated Federal Program known as the National Pollutant Discharge Elimination System, which is a program where the Federal Government, administered by the State, ceased that all other governments who are obligated to comply with these Federal mandates are doing their job, demonstrating on an annual basis through certain report format that we are maintaining our systems, maintaining our administration of private development and such as it relates to stormwater management for the City.
- Over a few years there has been a hot button topic on Numeric Nutrient Criteria. We have also discussed Total Maximum Daily Load; TMDL. This has been discussion from Federal Government to the State Government all the way through the State of Florida. The Federal Government has decided that it wishes to impose certain numerical water quality criteria on the Nation but looking on the State of Florida initially.
- This has reached our State Legislature and they have stepped up to challenge the Federal Government on its approach.
- Whether the Federal Government ultimately imposes Numeric Nutrient Criteria on the State of Florida and ultimately on Plantation or the State itself does this, there will be at some point criteria established that the City of Plantation will be required to comply with.
- The point is that we know the State has been looking at this as well, for good reason, we are very good stewards of our water here in the State. We believe at the State and Local level we are better at it and we would like the Federal Government to agree.
- At some point there will be a mandate whether it be at the Federal level or the State level and the City is going to have to be prepared.

- A third component is more voluntary but is considered to be more necessary to look out for the needs of the City residents is the City's participation known as the Community Rating System. This is a Federal program and it caters to flood insurance and it is an opportunity for the City of Plantation to participate and perform various activities that garner numerical credits and based upon our performance we have an opportunity to qualify all of the insurable property in the City of Plantation for certain discounts based on the flood insurance premiums.
- There are current language changes being proposed by the Federal Government for this program. There have been some studies done on what the implications may be and there may be as many as 70% of the communities in Florida could be negatively impacted by this language. This means that even though we are rated as a 7 today we could be moved down a level to an 8, which would take a 5% flood insurance reduction away from all of our insured properties.
- The City may have to go to the next level to achieve a further reduction for residents.
- The City of Plantation has aged infrastructure.
- The City must maintain its systems to be in compliance with these various State and Federal enactments and we will need resources in order to perform that.
- New infrastructure may need to be installed.

These are the primary issues that the City faces and the Findings of Fact that the City must consider and must deal with in order to provide the type of service that is necessary to satisfy the Federal, State and Local Governments in terms of what our expectations are for water quality and quality of life.

In response to Mr. Lunny, Mr. Butler advised that as the City Engineer for the City of Plantation, he has read the Findings of Fact in the proposed language in draft ordinance, Section 9-100, and he finds it to be accurate as it applies to the City of Plantation.

Mr. Butler went on to provide a brief chronology as follows:

- In fiscal years 2008 through 2010 the City Council permitted staff to have informal discussion with them during the budget processes to educate them on the program and its needs and introduce a request to consider a dedicated funding stream to meet those needs. During that period of time, the City Council heard staff and it is believed that they understood and agreed there was a need but that the timing was not quite right. Staff was told and accepted that this discussion would be brought back at a later date, which was last year.
- Discussions began during the budget process and the City Council again entertained the opportunity to revisit the discussion about stormwater and it was at that time that Council decided that the time was right to move the discussion a little further. The Council authorized staff to do a first task, which was to reach out to the public and present the program to the public and get feedback directly from them so that the Council could discern a little better as to the needs of the City as it related to stormwater.
- The City staff engaged with a consultant, CDM, and a process was developed to arrange for a focus group. A focus group was developed and was comprised of a number of members representing various sectors of the City, both residential and commercial. Meetings were held with this small group for a period of time, presenting the stormwater program and educating them on how we perform our duties, educating them on the laws that affect us and introducing the funding needs and various mechanisms in which that program could be funded.
- In November 2010, the City of Plantation staff brought back to the Council a summary result of that focus group effort. The summary result of that effort was that there was an overwhelming agreement by the focus group members that the City's stormwater program is definitely needed and should be funded.

The group decided that it should be funded at a certain level of service and they were given some guidance on how they might define that level of service. Finally, with some education on the various viable opportunities to fund the program, that same group made a decision that the most viable mechanism would be a dedicated funding source through the form of a stormwater utility fee. This information was brought back to the Council in November and there was some discussion. At the end of the discussion the City Council accepted the information and wished to hold off on further discussion until the following Spring.

- In the Spring of this year, in May, the matter was brought back. A summary presentation was provided of what was seen before and after some discussion the City Council decided they wished to move a little more firmly and forward in the discussion and authorized staff to present a draft ordinance and a policy for the implementation of a stormwater utility fee. A combination of that effort will be discussed. Our City Attorney has prepared a memorandum dated July 21, 2011 that does a very good job in summarily discussing the various key points of the proposed draft ordinance.

Mr. Butler reviewed the memorandum as follows:

- Page 2. The ordinance has some necessary recitals that set forth stormwater management as necessary and the various compliance items are mentioned. Section 9-100 makes the findings and determinations. Section 9-101 contains the various definitions that we have determined are necessary in order to enforce. Section 9-102 creates the utility and authorizes certain staff powers to operate and implement the utility. Sections 9-103 and 9-104 deal with the establishment of the actual billing rates of the utility; it establishes a time period for your consideration and for the implementation, after which the Council can revisit. It also introduces a mechanism to deal with necessary cost increases that we expect to incur; it proposes a small incremental increase in that fee base on a yearly basis. Mr. Butler clarified that there was prior information in the backup. A proposed rate structure was shown in the past that was two different figures; the City was broken up geographically into the Old Plantation Water Control District service area and the Plantation service area. When staff evaluated those two service areas we quickly determined in one service area, Old Plantation, the City provided service focused on the turshiary system. The other area, the Plantation service area, not only do we provide turshiary service, we provided service in the secondary system. It was that structure that reasoned why we came up with two different rate structures; the dollar figures were on the figure of \$2.40 per equivalent runoff unit in the Old Plantation area and \$2.90 in the Plantation service area. Today something a little different is proposed. At this point a uniform rate of \$2.50 is proposed. During further evaluation of those turshiary and secondary systems it was realized numerically that the funding needs for that were very small. We always had the intention of keeping a proposed rate structure simple; we did not want the idea that we would have two separate rates to balance and it was found convenient to recognize that the secondary system funding needs were small enough that they could be kept in its current location within the road and traffic control fund and absorb that smaller cost there, removing it from the equation, which then allowed us to create this smaller uniform fee.
- Section 9-108 addresses exemptions and we have proposed in the draft ordinance to exempt certain types of properties, specifically mentioned are government properties, schools and houses of worship. We have further clarified on the matter of schools, the type of schools that are not owned and operated by the Broward County School Board. Those types of schools would qualify for exemption. The memorandum introduces the Plantation Acres Improvement District as being exempt. Mr. Butler clarified that from the inception of any of their discussions they have made the Council and the public aware that the Plantation Acres Improvement District is an independent functioning entity for stormwater management; they do all of the service for that part of the City. It was disclosed from the inception of the discussion that they would be excluded rather than exempted from the discussion. The

