

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

October 12, 2011

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

1. Roll Call by City Clerk:

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

* * * * *

2. The invocation was offered by Councilwoman Uria.

The Pledge of Allegiance followed.

* * * * *

ITEMS SUBMITTED BY THE MAYOR

3. ANNUAL FIRE PREVENTION AWARDS

A memorandum dated August 24, 2011 to Diane Veltri Bendekovic, Mayor, from Joseph R. Harris, Fire Chief, follows:

I am requesting permission to be placed on the agenda for October 12th City Council meeting, for the purpose of presenting the winners of the 35th Annual Fire Prevention Poster and Essay Contest, and to introduce the Member of the Year.

We would be honored if you would once again be an active participant in the awards presentation.

Since the poster and essay award recipients are all in elementary school, I would appreciate if they could be first on the agenda so they can go home immediately after the presentation.

In addition, would you please join us at the Chamber of Commerce Breakfast on Wednesday, October 12th, at 7:30 a.m. at Jacaranda Country Club, where we will honor the First Place City Wide Poster & Essay Winners, the Plantation Fire Department Member of the Year, and Business of the Year.

Once again, thank you for supporting the Fire Prevention Program, and should you have any questions, please feel free to contact me.

Fire Chief Joe Harris, Joel Gordon and Mayor Bendekovic presented awards to the winners of the 36th Fire Prevention Poster and Essay Contest. This year's theme was "**PROTECT YOUR FAMILY FROM FIRE**". Chief Harris thanked the Friends of the Helen B. Hoffman Library and Nancy Carroll for grading the essays. He also thanked the Ede Brown and Julie Wallack of the Plantation Art Guild for their poster and essay contest.

The 1st place Citywide poster contest winner was Nicole Kanocus (sic), a second grader from Tropical Elementary School.

The 1st place Citywide essay contest winner was Madison Watgivs (sic), a fifth grader at Central Park Elementary School.

Mr. Gordon recognized *Plantation Fire Department's 2011 Business of the Year*, HCA Healthcare, Plantation General Hospital, and Westside Regional Medical Center for their strong support of the Plantation Fire Department.

The award was accepted by Ms. Barbara Simmons, CEO for Plantation General Hospital, and Ms. Mary Lynn Swartz, CEO for Westside Regional Medical Center.

This year's *Plantation Fire Department Member of the Year Award* went to Chris Wallick for his commitment and dedication to the Fire Department.

Congratulations were offered.

* * * * *

Mayor Bendekovic made the following announcements:

- The Fireman's Barbecue will be held on Sunday, November 6, 2011 at Pine Island Park between 12:00 p.m. and 5:00 p.m.
- The Plantation Historical Society is having the Plant Affair at Plantation Heritage Park on Saturday and Sunday, October 22 and 23, 2011, between 9:00 a.m. and 5:00 p.m.

* * * * *

Resolution No. 11356

4. **RESOLUTION** of Appreciation to Juan F. Jara for 15 years of dedicated service to the City of Plantation.

Motion by Councilman Tingom, seconded by Councilman Levy, to approve Resolution No. 11356. Motion carried on the following roll call vote:

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

* * * * *

Mayor Bendekovic read a Proclamation designating October 10 – 14, 2011 as *National School Lunch Week* in the City of Plantation.

Darlene Moffitt with the Broward County School Board accepted the proclamation.

* * * * *

Mayor Bendekovic announced that the City of Plantation has been awarded the “100 Best Communities for Young People” for the third time in a row.

* * * * *

Police Chief Harrison provided an update on Officer Curtis Hampton and K9 Rudi. Both are expected to have a full recovery. He thanked the Fire Department and EMS as well as the community for their concern and thoughts and prayers.

* * * * *

Mayor Bendekovic recognized and congratulated Erik Anderson, who was awarded the “ACCLAIM Principal of the Year” for Broward County.

* * * * *

Mayor Benekovic introduced Senior Chief Brian Smith who presented a Navy Seals presentation to Mark Hartman and the Plantation Central Park Aquatic Complex.

* * * * *

CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 17.

Item No. 13 was pulled from the Consent Agenda.

Mr. Lunny read the Consent Agenda by title.

5. Request for road closure for annual holiday parade on November 19, 2011.
6. Approval for Big Bike Riders Association to sell Christmas trees at Sears from November 18 – December 24, 2011.
7. Approval for St. Benedict’s Episcopal Church to sell Christmas trees from December 2 – December 18, 2011.
8. Approve South Plantation High School Community Yard sale on Saturday, November 5, 2011 from 7:30 a.m. until noon.

9. Request for the purchase of replacement parts for the two grit pumps located at the Regional Wastewater Treatment Plant in the amount of \$19,063 from the Sanders Company. (Budgeted – Utilities)
10. Request to approve emergency purchase order to Jackson Land Development LLC for the emergency repair of 8” gravity sewer main on Central Park Place East. (Budgeted – Utilities)
11. Approve funds in the amount of \$17,816 to purchase ongoing maintenance for our Web Sense security software.
12. Approve funds in the amount of \$113,206.80 to purchase ongoing maintenance for our Intergraph (Public Safety CAD 911) software.

Resolution No. 11357

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 15 – October 5, 2011 for the Plantation Gateway Development District.

Resolution No. 11358

15. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 15 – October 5, 2011 for the Plantation Midtown Development.

Resolution No. 11359

16. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 15 – October 5, 2011.

Resolution No. 11360

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 15 – October 5, 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 printed. Motion carried on the following roll call vote:

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

Note: Councilperson Stoner abstained to Item No. 16, Check #053066 on page 45 for the period 9-29 to 10-5-11 of this resolution because her adult children are employees of Stoner & Associates. The business is entirely owned by her former spouse and her children do not own any interest in the business, and while neither her nor her adult children will obtain any special gain or loss from her vote, she wishes to abstain from voting with respect to this check to avoid the appearance of impropriety. Her yes vote shall be as to all other checks listed. The proper papers have been filed with the City Clerk.

NOTE: Mayor Bendekovic voted affirmatively on Item No. 17.