language will be amended so there is an understanding that the Acres are not being exempted, they are necessarily excluded.

- Sections 9-109 and 9-110 introduce the concept of affording property owners the opportunity to file for an adjustment to their fee structure. There could be a possibility that the City's information on impervious areas or dwelling units may not be as accurate as a property owner's records may be and they wish to present that to the City for a request for an adjustment and Section 9-109 will allow for that.
- There are opportunities in the ordinance for credits. A credit would be something that a property owner would do in the way of introduction of its own private investment in stormwater improvement whether it is on their property or offsite that would remove some level of the City's existing service to that property. If they can demonstrate such an improvement they may be qualified for certain credits.
- The final page of the memorandum, Section 9-112 concerns violations and provides a suggestion as to how we may be able to deal with a non-payment issue. We are still discussing that but have provided a proposal for this evening as to how we think we may be able to deal with this. We also introduce a proposed list of how we would collect the revenue and for the purpose of discussion we have discussed the possibility of introducing it on the utility bill and possibly considering in the future moving that mechanism to an ad valorem mechanism. We are not clear on the matter yet; we are still interested in discussing that.

Councilman Tingom questioned how much interdependence there is between the different water districts and the primary system of removing stormwater. There are a number of water districts and they all have stormwater runoff in those areas. If one area did not start to make the improvements will it impact other areas? If one of the districts made some structural changes that improve the flow of their water and another district does not, how much interdependency is there between the water and where does it stop.

Mr. Butler mentioned the different districts such as the South Florida Water Management District, Old Plantation Water Control District, Plantation Acres Improvement District and Broward County. As they exist within the corporate boundaries of our City, they function as receiving bodies, which means that they own and operate waterways; they do not necessarily own or are directly responsible for the stormwater up stream on properties that may discharge the water. They are receiving whatever is generated up stream from the City. The districts function as a receiving body. If one of the districts performed an improvement within one of their waterways to increase the volume of water they can receive from properties up stream, that is a benefit to the City, because today we are under necessary restricted discharge levels by the various districts. They will advise if runoff needs to be introduced to their system; they will limit us on what we can discharge to them. If they were to make an independent improvement of their own that would increase storage capacity; that would work to the benefit of us up stream. It will give us more opportunity to do more with our up stream systems. If they have further hindrances and they do not make any changes and they are further restrictive it will work in the exact opposite way. They provide the benefit of runoff capability; we do not.

In response to Councilman Tingom, Mr. Butler advised that the other bodies have an expectation that the City of Plantation will enforce its stormwater rules and regulations responsibly to protect their receiving waters because they are dependent upon the City to do its job to make certain that the water quality elements of runoff that enter into their system do not compromise their ability to also comply with those same mandates discussed. There is an interdependence from that perspective; they will be looking for the City to do its job because we can influence the amount of water quality; the same thing with the South Florida Water Management District. P.A.I.D. is not necessarily that kind of an issue; we do not influence them that way.

Councilman Levy noted that parts of the City have been outlined to get multimillion dollar improvements. He questioned what improvement the rest of the City would get, specifically other than those listed.

Mr. Butler stated that when that information was provided it was made very clear that this was a preliminary effort. The types of improvements that are still unknown are the type of projects that may result from those water quality mandates. We may have to introduce a new system in an area of the City that does not have a system to deal with water quality mandates; that system could involve infrastructure. These are things that we have to be prepared for because we know those criteria are coming. Areas like Park East, Country Club Estates, Plantation Park, the Historical area and some of the older parts of town are ripe potentially for having to have some water quality improvement in the future and we are going to need to be prepared. That is the type of improvement that is not seen listed specifically in black and white; they cannot be listed because they cannot be defined at this time. Park East is listed and that was more from a conveyance perspective rather than from a water quality perspective.

Councilman Levy expressed concern about the section that allows for bonds to be issued. He questioned whether this will be a bond program.

Mr. Butler advised that this has been very informally discussed as a topic to consider. If looking at the schedule of improvements today at face value there is an excess of \$17 million for projects. Staff is requesting that Council consider, in the way of generating a fee base, generates on the order of magnitude of about a half a million dollars annually of new revenue, above and beyond what our current needs are. If we were to work at that pace we would chip away rather than take chunks and that is how we are going to prioritize and tackle some of these projects. It may persuade Council to think about using a bond and paying it off through the stormwater utility fee.

Councilman Levy expressed concern is that the \$250 that seems so innocuous could be greatly enhanced by a bond issue.

Mr. Butler indicated that it would not if the proposed structure were considered. The proposed structure says, "At face value we would start off at \$2.50 for the base unit and it could incrementally increase at the rate of 4% for a period of three years after which the Council can revisit the entire program to discuss fee changes, etc." It would be enacted in the ordinance for a period of time. A structure that can incrementally increase or start to incrementally increase at that pace would not necessarily increase at some other arbitrary figure unless the Council decided in an interim period of time that there is an eminent need to do so. The idea of a bond does not mean that we would immediately escalate the fee rate; this has not been discussed.