* * * * *

Ordinance No. 2464

13. Continued Second and Final Reading of an **ORDINANCE** of the City of Plantation pertaining to the subject of Comprehensive Planning; recapturing 197 flexibility units of the previously approved 398 flexibility units, and re-assigning up to 197 flexibility units to the following described property located in Flex Zone 75 so as to permit the construction of up to 197 multi-family dwelling units without amending the City Comprehensive Future Land Use Plan; property lying in Section 9, Township 50 South, Range 41 East, and described as Tract "B" of the American Express Tract, as recorded in Plat Book 82, Page 35, of the Public Records of Broward County, Florida. Generally located on the east side of Pine Island Road between American Expressway and Cleary Boulevard; providing findings; providing a savings clause; and providing an effective date therefor. (Veranda II)

Mayor Bendekovic pulled this item because she was tasked to meet with the applicant and their legal representation, which she did. She explained that Phase I of Veranda also had a lift station; however, it was lift station #25, which was the residential lift station. Phase II of Veranda refers to lift station #15. Other recently approved projects in the City of Plantation; One Plantation Place, Alexan, and Midtown, were required to fund a lift station as well as a generator. She advised that they could not come to a consensus during the meeting. She emphasized that there is no money in the City of Plantation to fund this lift station for a cost of \$450,000. This was mentioned at the Review Committee. The value and revenue generated from this project will be put into our General Fund; it does not go into the utilities.

Mr. Breitenkam advised that the Utilities Department has never participated monetarily in any developer project; any utilities needed were installed by the developer. All of the recent projects were required to change out the lift station and also to install a generator. Stationary generators are necessary in all high density areas of the City so there will not be anything to worry about in the case of hurricanes, etc. This project came in for approval in 2004 and a lot has happened since that time. There are things from 2004 from the regulatory environment that may not have been scrutinized as much as they are today. Also, the philosophy of the Utilities Department has changed; he took over as Director in 2004 and there was a slight difference as to how we were going to go about rehabilitating lift stations. The developer's philosophy has also changed about how he wants to build the project. He does not dispute the developer's estimated cost of \$450,000 for the lift station replacement and the generator; however, the certified cost he received for the Alexan project was in the area of \$350,000. The cost depends on how many obstacles are in the way. During our meeting with the Mayor, the applicant questioned whether they could install their own lift station at Phase II for the 197 units. The problem is that there is not a force main nearby. The nearest force main to the west, on Pine Island Road, is about 650 feet and the nearest force main to the east, on University Drive, is about 800 to 900 feet. When Phase I was initially built with the residential and commercial component, they were able to install lift station #25, which is the lift station that handles Westside Regional Medical Center and the Fashion Mall. They planned on changing the scenario when 321 came in and instead of being directed west to be repumped at a pump station, it would be directed east where it would not need to be repumped. These are energy conservation measures that were put into play in the Midtown 24 project where a lot of repumping has been eliminated. In preparation of this meeting, he went through the Veranda project file very closely and noticed that there is a \$125,000 credit; there are about 43 ERC's that have already been paid that do not need to be paid in Phase II. Mr. Breitenkam reiterated that the Utilities Department has never participated in any developer projects in the past; it sets a precedent for the future and also sets a concern for those projects that have recently installed their own lift stations.

Councilperson Stoner questioned whether the phases were approved as one site plan or as two separate site plans.

Mr. Breitenkam believed it was one site plan. The lift station rehab of #15 was not; only the commercial went into lift station #15. They were required to contribute about \$8,500 for a spare pump for a lift station.

Councilperson Stoner stated that from the initial approval of the site plan the applicant was given a cost of \$8,500 and now we are at \$450,000. Of that \$450,000 how much does a generator cost?

Mr. Breitenkam advised that \$450,000 is the estimate received by the developer. A similar generator was purchased for approximately \$63,000; including installation it would probably be about \$80,000 to \$100,000 total.

Councilperson Stoner commented that if they did it on their own they would have to connect to the nearest force main. If they do so and hook into our system she questioned whether they would still have to hook into the force main?

In response to Councilperson Stoner, Mr. Breitenkam indicated that the applicant is the first one to do this and whatever comes in behind them will benefit from what they have paid out of pocket. In the old days they would put in a pump station and put it into the gravity system where it would flow to another station and that is what we are trying to avoid. He does not know that there is much more to go into the area that would hook into that lift station. The plan for 321 when they came in for approval was to redirect lift station #25 out to University Drive so it would not be repumped out west. There was also a plan for 321 to install a lift station on the north side of their project. There was discussion in 2004/2005 about a piece of property Mr. Lethbridge was looking at near 84th and Broward Boulevard and they were considering doing some modifications to lift stations there.

Councilperson Stoner noted that she would be more than a little upset if she had an approved site plan and it was basically taken back and decided on a different set of terms going forward.

Mr. Breitenkam spoke with our construction administrator, Danny Pollio, who had conversations with West City Partners about the future pumping scenario; however, there is nothing in writing. A lot of things the developers install are benefited by other people who do not contribute.

In response to Councilwoman Uria, Mr. Breitenkam explained that when the commercial portion of Phase I went into lift station #15 the impact was very small as far as the commercial portion; the residential went to a completely different lift station and a small pump was requested for that station.

Attorney Bill Laystrom was present. He questioned how much of the pump station will be used and whether there are people coming in afterwards. The project will use 16% of this pump station and they are being requested to pay 100%. They have offered to pay their fair share, which is 16% of the cost of the pump station, and they have offered to build a pump station and allow the City to pay for it over time. They have even said that they will pick up 50% of the cost of the pump station and allow the City to pay the balance over a period of time out of other funds. The ERC fund was \$560,000; those fees are technically for their fair share of the plans. They are also going to be paying approximately \$270,000 to \$280,000 per year in City taxes alone, not to mention everybody else who gets a share. The building permit fees are about \$300,000 to \$350,000 just to permit this project. He questioned what happened to the other residential lift station during the original master plan. When they came in they had a list of improvements. The only thing they requested was an eight-foot change to the base of the units. They look almost identical; they are the same number of units, the same number of ERC's, and the same number of flushes. When starting projects from the beginning they make an estimate of the total cost of the project and now here we are with an addition. The Utilities Department raised that in the beginning and it has not been agreed to throughout the process because he wanted the opportunity to see what

else would be on the list of things to do and because it is a part of a single package to come up with a way to work through it. They are ready to put it in and finance it interest free. Included in the cost is a \$100,000 generator that is not required by Code; therefore, to them, the project is \$100,000 over what it should be. He believes they have made a very fair offer of a way to make this work. The lift station can be funded out of the money they will be paying in the future. Mr. Laystrom represents all of the aforementioned projects. He feels they have provided a fair compromise at the 50% payment. He requested consideration to make this as a joint partnership.