In response to Mr. Butler, Mr. Lunny did not believe additional clarification was necessary. The Council is the one that authorizes the issuance of bonds; that is there so if it is elected an underwriter can see that the source of revenue is pledgable or is otherwise included as a non ad valorem covenant to budget and appropriate money. At the income level discussed, a significant amount of debt service will not be supported anywhere near the quantity needs that are being identified, not the quality ones that we do not know about. That section is more of a background and information section; it is not in any way something that will be self executed.

Mr. Keefe advised that the way funding is proposed there is about \$500,000 for a capital project per year. If three or four projects were done at once perhaps a portion of the \$500,000 could be taken each year and used for debt service to do those projects sooner rather than later. The idea was not that they would be done all at once because that amount of funding would not support that large of a bond project.

Councilwoman Uria commented that the water quality has not yet been mandated by the State and she feels that we all need to talk to our Legislatures. If this is mandated by the State she believes that the State needs to pay for it. She referenced the capital projects and noted that Park East and the Historical District are listed and questioned if this is the way we like to start.

Mr. Butler stated that the list is not intended to represent any form of prioritization; it is just a list and will need to be refined. With regard to culverts, they have to be inspected every five years for structural purposes. They serve a structural purpose as well as a conveyance purpose. Just like a companion program, which actually was performed for us by the Florida Department of Transportation for bridge structures, we would necessarily want to inspect our culvert crossings in the same fashion to document their condition and to make certain that they are safe to drive over because they are receiving vehicular loads. Currently the culvert crossings are not being inspected but they need to.

In response to Councilwoman Uria, Mr. DeCelles advised that leasing the equipment could be a consideration rather than purchasing it. The numbers were done to show what the equipment is starting to cost.

Councilwoman Uria mentioned the pricing of \$2.50 per month for single family residences, \$30 per month for anyone who lives in an apartment or condominium; however, commercial property will cost \$556.25 per month.

Mr. Butler clarified that the cost for commercial property is \$55.75 per month, as listed on Exhibit A.

Mr. McClelland stated that different examples were provided. Exhibit A, which is part of the ordinance, gives a couple of examples for residential and commercial. For the two examples in Exhibit A, the fee for the first one is based on impervious areas; 10,000 square feet, which turns out to be \$5.50 per month using the rate structure in the ordinance. The second one is 100,000 square feet of impervious area, which is \$55.75. The example in the memo was a property that has almost 1,000,000 square feet of impervious area, which is ten times this amount. Their magnitude of affect on City stormwater is ten times higher; that is the concept being used.

Councilwoman Uria commented that the point is that the cost will passed along to the consumer.

Mr. Butler indicated that the City may get hit by the regulators by not having the resources to do certain things if we are found to be non-compliant and have to deal with potential fines and such. The regulators are going to give some answers; we think it will be within the next year or two. They are unfunded mandates and we are going to have deal with them.

Mr. McClelland advised that the Federal Government has already issued numeric nutrient criteria for the State of Florida. They have been promulgated and are in place today; they are not effective until March 2012. The State of Florida is trying to substitute to get the Federal Government to rescind their promulgation and substitute their own version of numeric nutrient criteria. We are currently under Federal numeric nutrient criteria.

Councilperson Stoner stated that she is not comfortable with the 4% that is an arbitrary increase on a yearly basis that Administration can levy.

Mr. Lunny explained that the plan would be that every year, as part of the overall budget, Council would review the operations, maintenance and capital budget and Administration would advise of the fee. As long as the fee is 4% or under it could be changed without adopting an ordinance. The Council has, in the past, requested that a way be determined so as not to enact an ordinance every time and his reaction has always been that a new fee will authorize it and have the Council do more significant adjustment but allow Administration or the Council by

resolution or some other method to adjust fees. While it says Administrative adjustments would be up to 4% in any year, it also says that the budget would have to be presented and justified.

In response to Councilperson Stoner, Mr. Lunny indicated that it is not yet known whether payments will eventually be paid online. Mr. Keefe and others are working on how to implement that.

Mayor Bendekovic advised that Hansen will be available as of October 1, 2011. We are also addressing credit cards and e-checks.

In response to Councilperson Stoner, Mr. Lunny stated that if the Council wants to have an Appeals Committee that it can be established at this time. If it is wished to leave it a Committee that the Mayor appoints, that can be done. There is a Bid Protest Committee, which has defined Department Heads that might be a reliable source but that was one of the areas for discussion. The architecture of the appeals process is not defined. With regard to writing County Court is to leave open all of the usual ways the City can enforce its laws. The County Court has a quasi-criminal proceeding based on municipal information and has the power to impose a fine up to \$500 per day or imprisonment up to 60 days. A strong remedy in other Cities is that they have obtained injunctive relief that requires users to disconnect and not use the system if they are not paying for it; that would be the remedy of last resort. All of the remedies are needed and the only adjustment was that we are not going to seek imprisonment.

Councilperson Stoner had a meeting with Mr. DeCelles and stated that she would like to see a map and a timeline as to how each of the projects were going to be phased in an order of priority. She believes that the more information available as to how the program will be implemented the better. The focus group was specifically informed that this user fee was going to finance this and basically pay as you go and all of a sudden we have gone from doing a project and now we are into \$17 million, which means that the task cannot be accomplished in a timeline that is felt appropriate given the mandates that are felt are coming down. A contingency number cannot even be created because it is unknown what will happen.

Mr. Butler advised that when the focus group was addressed we tried to give them an understanding of what a dollar figure could buy. It was not necessarily said that we were going to pay as we go, we did say that we would work our best with a resource and may even consider alternatives to further the program at a more desirable pace and use the revenue as a payback mechanism, i.e. a bond, etc. The information requested can be produced; a map and a preliminary prioritization schedule can be provided.

In response to Councilperson Stoner, Mr. DeCelles indicated that line inspections have been done for years and we have had to figure out how to patch the problem. Repairs have been done to problem lines and then streets that are adjoined to the problem area are televised to see the condition of the infrastructure. We know what the problems are. Knowing that a funding source will be available, projects that can be done right away can be set up. During progression we can come back to certain areas and determine dollar amounts of what it will cost to repair. The problem is that we have never had a funding source to do these repairs.

In response to Councilperson Stoner, Mr. Butler stated that flexibility can be given but the need is still there.

Mr. Lunny commented that a sunset provision could be added without changing the title of the ordinance and in 10 to 15 years it can be repealed or fees can be adjusted by ordinance, etc. If that is something the Council wants to do, the only concern would be that he would recommend something on the order of a 30-year sunset. If a sunset provision is short you are likely not going to be able to evaluate the debt service option. Mr. Lunny

believed that the purpose of the last Exhibit is to show that even on the quantity side, there is a greater need than what this will support.

Councilperson Stoner stated that when this first came up she expressed concern on deferred maintenance and what it can cost. She also indicated that for her, this dollar was part of the total budget puzzle that was going to be presented. She believes is putting the cart before the horse because no one knows where we really are. Broward County's unemployment is above the national average and she is concerned about the continual nickeling and diming.

Mayor Bendekovic advised that the reality is that the infrastructure is aging. We have done a limited amount of replacements. She would rather have nickels and dimes than dollars but the nickels and dimes add up to dollars that will give us something to use to repair this infrastructure. As far as the level of service, she believes that Level A, Level B and Level C. The focus group indicated that they were comfortable with Level C. We took \$223,500 from the General Fund for the system and \$537,800 from the Road and Traffic Control Fund. If we had a stand alone fund we could return the money to the General Fund for other purposes within the budget. This stormwater management fee would be a fund that would just fund stormwater management; it would not go into any other area. Other Cities have a stormwater management fee and we do not. We are still at a very low ad valorem tax rate and even if the maximum millage rate is set it is a 4.6 which is a 3% raise. This is only helping our infrastructure to improve.

Councilperson Stoner commented that she sat in the focus group and at no time was the \$17 million number ever mentioned.

Mr. Butler indicated that staff continues to deal with the reality. If Council's wishes are not to do this we will be asked once again to work with an existing budget that has been proposed to be reduced a little further to meet the demands, putting staff in a very precarious position. It is very difficult for him to discuss this when they are trying, in the most respectful way, to ask for a little help. They believe they have found a modest way to work a program in a more dedicated fashion to get some things done. He would like to think that Council has confidence in staff to know how to prioritize the projects knowing the needs of our system; that money would be managed very carefully.

Councilman Tingom stated that for the last three years we have invested less than 1% in capital and infrastructure. This is an enterprise system dedicated to one thing and that is protecting our City from stormwater. He believes this is probably the best way to approach this. He received a letter from a resident who stated that if the process is not started he feels that the infrastructure of stormwater will fail within the City. He has also conversed with a number of other residents who dislike the fact that it will cost more but they have supported the idea of trying to repair the stormwater management without our City. These are very conservative fiscal people. He does not see anyway around this and perhaps, if we were to start the whole thing, the fee would be \$7 to \$10. He feels this is a small start in a dedicated system to support the infrastructure within the City.

In response to Mr. Lunny, Mr. McClelland advised that he is a scientist for CDM, an environmental engineering firm, for 25 years. He has worked in the stormwater and water quality industry for 35 years, including nine years with the State of Florida. He has been involved in 40 stormwater utilities around the country and CDM has worked on 150 of them. Mr. McClelland has read the findings and based on his experience he finds them to be reasonable and applicable to this City and representative of what he has experienced in the City as well. He clarified that the ERU rate, which is equivalent runoff unit, is the average impervious area for single family units within the City based on July 2011 data received from staff. Each single family residential unit is one ERU, so

they pay one times the fee. For non residential they take the actual impervious area, divide by the single family unit average, which is 4,489 and that defines what an ERU is for that property and they pay that times the original rate of \$2.50. The rate is same for all; however, the ERU varies depending on residential versus non residential.

Mr. Lunny commented that the rate is not discriminatory from residential to non residential.

In response to Councilman Jacobs, Mr. McClelland indicated that there are a couple of benefits by making the fund a dedicated enterprise fund. One is that the ability to get grants in the State of Florida and EPA is improved because they see that you have dedicated your side of the funding. Most monies have some element of cooperative payment, they will give some but you have to put your own money in. Having the dedicated source of funding gives a leg up on some people who do not have that dedicated source of funding. The second benefit is, by ordinance, it is dedicated to the stormwater program. Since you do not have to compete for that funding every year a five or ten-year plan can be created.

Councilman Jacobs questioned whether staff thought about how low we can go and still get the benefits of having dedicated funds. Currently we are spending about \$750,000 per year with non dedicated funds and the proposal would run \$1,250,000.

Mr. Butler stated that would be the combination of the existing budget plus an additional \$500,000 for a capital. The \$750,000 would shift over to the dedicated side.

In response to Councilperson Stoner, Mr. Butler advised that no additional staff is being proposed at this time; we are going to try to meet the Council's expectations and will do their very best to work within our existing staffing structure to make this happen. He anticipates a few bumps; however, these are sacrifices that staff is willing to make because they understand the difficult nature of this decision.

In response to Councilwoman Uria, Mr. Butler indicated that the culvert inspections will be outsourced.

George Lord, resident, was glad to see that the rate has been reduced to \$2.50 per house. He has been told that there are 20,020 single family homes in the City of Plantation and those times \$2.50 will give \$600,600. This spreads it out even over the entire City. He understands that Plantation Acres is excluded because they have their own and are not receiving any benefits. Country Club will not receive any physical benefits; they do not have any curbs or sewers; therefore, nothing will be done to improve Country Club. The water they have runs off into the lawns and dissipates within minutes. He believes it is only fair, if Country Club has to pay, to have the entire City pay the \$2.50 base rate.