Mr. Lunny pointed out the proposed ordinance to award flexibility and the idea behind that is that you expedite the time to permit and do not require a lengthy process of amending the City's Comprehensive Plan. If this ordinance is adopted, the permit process is expedited. The Utilities Department has a much longer history in terms of developer actions that are reasonable, as distinguished from the Fire Department discussion that occurred in the recent past. The Fire Department discussion was a result of a law change the City did within the last few years. For many years the Utilities Department has obtained what it needs in order to build and operate a public system on an analysis of projects when they come in. He suggested that either the developer pay for this because the Mayor has indicated that the City does not have the funds or Council may wish to explore somehow finding a vehicle to finance this. He also suggested that this ordinance not be adopted and that he be directed to study a special assessment, define an area of benefit and then have a public hearing with all affected property owners that would pay the special assessment for this lift station. That would be a lengthy process and by the time staff is comes up with a formula and defines an area of benefit, the staff time will be significant in relation to the \$450,000. It may not be the best solution but if you are looking to facilitate a development and think that a fair share contribution is the only way to do so, which would be to impose a special assessment, capitalize those costs and get the item built. In order to get the time to make sure that all of the other owners agree with the allocation, this item should be deferred and not approved until those funds are in hand.

Councilwoman Uria commented that if Council were to go with that option it would be a long process.

In response to Mr. Laystrom, Mr. Lunny explained that the idea is that if the ordinance is adopted, the time to permit is expedited. You are pressuring yourselves to come up with a decision tonight and the other participants are not here in terms of what they might pay. If Council wishes to do what is proposed and discuss fair share there are only two ways to do so; the City pays for it, which puts us in the prior position and the other way is to do a special assessment, which can be done. He encouraged Council to make sure the special assessment is in place prior to creating a liability without a funding source. The only way to do that is not to adopt the ordinance, have them go through the otherwise normal process of amending the plan and direct staff immediately to begin figuring out who will be assessed and how much. There will be several hearings in which everyone can participate. The other option is to say that the City will not fund this and deny the ordinance.

Mr. Laystrom argued that the only solution is not to table this. The Council has the authority to take whatever action it wants tonight. He is not trying to put pressure on anyone; he has agreed to fund the project and Council can decide if they are going to do a special assessment or not during that period of time. The flexibility unit part is interesting because he has an ordinance that says this project was granted and vested with a certain number of units. That process was put out to encourage us to come here; however, it does not encourage us to come here; it does the opposite. We were supposed to pay \$8,500 and now it is up to \$450,000.

In response to Mayor Bendekovic, Mr. Breitenkam advised that Utilities has to sign off on the Utilities plans and then the County Environmental will sign off.

Mayor Bendekovic questioned whether Council still has the option not to sign off on the plan if approval is granted.

Mr. Lunny advised that if the Council says the City is going to pay for this and commits the City to pay for this then that is no longer an impediment to this project's approval. If the vote passes that the City is going to pay for this, then that decision has to be executed and if all other requirements are met you would be required to sign off on whatever permits are appropriate. He encouraged that the assessment not be done after the fact. It would be a departure from the City's practice to create the liability and then after the fact try to have public hearings to let everyone know their share. If the developer is asking for something different in terms of the normal process, he would suggest going through a special assessment exercise, advertising how we are going to do it, bringing in all of the property owners that are impacted, and coming up with a fair share formula. Only after that process is complete and you have the first liens on the property and the definitive financing, will you normally incur the obligation to build the lift station.

In response to Mayor Bendekovic, Mr. Laystrom stated that the \$450,000 cuts into their profitability.

Mayor Bendekovic commented that she appreciates the investment; however, the City is advising that we do not have the money.

Mr. Laystrom reiterated that the City can use \$50,000 of their tax money over five years to repay. A special assessment does not have to be done.

Councilperson Stoner agreed with the special assessment. She stated that there is no way to know who is going to tie into the lift station since we do not know what is coming in after the fact. Even though the applicant's usage is 16%, they are willing to finance the entire thing.

Mr. Laystrom advised they will build the lift station and whatever the cost is will be certified to Mr. Breitenkam and the City's share would be 50%. For all intense and purpose, they are financing it for the City.

Councilperson Stoner stated that the obligation can be returned in the form of taxes or whoever comes in next, as they would pay a fee to tie in. She would have a real problem if no other usage is going to be pulled into a brand new lift station except for the applicant's 16%.

Mr. Breitenkam indicated that American Express is currently on the lift station as well as the commercial portion of the Veranda project, the building between American Express and the Veranda commercial, and the apartment complexes across the way. There is already a significant portion on lift station 15 already. He does not anticipate anything new coming in.

Mr. Laystrom commented that they are last in. Since the generator is not required by Code and the City already has the portable generators to operate this lift station, he suggested deducting the generator from the total, which would take about \$100,000 off of the cost of the overall project, and then they will pay for the entire lift station.

In response to Councilman Tingom, Mr. Breitenkam advised that a developer has put a generator in at Alexan, Midtown 24 and Stiles has it as part of their project.

Councilperson Stoner commented that those generators were approved as part of their initial site plan. She wanted to propose a motion without the generator.

Mr. Lunny indicated that given the developer's commitment to build the lift station at the developer's entire cost with the exception of an emergency standby generator, you would move to approve the ordinance.

Motion by Councilperson Stoner, seconded by Councilman Levy, to approve Ordinance No. 2464 based on the developer's representation to build the entire lift station with the exception of the standby generator. Motion carried on the following roll call vote:

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

Councilman Tingom commented that he is extremely uncomfortable with setting a precedent that we can negotiate the required Utilities portion.