In response to Mr. Lord, Mr. Butler explained that today's budget is roughly \$171,000. If we take that amount of money and put it into the proposed funding mechanism and then augment it with an additional half a million dollars to do the capital, it would be about \$1.2 million. We have done calculations and determined that in order to generate \$1.2 million of revenue a \$2.50 base fee would accomplish that. The base fee is \$2.50 per month for a single family residential home.

Mayor Bendekovic stated that she would be more than happy to pay the \$30 per year; however, Plantation Acres pays \$443 per acre.

Councilman Jacobs commented that the methodology is that you pay for the benefit received.

Mr. Butler reiterated that the Country Club Estates neighborhood does in fact receive a benefit; we do MPDS compliance, CRS program, we are preparing for water quality issues; there could be a need in the future for a water quality need. We are providing a benefit in the entire service area of Plantation, including Country Club Estates. There are intangibles that are so vital and Country Club Estates and other neighborhoods enjoy the benefit of what is done through that program that needs to be funded. From staff's point of view, Country Club Estates is no different than Park East, Plantation Park, and everywhere else. We pay because we all derive the benefit.

In response to Councilperson Stoner, Mr. Butler indicated that Country Club Estates is not a flood zone AE; it is an AH. There are certain zoning designations on the flood insurance rate map. Most of the City is an AH; however, the flood elevation will vary.

Councilman Jacobs commented that just because it is not on the list there may be physical improvements that will come in the future for Country Club Estates; it is not ruled out.

Mr. Butler stated that Mr. Lord has decided that there is only one way to provide an improvement in Country Club Estates, which is to install curbs and things of that nature. Stormwater management can be handled, from an improvement standpoint, in a multiple fashion.

Councilwoman Uria stated that the front swales are for stormwater drainage retention. P.A.I.D. can redig the swales and they will fill back up.

Mr. Butler advised that that type of project was purposely omitted because it is such a monumental issue. This is a constant battle and we will have to look at it.

Councilman Levy commented that they are fortunate enough in Country Club Estates because they have a desirable percolation rate and they do not flood. It is very hard to get people in the neighborhood to understand why they may be charged this fee when they cannot see anything tangible happening to merit it. This is a middle income area where people are fighting to save their homes. He has a problem supporting this because timing is tough economically for everyone. This is something that may or not be mandated by the State at some time and he believes the State is looking at a lot of things they are doing, especially with the attitude of the conservatives of who are running the State. Mr. Lord has an excellent point because Administrative talk was used during the explanation.

Mr. Butler clarified that MPDS and CRS was defined during previous discussion. MPDS means that we have to perform certain functions throughout the City. One thing that has not been emphasized is the benefit received. We all receive a benefit regardless of where we physically live from how stormwater is managed elsewhere in the City. We need to navigate from time to time on any or all of the public roadways that are managed by our City. One thing that sometimes gets lost in the thought process is that we do not realize the benefit while driving to visit a friend in another neighborhood. We all derive a benefit from the efforts the City puts in whether it is in your local neighborhood or in another neighborhood. We have to remember this is more of a global issue and we all derive a benefit from a global perspective.

Councilman Levy stated that people are polarized when specific areas of the City are listed. He suggested forming a special District for the people who are benefiting in that area to pay for that improvement.

Mr. Butler understands the point and noted that it is not purposeful. When looking at a City that we are responsible to maintain and if it just so happens that what we can readily identify is a need here opposed to there, it is just the reality; it is not as if there is no desire to do something to better anywhere else. As far as forming a special District, we would be losing a measured benefit that everyone derives from the services provided. Country Club Estates does derive a benefit from what may result in their neighborhood but it also derives a benefit from what takes place out of the neighborhood. There is something very tangible on the books that are coming to us. Country Club Estates is on the radar no different than Park East and anywhere else in town when the water quality mandate arrives and we are going to have to do something about it.

In response to Councilman Levy, Mr. Butler clarified that he is talking about stormwater, not drinking water. There are certain nutrients and contaminants that enter into a stormwater flow; the terminology used today is phosphorus and nitrogen. There are levels that have been found to be detrimental and the State and the Federal Government want those things managed at a higher level of scrutiny to further improve the quality of our stormwater that hits the ground and gets back into our water column. That is the whole issue; to further clean up the water. As the City better understands the mandate they may come into Country Club Estates and do a significant swale regrading program to further retain a larger volume and get it further polished; there is the tangible project potentially.

In response to Councilperson Stoner, Mr. Butler advised that everybody will benefit from the change in the flood zone submittals. He stated that if someone has insurable property by FEMA's definition for flood insurance you will secure flood insurance through a Federally backed program. Everyone in the City who has insurable property today enjoys a 15% reduction on the base premium in that program because of the efforts that are currently put into the CRS program. The language on the proposal side could affect us negatively. It may take some of the credit points that we have already qualified for and remove them and by removing those points it may force us into a lower category; we may lose 5% off of the 15% and it might force us to spend money to ramp up the program to get back to where we were because we will have to do things differently according to this new language, which will require different and new types of resource to get back to where we were at. This program can give us additional credits as long as we have the funding source to do some of the other things that can be done. With regard to Page 2 of the ordinance, Mr. Butler explained that uncontrolled stormwater runoff is a term called illicit discharge, which is uncontrolled or illegal discharge. If those types of things were not properly managed they could damage the eco system so severely that it will cost a lot more money to re-establish ourselves to get back to where we are supposed to be and it can actually affect our residences and businesses financially from the perspective of the quality of our drinking water.

In response to Mayor Bendekovic, Mr. Butler indicated that the insurance company looks at us on a property by property basis. The Federal Government, FEMA, through which the CRS program operates, looks at us as a community and that is where we get our rating. All of the efforts result in a real world monetary tangible savings to the taxpayer; that is the tangible part. If the proposed language does not have a negative impact on the City's efforts today, he recently submitted to the CRS program some additional requests for credits, there is the potential that we could qualify and get moved from a 7 to a 6 and get another 5% reduction.

Mayor Bendekovic commented that since this takes so much from our road and traffic, it almost impacts what we can do in those areas as far as paving.

Mr. DeCelles agreed and stated that the money would be earmarked for paving and street work instead of taking from that funding source and using it in the drainage program. Country Club Estates was over \$2 million and bids were received for Plantation Harbor, which will be a future discussion.

Dennis Conklin, resident, indicated that this is an unfunded mandate from the Federal Government. We already have an existing program in place and he recommended not moving forward at this time and continuing with the existing program.

In response to Mr. Conklin, Mr. Butler commented that the Federal Government has already promulgated a rule; it is actually in place now. If the State is successful in rescinding that rule, it will replace the rule with its own rule.

In response to Councilman Jacobs, Mr. Butler advised that we already have water quality regulations; they are at a different level than what is being proposed. We are currently polluting water. There are still significant conveyance issues that have to be dealt with and it would be irresponsible of the City if we did not deal with those conveyance issues as soon as possible. It would also be irresponsible for us, as citizens, if we are negligent in taking care of the quality of our water. It is very important that we support that and we need to fund those efforts at whatever numerical level chosen.

Larry Ebberts, resident, was a member of the stormwater focus group. During the field trip it was explained that a lot of the problems were caused by developers who did not do a thorough job in the development of that community and in some of the areas it is residents who put trash in the swales that are supposed to convey the water. Based on the field trip, something needs to be done about the infrastructure of stormwater. During the focus group it was also mentioned that certain communities could get credits. If Country Club Estates does not need some of the infrastructure that other areas need, perhaps they could set up a petition to get a credit and maybe they would only be charged half.

Councilman Levy noted that it says after a certain number of years the credits would be granted.

Mr. Lunny indicated that the credits are for infrastructure in excess of the minimum requirements; it is proposed in the ordinance that credits be annually applied for because the standards may change. One issue in the memo is whether the Council wants to lengthen that a little and say that they could have a credit for up to two or three years; maybe even five years. Once an adjustment is made it will be on our records forever until we know there is a change in fact; however, you have to apply annually for the credits. It is believed that it should not go beyond a shorter time period.

Councilman Jacobs' recollection was that during the calculation of the credit it was at the time the project was built and how far above the Code the project went and that gap would be eligible for credit. He noted that there is a lot of infrastructure that was developed prior to the Code.

Mr. Lunny advised that as he understood it, the stormwater criteria is measured today under today's regulation. If you are going to give somebody a credit, in theory it should be based on whether today they get a benefit in excess of current requirements because we have to provide service based on current requirements not on past requirements.

Mr. Butler explained that discussion during the focus group study was if a property owner, at their own expense, wanted to introduce a stormwater improvement that affected their own property and/or outside of their property boundary that exceeded the minimum requirements of the rules that are in place at that time, they could approach the City and make an application for a credit, which would be evaluated on the merits. That is how a property owner might qualify for a credit.

Mr. Lunny indicated that the City establishes a level of service based on the law as it exists at the time. Service needs, the level of service we need to deliver, are established based on today's law. If there is a private investor that exceeds today's minimum requirements, the theory is we need to do less to service that property so they get a credit. It is always looked at on our side in terms of what is needed today in this calendar year.

Mr. McClelland clarified that the reason to annually recertify is not because the Code is changing, it is because those systems do not work unless they maintain. The recertification is that they have been maintained so they operate according to the way they were originally built.

In response to Councilman Jacobs, Mr. McClelland advised that the credit is based upon the Code at the time the construction was done and stays in place unless the infrastructure is not maintained.

Mr. Lunny commented that is different than what he wrote; he will go back in and change it.

Mr. Butler reiterated that if you get a credit you have already demonstrated that you have achieved something above and beyond and removed some element of service that we would have to provide otherwise. You would be entitled to maintain the credit unless you are negligent and let the system go array and now it is not performing as expected.

Mr. Lunny would advocate that this should be done.

Bob Knox, resident, understands that most government mandates give a time period in which it has to be implemented; therefore, his feeling is that nothing should be done until we know what the mandate is.

Councilman Jacobs stated that it is not one mandate; it is stormwater management and water quality. The mandate is the water quality and the stormwater management is a problem that has to be addressed now.

Mr. Butler advised that the Federal Government has already enacted this and if the State does not achieve a rescission from the Federal Government it will affect us next year.

Mr. Knox mentioned \$750,000 per year spent for repairs, which are coming out of road and repair work. He questioned why the infrastructure has not been addressed in the past as an issue that needs to be looked at for the future. As far as putting this aside as a separate utility in order to get grants, he looks at grants no differently than anything else that takes his tax dollars to pay for.

Councilwoman Uria indicated that \$500,000 comes from the Road and Traffic Fund and \$250,000 from the General Fund. Monies have been set aside; however, they had to be used in other areas.

Councilman Jacobs stated that one of the main reasons for a utility is so that the funds are locked in to be used for only the stormwater system because over the past years any money that may have been budgeted got raided due to other needs; it would be illegal to raid an Enterprise Fund. He believes that a utility should be created.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to create the stormwater utility in the draft ordinance as presented by staff, implementing a \$2.50 stormwater utility fee. Motion FAILED on the following roll call vote:

Ayes: Jacobs, Tingom

Nays: Levy, Stoner, Uria

Motion by Councilman Tingom, seconded by Councilman Jacobs, to create the stormwater utility implementing a \$2 stormwater utility fee. Motion FAILED on the following roll call vote:

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

Councilwoman Uria commented that the millage has already been set and she cannot put this tax into place without knowing what is going to be done with the millage.

Mayor Bendekovic suggested continuing this item to the October 12, 2011 meeting, which will be after setting the millage rate. She emphasized that the responsible thing is to do something; to do nothing is irresponsible.