Councilman Levy advised that he seconded the motion because he believes that the developer's request is reasonable. We do have portable generators that can be moved as needed. This is a very important project and is part of the development scheme for Plantation that we have worked on for years. This project needs to move forward to help the economy in an upwards direction to provide jobs, etc. He feels that whatever can be done to work out this compromise is important and that is why he supports the compromise requested by the developer. They are still bearing the brunt of the project; the only thing missing is the portable generator. In the case of an emergency, the South Florida Water Management District also has generators available for any cities that need them. He thinks it is important that we work to build businesses, jobs and industry within our community and homes for people and this is part of what we have approved over the years since this is Phase II.

In response to Mr. Breitenkam, Mr. Laystrom concurred that the lining of the existing gravity sewer under Pine Island Road is part of the project.

* * * * *

LEGISLATIVE ITEMS

Mr. Lunny read Item No. 19.

19. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF FIREARMS AND AMMUNITION; AMENDING SECTION 11-2 AND 12-1 OF THE CODE OF ORDINANCES BY DELETING REFERENCES TO FIREARMS; CREATING SECTION 17-3, PLANTATION CITY CODE TO ACKNOWLEDGE THE PRE-EMPTION OF STATE LAW OVER FIREARMS AND AMMUNITION AND TO INDICATE THAT ALL CODES, ORDINANCES, RESOLUTIONS AND POLICIES IN CONFLICT THEREWITH ARE REPEALED TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A memorandum dated September 22, 2011 to Mayor Bendekovic and members of City Council from Quentin E. Morgan, Assistant City Attorney, follows:

As the elected officials are aware, the Governor approved legislation that continues a pre-emption of local governments from regulating firearms and ammunition unless expressly authorized to do so by general law. The law prohibits the City from regulating or attempting to regulate firearms or ammunition in any manner (except as specifically authorized by s.790.33, F.S., by general law, or by the Florida Constitution). Generally, the City

would violate the State Law by adopting a new ordinance regulating firearms or enforcing any existing ordinance regulating firearms. Currently, the City does not enforce any ordinance or regulation that could be considered in violation of the State Law. However, in an abundance of caution due to the new penalties described below, it is recommended that this Ordinance be adopted to clean up the code.

The law provides the following penalties and rights: (i) requires courts to declare ordinances, regulations, or rules that violate s.790.33, F.S., invalid and assess a civil fine of up to \$5,000 against the elected or appointed local government official or administrative agency head under whose jurisdiction a violation occurred if the court determines that a violation was knowing and willful; (ii) specifies that a knowing and willful violation of the statute by a person acting in an official capacity is cause for immediate termination of employment; and (iii) authorizes a person or organization whose membership is adversely affected by an ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or enforced in violation of the statute to file suite for declaratory and injunctive relief and for all actual damages attributable to the violation.

However, the law does not prohibit the following: (i) zoning ordinances that encompass firearms businesses along with other businesses (zoning ordinances that are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are prohibited); (ii) law enforcement agencies from enacting and enforcing firearm-related regulations within their agencies; and (iii) the City regulating or prohibiting employees from carrying firearms or ammunition during the course of their official duties, except as provided in s.790.251, F.S.

The Ordinance is ready for 1st Reading and direction is sought to advertise.

Larry Ebbert, resident, was present. He questioned whether the City can pass an ordinance that supersedes a State Law.

Mr. Lunny explained that last year the Legislature passed a law which pre-empted certain regulation of firearms and in response many Cities have been going through their code and repealing references to firearms or ammunition. There is some retained authority in the area for zoning so that one may not be able to put a shooting range in a residential neighborhood. Generally, this particular subject is being required by the Florida Legislature and there are certain penalties if the Cities do not comply. Plantation does comply but we are taking the extra step of repealing these. As to the broader question, there are times when a City's law can be more restrictive than State Law.

***Motion by Councilman Jacobs, seconded by Councilperson Stoner, to approve Item No. 19 on first reading.
Motion carried on the following roll call vote:***

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

* * * * *

Mr. Lunny read Item No. 20.

20. 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; FOR PROVIDING FOR A STORM WATER ENTERPRISE FUND; PROVIDING FOR CODIFICATION; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated October 5, 2011, to Mayor and Members of City Council from Brett Butler, City Engineer, Frank DeCelles, Public Works Director, and Dan Keefe, Chief Administrative Officer, follows:

SUBJECT: Continuation of 1st Reading of a Proposed Ordinance for the Establishment of a Storm Water Utility.

The City Council, Administration and staff will continue its July 27, 2011 discussion with regard to a 1st reading of a proposed ordinance for the establishment of a Storm Water Utility for the City of Plantation. Attached please find the documentation provided for July 27th City Council meeting. In addition, at the request of Council, please find attached Storm Water Program Capital Projects list with accompanying location map.

Should you have any questions, please do not hesitate to contact Mr. Keefe, Mr. DeCelles or Mr. Butler.

A memorandum dated July 21, 2011, to Mayor and Members of the City Council from The Legal Department, follows:

I. Introduction

This item is sponsored by the Administration, City Engineering, and City Public Works Department.

Attached for consideration at First Reading is a **draft** Ordinance establishing a Storm Water Management Program, and authorizing a Storm Water Utility Fee.

As the elected officials are aware, the consulting engineering firm, CDM, has assisted the sponsoring departments in both public outreach and information focus group exercises, in making important recommendations concerning the structure of the Storm Water Management Program and the establishment of the Storm Water Management Fee, and in formulating appropriate utility levels of service and funding mechanisms. Scott McClelland of such Firm has appeared before the Council previously, and has briefed the elected officials concerning the presentations made to the various focus groups, as well as the recommendations resulting from focus group meetings.

II. The Supporting Report

This topic was discussed at the May 18, 2011 City Council meeting at which the Council indicated that work on the Storm Water Utility should continue. Staff is desirous of providing a status report of current recommendations to the City Council and soliciting input or comments, as appropriate, on the program and implementing ordinance proposed therefor. To that end, attached as Exhibit "1", please find a copy of Mr. McClelland's Memorandum to Mr. Butler setting forth information on funding options, levels of service, rate

structure information, pervious area considerations, credits, exemptions, billing, and revenue estimates. This report should be carefully considered as it provides the context and backdrop for the Ordinance's preparation.