Mr. Lunny stated that it would be appropriate to continue the first hearing of this meeting until some time, as mentioned, shortly after the budget consideration. The impact of that will be that in order for the Administration to go through the process of trying to implement the fee by January 1, 2012, which was their goal, they needed to have a more clear indication that the Council would be willing to do so. If you are looking at adopting the fee in the September/October time period, that may not give the same time to get it in place by January 2012, which would impact the forecasted revenues from this source.

In response to Mayor Bendekovic, Mr. Keefe advised that, if in the future this was approved, the rate would generate \$1.2 million over a year. We are preparing to start this in January 2012 if it is approved; therefore, it would be three-quarters of a million dollars because it would not be in effect for a whole year. The first year would not be the full amount.

In response to Councilman Levy, Mayor Bendekovic clarified that she did not call the Council irresponsible; she said it would be irresponsible if there is not some kind of a stormwater management fee.

Motion by Councilman Tingom, seconded by Councilman Levy, to continue the reading of this amendment to the October 12, 2011 meeting. Motion carried on the following roll call vote:

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

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 17.

17. REQUEST FOR SIGN SPECIAL EXCEPTION FOR DD'S DISCOUNTS LOCATED AT 3841 WEST BROWARD BOULEVARD. PROPERTY ZONED SPI-2. (FOUR CORNERS COMMERCIAL).

A Staff Report from Planning, Zoning and Economic Development, dated July 27, 2011, follows:

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report, subject site map, aerials, Sign Special Exception application and sign details.

REQUEST: From: Section 22-35(g), which allows one (1) wall sign on the front of the building limited to 60 square feet in area.

To: Increase the size of the front all sign from 60 square feet to 125.85 square feet.

Wall signs are permitted based on one-square-foot of wall sign for each lineal foot of store frontage, subject to a maximum of 60 square feet. If the request is approved, there would be an area increase of approximately 65.85 square feet.

EXECUTIVE SUMMARY:

A sign special exception has been requested to allow a 126-square-foot wall sign for DD's DISCOUNTS, which is a 22,000-square-foot store located in the West Broward Shopping Center, at the northeast corner of Broward Boulevard and State Road 7. DD's is taking over the space that was formally occupied by Serge & Co. and National Pawn. The shopping center has 20 tenant spaces of which 17 are currently occupied.

Under the current code, the applicant is allowed 60 square feet of wall signage. The applicant is requesting a sign special exception to allow approximately 126 square feet of signage. The applicant has modified their branding colors (fuchsia and teal) to match the center's sign attribute criteria that allows white, blue, yellow, or red signage.

The proposal meets some but not all of the special exception criteria (see below). In this case, staff must determine based on the "totality of circumstances: if the request is so unique that it does not exist anywhere else in the City. The following criteria, taken as a whole, suggest this is the case.

- a. The West Broward Shopping Center is located at the intersection of two major BCT mass transit corridors, State Road 7 and Broward Boulevard.
- b. There is no major anchor (i.e., 50,000-square-foot supermarket) located in the shopping center to draw customers to the smaller stores.
- c. DD's is approximately 22,000 square feet in area, which falls into the category of "junior anchor", such as Total Wine in the Fountains.
- d. Based on the store frontage and floor areas of DD's, the sign is generally proportional to other existing signs in the center in terms of their store frontage and floor area.
- e. This proposal is not for an outparcel building.
- f. The proposal is not for a tenant located in the end-cap of the shopping center.
- g. The proposed use is not a high-traffic generating use such as a restaurant, supermarket, bank, medical or other office use.
- h. The tenant space is located approximately 500 feet from State Road 7 and 200 feet (or more) from Broward Boulevard.
- i. The applicant has agreed to comply with shopping center color criteria.

EXHIBIT "A"

SPECIAL EXCEPTION:

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code. The applicant is required to identify the following:

1. That special conditions and circumstances exist such as, but not limited to, building orientation, vehicular circulation of vision obstructions (not to include landscaping) that are peculiar to the land, structure, or building that create a site specific justification for the exception;

Applicant's Response:

The building is oriented about 45 degrees to the road, positioning the storefront sign such that it is difficult to see with a clear line of sight. In addition, the building is situated back behind Walgreens, which occupies 15,120 square feet, creating a vision obstruction from West Broward Boulevard to the DD's DISCOUNTS storefront.

Staff's Response: The DD's Discount tenant space contains some site-specific conditions.

- 1) *The West Broward Shopping Center is located at the intersection of two major BCT mass transit corridors, State Road 7 and Broward Boulevard.*
- 2) *There is no major anchor (i.e., 50,000-square-foot or more supermarket, sporting goods store, department store or office) located in the shopping center to draw customers to the smaller stores.*
- 3) *DD's is approximately 22,000 square feet in area, which falls into the category of "junior anchor", such as Total Wine in the Fountains.*

2. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other property of lands, structures or buildings of similar character with identical special circumstances (nonconforming signs shall not be grounds for issuing sign special exceptions), or alternatively, that a special exception from the provisions of this Chapter is warranted and justified to protect, preserve, or enhance the City's tax base or to prevent or eradicate conditions of economic blight.

Applicant's Response:

Allowing only a 60-square-foot sign located on the DD's DISCOUNTS storefront as it is positioned in this shopping center will likely be unreadable to passing traffic and would not be consistent in scale or character of the other signage within the same shopping center. The enforcement of the literal interpretation of these regulations would place DD'S DISCOUNTS at a competitive disadvantage causing severe economic impact to DD's DISCOUNTS while providing advantages to other tenants in the same center.