III. The Draft Ordinance

The draft Ordinance is attached to this Memorandum as Exhibit "2". Staff recognizes that portions of this Ordinance will likely need revision given anticipated comments and direction of the elected officials as First Reading.

The following in the Ordinance is noteworthy:

1. The Ordinance's recitals set forth that Storm Water Management is largely necessary to comply with mandates of the Federal government and State government. Various Federal and State agencies have engaged in rule making procedures which will require Plantation to expend a very significant effort and resources both in the area of water quality and controlling storm water direction and volumes.
2. Section 9-100 makes several findings and determinations. The City is requested to make these findings and determinations legislatively so as to support the creation and establishment of the Utility and Program. The Legal Department recommends that Staff or Mr. McClelland be requested to comment generally on such findings and determinations so that some evidence is received during the First Hearing which supports them.
3. Section 9-101 contains various definitions for the Utility which are consistent with the Exhibit "1" recommended programming and rate structure options. These may change given the Council's review of the Exhibit "1" Memorandum.
4. Section 9-102 creates the Utility and authorizes certain Staff powers to operate and implement the Utility.
5. Sections 9-103 and 9-104 concern the determination of the billing rates for the Utility, require the rates to be approved by ordinance at least once every three years, and allow for administrative adjustments within such three (3) year period of no more than four (4) percent in any fiscal year.
6. The ERU rates shall be based going forward on the financial needs of the Storm Water Utility Program (as reflected in the Operation and Maintenance Budget and Capital Improvements Schedule and Budget which will be presented to the City Council and evaluated by the City Council on an annual basis as part of the City's overall budget exercise). Attached as Exhibit "3" is a tentative Capital Improvements Schedule and Budget prepared by Staff which sets forth some improvements that are now reasonably foreseeable.
7. If certain areas of the City wish to have an enhanced level of service, Section 9-104 allows the City to impose special charges.
8. Section 9-108 concerns exemptions for Governments, Schools, Houses of Worship, and all property located within the Plantation Acres improvement District (PAID). For schools not owned and operated by the School Board of Broward County, it is proposed that the exemption will apply only those business entities recognized by the Internal Revenue Service for being exempt from the payment of federal income tax pursuant to Section 501 of the Internal Revenue Code. For Houses of Worship and Schools, the zoning where the property is situated must allow the use as a permitted use.

9. Sections 9-109 and 9-110 pertain to authorized adjustments and credits to the Storm Water Program Fee.
- a. An adjustment can be thought of as a more precise calculation of impervious area or dwelling units upon which the fee is based. The property owner would be indicating the number of dwelling units assigned to the property by the City is greater than the number actually built, or that the impervious area which actually exists is greater than what is reflected on the City's records. Plantation has been largely built-out at residential densities less than allowed pursuant to the applicable zoning, and it is possible that the City's records may in a few instances overstate the number of dwelling units that exist on a property. Further, the method by which the City will approximate the impervious area may not always result in what actually exists from time to time given that the City might not have plans which reflect current conditions. Therefore, having some mechanism in the Ordinance for the property owner to request appropriate adjustments is necessary to make sure that the City's information is complete and that the fees are charged accurately. Adjustments apply retroactively only for the fiscal year in which the applicant exists, and may apply prospectively to future fiscal years until the City becomes aware of any other improvements to the property.
 - b. A credit is different from an adjustment. A credit takes into consideration Storm Water treatment, retention, or conveyance facilities that are constructed by a property owner voluntarily and which operate to store, treat, or convey storm water in a manner in excess of the City's minimum requirements. Where property owners elect to make such private investments (which decreases the need for public infrastructure), the Ordinance recognizes that an appropriate credit should be given. How the actual credit is calculated is not precisely defined in the Ordinance as it will involve fact specific application of engineering science and principles. Unlike adjustments, credits only apply during the fiscal year in which the application was received. This is because the requirements for storm water management are becoming increasingly stringent, and a constructed facility may only be "in excess" of current requirements for a short period of time, also the maintenance and operation of the constructed facilities should be verified annually to ensure that the facilities are maintained and remain functional.
 - c. As currently written, the City Engineering Department would evaluate a request for credits and the City Public Works Department would evaluate a request for adjustments. In the event that Staff does not approve an adjustment or a credit, the ordinance provides for an appeal to the Mayor. The Ordinance allows the City to establish committees for hearing appeals, similar to the bid protect committee.
 - d. At this time, it is unknown whether, to what extent and how many potential requests for adjustments or credits will be received. The Council may want to consider reviewing adjustments or credits which result in an adjustment which exceeds a certain amount or may not wish to be involved in this process.
10. Section 9-112 concerns violations. Generally, it will be a violation to utilize the City's Storm Water Program without paying. The enforcement of violations is by the usual methods, namely, ordinance infraction through County Court proceedings, or Code Enforcement proceedings. Additionally, the Legal Department recommends that the Ordinance expressly authorize injunctive relief to require the property

owner to make such improvements as are necessary to not utilize the public system. This relief has been an important element for the enforcement of storm water ordinances throughout the State.

11. Finally, the Administration anticipates utilizing the City's Utilities billing system for a short period of time until the Storm Water Fee can be included as part of the County Revenue Collector's annual tax bill (pursuant to Chapter 197, Florida Statutes). During the time period that the Storm Water Utility Fee is on the Utilities bill, the Ordinance provides for a lien for unpaid charges and allows the Storm Water Fee to be treated as part of environmental control charges.

This draft Ordinance is ready for consideration at First hearing. If any of you have any questions or comments, please direct them to Mr. Keefe or to Mr. Butler or Mr. DeCelles or to Mr. McClelland. If you have any legal questions, please feel free to contact us.

Mr. Butler provided a brief overview and showed pictures of recent rain events. The first reading discussion for the stormwater utility ordinance began on July 27, 2011. Staff made a formal statement regarding the City's existing storm water program and on certain unfunded mandates imposed or soon to be imposed upon the City through Federal or State Legislation and correlated that to the City's existing storm water program for an understanding of the impact for the City. A brief presentation was then made to summarize the staff's prior effort and discussion with Council regarding the study and evaluation of a solution to fund the City storm water program. An overview of the proposed ordinance was presented for the establishment of a storm water utility as a mechanism to fund the program. After a failed motion to proceed in some manner with the ordinance, the City Council unanimously agreed to continue the First Reading after adoption of the 2012 General Fund Budget.

Councilwoman Uria indicated that she does not agree with the ordinance being reviewed once every three years with no more than a 4% increase in any fiscal year.

In response to Councilwoman Uria, Mr. Butler advised that a storm water utility can be changed.

Councilperson Stoner mentioned that she had the same concerns as previously. She has learned that the Florida League of Cities is challenging the EPA rule in the Federal Court. This case is not expected to be heard until after the New Year and as such, there is a stay on the mandates issued. She was not inclined to give the taxpayers another tax. She believes that we are being nickled and dimed. This does not only affect the residential taxpayers, this also affects the commercial side, as they will pass it along to the consumers.

Mr. Butler indicated that the state of the mandate is regarding the Federal Legislation. It is important to note that whether the Federal mandate survives or not, the State of Florida will adopt a similar type rule. In other words, eventually we are going to have a rule that will impose certain water quality mandates. It has been emphasized over and over that it is not a matter of if; it is just a matter of when. With regard to the budget, staff has made genuine efforts to secure the necessary funding; it was not afforded to us. We are at a point where we are appealing, almost on a desperate level, of the severity of our situation. He commented that this would not be a tax; it would be a fee or an additional cost.

Councilperson Stoner did not disagree that the Legislation is coming; however, to date, the State has not stepped up to the plate and those nutrient numerics have not been established. Based on the sequence of expenditures, the initial expenditures are for equipment.

Mr. Butler stated that the initial expenditures are in combination with a project. It has been explained that they would target Categories A and B together over a proposed period of time.

In response to Councilperson Stoner, Mr. DeCelles advised that Zone 3 is Park East.

Mr. Lunny indicated that the rule making pertains to water quality issues. The storm water needs of the City are a quantity and flow issue and the funding requested in the short term is more quantity and flow driven.

Mr. Butler stated that they have emphasized, in prior discussions, that our storm water system serves two purposes; they address a conveyance or quantity of water and then we have a water quality mechanism. The Legislature is in fact dealing with water quality issues; they are on the horizon and are going to happen. This evening we are looking at conveyance or water quantity issues. They have been there for years and do not require Legislation to get passed for us to deal with this.

In response to Councilman Jacobs, Mr. Butler advised that at least 75% to 80% of the projects on the list deal with conveyance matters.

Councilwoman Uria commented that no matter what is done, when there is hard rain in a short amount of time there will always be some water; it is never going to be perfect.

Mr. Butler stated that photographs shows this evening are indicative of an old system that cannot sustain a very modest rain. The area shown would probably drain in two days, which is way beyond our level of acceptance. If this were a tropical storm event/wet event, there would be a much longer duration and similar intensity and this situation would be compounded multifold. The funding is requested in order to prepare for those circumstances that are going to occur at some point.

Councilperson Stoner mentioned the map and questioned the sequence. The presentation in the ordinance allows all kinds of adjustments to the program, addition of dollars by bonds, and increased fees at your discretion.

Mr. Butler advised that there is a sequence in the near term and it was explained in the narrative. If approval were secured they would be working with a half a million dollars a year of capital expenditure. At that level, without any other funding mechanism in place, the best they can do is to deal with the outfall priorities.

Mr. Lunny indicated that any bond issue requires a separate approval of the Council and in the adjustments, if the Council does not wish to authorize those kinds of adjustments, they can be written in a different way and that is part of the process of public hearings.

Councilman Jacobs commented that infrastructure is aging and it has become critical. Based upon what he has learned, creating a utility has a value in itself; there are additional benefits to having a utility that is a separate organization or a special fund. There may not be much available as far as getting grants, etc. The Council, as a body, has been reluctant to impose any additional fees on the citizens of the City; however, we have a critical situation. He questioned whether there would be any benefit in creating this utility but not assess a fee at this time. There are some dollars in the General Fund that will be used for storm water utility in the current budget. He questioned whether some of those dollars could be transferred into the utility and funded that way and then sometime in the future, when the Council is ready to consider and the environment is conducive to assessing a fee, we would already have the methodology in the utility.

Mayor Bendekovic clarified that this has been funded through the Road and Traffic Fund and also out of the General Fund. We also have storm water reserves, which is about \$93,000. Any paving has been postponed because we have had to fund the \$500,000 out of the Road and Traffic fund.

Mr. Butler's opinion was that the value as opposed to the outset would be that we have a structure in place. The downside is that the notable absence of the requested funding leaves us basically in the same dire strait that we are in today. Without establishing the rate along with the structure, he believes the value might be somewhat limited.

Councilman Jacobs suggested a de minimus rate; a small rate to get started.

Mr. Butler noted that the rate of \$2.50 per month, per ERU for a single family residence is a very modest rate. This is probably the lowest rate to be found anywhere.

Councilman Jacobs stated that the political reality is that you are not going to get \$2.50 but you could get \$1.

Mr. Butler advised that they will take anything; he does not know what would be accomplished but it would be a start. He questioned whether Council would consider starting and funding the program with the half a million dollars of capital, which equates to a \$1 per month ERU rate in lieu of the \$2.50.

Councilman Tingom expressed concern that capital infrastructure has not been funded and our drainage infrastructure is in very poor condition with no specific source of funding. He agrees with Councilman Jacobs that it is important that we set up some structure at this point and time because it does qualify us for a specific source of funding which allows for State and Federal dollars to flow. A series of meetings were conducted with residents about a year ago and the result of the group meetings was that this absolutely had to start at some point and time. We are probably about five to ten years behind on getting some sort of funding started for the program. He is afraid that if nothing is done this infrastructure will continue to fail and there will be some serious flooding problems within the City. He believes funding at the \$2.50 rate was a "C" level and he believes that was the recommendation of the Citizen Committee. He tended to agree that the funding needs to be put into place and decide at some point to get it started but perhaps \$2.50 is too rich of a program at this time.