Additionally, the new DD'S DISCOUNTS store is taking over the space that was formally occupied by Serge & Co. and National Pawn. Both of these former tenant signs are located on the same frontage as the proposed DD's DISCOUNTS sign. These wall signs for these previous tenants had a total sign face area of 255.33 square feet (157.73 square feet – Serge & Co. and 97.6 square feet – National Pawn). Both of these signs had a double row of text with an overall height dimension of 80" (6.7 feet). The proposed DD's DISCOUNTS sign has a total sign face area of 125.85 square feet with a maximum height dimension of 60" (5 feet) and 30" (2.5 feet) for DD's DISCOUNTS. This DD's DISCOUNTS sign variance proposal provides for signage that is compatible in size and area with the existing signage within the same shopping center. It also provides for a total reduction of 102.88% (129.48 square feet) in the amount of wall signage provided within the same building frontage. Therefore, this proposal

provides for a decrease in the total amount of wall signage within the same frontage and thereby improves the center's overall compliance with the currently adopted sign code.

Staff's Response:

The applicant has not demonstrated that a literal interpretation of the Code would deprive the applicant of rights "commonly enjoyed by other properties of that similar character". This center is similar to many other centers throughout the City that have outparcels with partially obstructed views. These centers are subject to the same sign code requirements.

Applicant has submitted calculations for the existing signs based on methodology that is inconsistent with the Plantation Sign Code. Applicant has overstated the size of existing signs from 10% to 25%.

3. That the special conditions and circumstances do not result from the action of the applicant.

Applicant's Response:

DD's DISCOUNTS is moving into an existing previously developed shopping center with an existing signage plan and character that was previously approved by the City pursuant to previous codes. DD's DISCOUNTS is only requesting the ability to have consistent signage opportunities shared by other tenants in the same shopping center.

Staff's Response:

The special conditions and circumstances are not the result of the actions of the applicant but a condition resulting from construction of the outparcel buildings subsequent to the construction of the center.

4. That the sign special exception to be granted is the minimum measure needed to address the special conditions and circumstances that justify the special exception; and,

Applicant's Response:

The proposed sign size and area is the minimum necessary for it to be consistent with the previous sign code and existing development approved by the City. Furthermore, the proposed signage plan for the tenant space provides for a total reduction of 102.88% in the amount of wall signage that will occupy the same building frontage.

Staff's Response:

The applicant has not demonstrated that 126 square feet is the "minimum size necessary" to address applicant's asserted special circumstances at this location.

5. That the sign special exception will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood, or surrounding property, and will not otherwise be detrimental to safe and convenient use of nearby rights-of-way.

Applicant's Response:

Allowing a wall sign larger than 60 square feet will not be injurious to the shopping center or surrounding properties. On the contrary, it will make the neighborhood safer. When vehicular customers are driving past the shopping center trying to find the store, a large enough sign visible at the decision point will allow the driver to safely enter the shopping center and void any last minute unsafe attempts to turn and enter because they finally got a glimpse of the store they were in search of.

Staff's Response:

The proposed special exception is not consistent with the purpose and intent of the sign code, which is to encourage compliance with current sign code requirements. While contributing to "sign clutter" at the shopping center, the sign will not be injurious to the neighborhood.

6. That all other signage on the property is in substantial compliance with this Chapter, as applied.

Applicant's Response:

All of the existing signage is previously approved and vested and is in compliance with this chapter.

Staff's Response:

All tenants that have occupied the space since 2005 have complied with the current sign code. City Council approved a sign special exception to allow two ground signs with tenant panels in 1997. One sign being eight feet in height and 72 square feet in area fronts Broward Boulevard and a second sign being 15 feet in height and 150 square feet in area fronts State Road 7.

Joseph Ferdone, attorney, was present on behalf of the applicant.

Mr. Ferdone explained that they are before the Council to seek a special exception to allow a 126-square-foot wall sign at the new DD's Discount location at the West Broward Shopping Center. This center has three junior tenants and no major tenants. There are two outparcels blocking the view of DD's Discount location. The sign they are seeking is consistent with signage within the approved shopping center and all of the other junior tenants. The signage will be white in color, which is an approved color scheme for the shopping center, which is different than the typical DD's Discount signage that is magenta and aqua. Based on the justification provided and the staff report, they feel that they meet the standards for the special exception.

Motion by Councilman Tingom, seconded by Councilman Levy, to approve Item No. 17, sign special exception for DD's Discounts located at 3841 West Broward Boulevard, as requested by the applicant and subject to staff comments. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Councilman Tingom wished his wife a Happy Birthday.

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Councilman Levy mentioned the religious displays. He has done some research and spoke with other Cities and City Managers who have gone through the same thing. Bay Harbor Islands has had an ordinance in effect for two years and Bay Harbor has a similar policy, which he would like to come up with. They maintain a public forum area in a public park. He read the ordinance.

Mayor Bendekovic advised that we have not come to any decision at this time; there will be a meeting tomorrow at 9:00 a.m. She commented on the amount of feedback received with regard to the ACLU and the little feedback regarding the budget.

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Mayor Bendekovic announced that Country Club Estates will have a meeting on the MURT at the Country Club on August 2, 2011 at 7:00 p.m.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, referenced the creation of the CRA and questioned whether a provision was made for districts that are not designated automobile districts. He noted that there used to be an automobile business at the corner of State Road 7 and NW 5th Street; however, it has been out of business for at least two years. Last week Auto House opened at that location and he is sure that it exceeds the time limits.

Mr. Lunny suggested that Mr. Conklin give the address to Mr. Leeds.

Mr. Conklin referenced a statement made by the President regarding Social Security checks. He expressed that the Social Security Trust Fund holds \$2.4 trillion in U.S. Treasury Bonds, which the trustees are legally entitled to redeem whenever Social Security is running a current account deficit, which it is not. The Social Security Trust Fund would go to the Treasury, cash in some of the Securities and use those proceeds to send checks to the recipients. Each dollar of debt redeemed actually lowers the outstanding public debt by dollar per dollar; therefore, the checks must go out. The President and the Treasury Secretary spoke in error.

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Jeff Holness, resident, advised that he is honored to serve on the Parks & Recreation Advisory Board.

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WORKSHOPS - None

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Meeting adjourned at 11:04 p.m.

Sharon Uria, 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