Councilperson Stoner clarified that she was part of the Focus Group and there was no consensus that this program needed to start immediately. The Focus Group focused on the level of service that the residents wanted to participate with; however, a time element as to implementing this was never part of the discussion.

Mr. Butler advised that the Focus Group was requested to consider the program as described. They were asked to reach their own conclusions whether or not there was a need for this program. If they first decided there was a need for the program they were given information to consider on how it should be funded. There was a strong majority, almost a unanimous consensus, that the program is much needed. There was not a time constraint or time frame emphasized, but the brevity of the conditions was emphasized and the group, even with a field tour, agreed that there were things that needed to be done.

Councilperson Stoner indicated that she has agreed from the beginning that this is deferred maintenance. She expressed concern about the additional dollar.

Councilman Jacobs suggested that each Council member state what level of funding they would be willing to go with and if it is zero, would they be willing to create the utility with zero funding. He noted that he would be comfortable funding the utility for \$1.

Councilwoman Uria commented that she has a problem with some things in the ordinance.

In response to Councilperson Stoner, Mr. Butler advised that the \$1 represents the \$500,000 at a level of service fee for capital needs, which would greatly be appreciated.

Councilperson Stoner and Councilman Tingom concurred with Councilman Jacobs' suggestion for \$1.

Councilman Levy wanted to hear the public's comments prior to saying anything.

Sandra Gracey, resident, was present. She was in favor of the ordinance and believes this should be considered now.

Ken Nelly, resident, was present. He was not in favor of the ordinance and is against any further taxes or fees.

George Lord, resident, was present. He was on the Focus Group. The last time this was discussed the amount was going to be about \$750,000 and now we are \$500,000 higher; he questioned whether that is the \$500,000 capital improvements. Who gets the Program Management money of \$158,500? He mentioned the street sweeper for \$275,000 and questioned the cost of \$50,000 for public information.

Mr. Butler advised that the total figure was always \$1.25 million. The Program Management is currently a funding level that comes out of the General Fund to take care of staff expenditures, which is an administrative cost. The street sweeper is there for cleaning up the debris, etc. The street sweeper is part of the storm water program because it is going to clean sediments, debris and pollutants from the roadway that otherwise would migrate by way of runoff into the storm water system and potentially violate the mandates that are going to come down sooner or later. With regard to public information, we are not spending anything yet. The title of the category is called Advancement of the CRS Program for Flood Insurance and one of several programs is being picked out with expenses. The \$50,000 would develop a program for public information that would satisfy an activity requirement in this program and the result of it would give the City certain points that would be awarded that can work towards lowering our category/rating, which would result in residents getting another 5% reduction on their flood insurance. This is unrelated to the law and is a separate program.

Mr. DeCelles indicated that the sweeper on the list is not an additional sweeper; it is a replacement. Usually you get six or seven years out of a street sweeper and the one we have now is about 8 ½ to 9 years old. Since the street sweeper is going to be replaced it can be applied to the storm water utility.

Mr. Lord was present as a representative of the Country Club Estates area. They do not have a water problem, which has been previously discussed. He questioned why residents in Country Club Estates have to pay for driving on the streets with water and why residents in Plantation Acres do not have the same requirement; they drive the same streets.

Mr. Butler stated that when the mandate comes he strongly anticipates that Country Club Estates will have a water quality project in their neighborhood, which is a swale regrading program.

Mr. Lord advised that when water pipes were previously installed for Country Club Estates, residents had well water. The City said they had to have a swale, which they did and a year later the swale was filled with a pipe.

Mr. Butler indicated that the majority of the neighborhood functions in a traditional sense of relying almost entirely on swales and that water quality issue will come up.

Mr. Lord feels that Country Club Estates should be treated the same as Plantation Acres if they are not going to receive anything. The memorandum states that the storm water fee can be included as part of the County Revenue Collector's Annual Tax Bill.

Mr. Butler concurred that the storm water fee can be included in the County Tax Bill and this decision will be made by Council. He emphasized that this program is more than just water conveyance or water quality. There are other things that this program does. Residents derive a benefit from the CRS Program with regard to the flood insurance.

Mayor Bendekovic mentioned that Councilwoman Uria served on the Plantation Acres Improvement District for six years. She questioned what the fee was at the time she was serving on P.A.I.D.

Councilwoman Uria believed it was over \$500 per acre and then it was reduced.

Mayor Bendekovic thought it was under \$410 and a quarter of an acre is about \$110. During Hurricane Irene the Acres had to be reactive instead of proactive because of the need. She would much rather pay \$2.50 per month instead of what she is currently paying.

Councilwoman Uria stated that no matter what is done and how much money is spent, there will always be quality and flow problems.

In response to Councilman Levy, Mr. Butler indicated that about half of the City currently has active projects, as the map indicates. Special district funding for specific projects was previously discussed and was dismissed at one point.

Councilman Levy commented that in order to relieve the objections it would seem that those that are getting direct improvements such as Park East and others should be special districts to take care of that as quickly as possible; not with minimal funding but with appropriate funding. He agreed that no one should be sitting with their house under water with a one-hour rain. Councilperson Stoner mentioned that the flooding also affects businesses. If a special district type of payment is done the people who need relief can get this quickly and those that are not getting anything do not pay until they need it.

Mr. Butler stated that if a special district were done, which he views as a special assessment targeting certain areas, the net cost per person will be much more significant. We are having a principal discussion about who is benefiting from the program.

Councilman Levy reiterated what Mr. Lord and his neighbors said, "They are not getting anything and why should they pay for it". According to the map provided, there will only be projects in about half of the City and the other half of the City is not going to get anything on a perception basis. It looks like 50% of the people will be paying for the other half and it looks like they are not getting anything in return; they will not see any improvements for years to come if at all, but they will be paying for years to come. This is a very difficult decision and he wants to be sure that all alternatives have been examined for funding to find the fairest and best way. No one disagrees that the infrastructure and drainage in the community needs to be improved; the issue is how to get there. He would like more serious consideration be given to the way it is being funded so that the

people who do not see any improvement in their neighborhood are not paying for years waiting for some improvement while others are getting the benefit of their tax dollars.

Councilwoman Stoner agrees with Mr. Lord; we all use the streets.

Mr. Butler mentioned that if the flooding directly impacted a hospital someone might not have been able to get there and that is an example as to how everyone derives a benefit.

Councilman Levy is trying to affect a solution; we need to get Park East and things like this settled right away. He is only questioning the way it is being funded and the fact that it is another fee to the entire City and there are a lot of people who cannot afford to do any more. This is going to go on everyone's bill every month.

Mr. Butler indicated that the idea of a special districting is a solution but he thinks that would be far more burdensome than implementing a program that derives a benefit for everyone. In his opinion, he believes it is far more equitable to implement a storm water utility with a fee, a rate structure, than to do a special districting or special assessment.

Councilperson Stoner understands the special districting and Councilwoman Uria's point about how residents are charged. There is no doubt that the tax system is not particularly fair across the board. This is like a bottomless pit; there is always going to be something that has to be added and it is not going to stop.

Mr. Butler stated that it is no different than a water and waste water utility. They would like to be less reactive to issues and maybe some day in the future we could get more proactive and stay on top of this system. Once we get to that point, these expenditures can clearly be minimized.

In response to Mayor Bendekovic, Mr. Butler stated that this can impact our insurance rates and policies and everyone will derive the benefit. The flood insurance program is an across the board program.

Councilwoman Uria commented that the flood maps were recently revised after 25 years.

Kingsley Smith, resident, was present. He attended the Focus Group. He is currently affected by the flooding and eventually other areas will be affected; this needs to be looked at overall. The City must come to some type of urgent agreement regarding excessive rainfall.

Jerry Fadgen, resident, was present. We have been educated on the needs of the storm water related issues and projects over the last year. There is a great need that must be addressed. Over the years this has been funded out of the General Fund and priorities change from time to time. At this time he would oppose a storm water utility with a fee. He recommended getting funding from the General Fund budget to take care of the critical need in Park East.

Larry Ebberts, resident, was present. He was a member of the Storm Water Focus Group. During the tour of certain neighborhoods it was indicated that the contractors did not construct the area properly with the drains. It was mentioned that in Jacaranda Lakes holes were dug with a grade put over them. Plantation Acres had a problem so they developed the P.A.I.D. District and solved their problem. Plantation Isles had a problem with the canals and the City said, "Sorry", although there are turshiary canals that the City owns. In 1964 the Council determined that the City had no responsibility for those canals. The idea of storm water is to get it out of the streets, into the swales, turshiary canals, secondary canals, the State Road 84 canals, the Plantation Isles canals and through the Holloway Tunnel. He would say that if Park East has a problem they should pay for their

problem; that is what Plantation Isles did when they had to dredge the canals. Everyone was assessed a lien and the City allowed them to pay it off in time. Perhaps Park East could do the same thing.

Mr. Ebberts mentioned a bicyclist that had fallen on the south side of Peters Road, between 59th and University Drive, which is fairly dark. There is a drain that is totally covered with debris and he suggested if new storm drainage is going to be put in near sidewalks that it be fenced.

Councilwoman Uria commented that the road in question is a County Road.

Rico Petrocelli, resident, was present. He indicated that many residents cannot afford another increase. The little "It's onlys" add up to big dollars for families and businesses. He was a little disappointed that the Plantation Chamber of Commerce was not here petitioning Council not to levy another fee on local businesses. As far as the hospital, that is a full profit business; they need to get a pump in that area. Commercial businesses will be charged at a higher rate than residences based on square footage. He requested that the fee be postponed for a year.

Councilman Tingom appreciated Mr. Petrocelli's comments but in talking with the department heads and the people working in the field, this has been put off for over ten years. If we don't start doing something our infrastructure is to the point that we will have failure and flooding. He believes the process should begin; it should be based on the ERU. He feels it would be irresponsible not to start this in some fashion at this time.

Councilman Levy questioned whether it was possible to make a motion that we develop the administrative structure that Councilman Jacobs suggested and if the situation in Park East can be prioritized no matter how funding occurs. He also questioned whether the structure could be set up without the funding and use some funds from the General Fund that have already been allocated for drainage problems to assist in Park East and then this issue can be reconsidered at a better and more economically feasible time. He knows that there is State funding for drainage and all we need are the right lobbyists. He noted that Pembroke Park recently received \$554,000 from FEMA for drainage and he believes that the City of Plantation can apply for similar grants. He agrees with Councilman Jacobs; the structure needs to be set up.

Councilwoman Uria commented that Park East is \$2.2 million.

Mr. Butler clarified that the monies in the budget that are actually allocated for capital expenditure to build or correct something are not a half a million dollars. They were requesting to generate revenue of a half a million dollars through some funding mechanism. There is less than \$100,000 to actually fix things. Whatever funding may be out there, there are a scarcity of funds when trying to solve water volume or storage problems. There are grants for water quality but it is very difficult to find a grant for water quantity problems. To compound the problem, most of those grants typically require a match.

Councilman Levy indicated that Pembroke Park has a 20% match. He requested the businessmen that improved their properties to come up with the 20% match and they have oversubscribed to that. They then have a vested interest in the improvement and are working with the City to select the vendors and contractors; it becomes a public private partnership and it works. He wants to move forward responsibly; \$2.50 per month, taxes were just raised and we are looking at a bond issue; that is a lot of money for some people. The problem needs to be funded and solved. Every possible avenue needs to be explored. He believes that administratively the ground work can be laid, the ordinance can be passed, the fee structure can be left out and revisited at a later time once we decide what we are going to do and what priorities there will be. In order to move forward, he thought the structure should be put in place, as Councilman Jacobs suggested.

Mayor Bendekovic appreciated the input; however, the problem is that the money is not there to solve the problem. The City is not immune to rising costs; everything is going up in the City as well.

In response to Mayor Bendekovic, Mr. Keefe advised that there is \$93,300 in the storm water account, \$50,000 of which is for repair or projects and that is part of the \$200,000 in the General Fund. There is \$587,000 in the Traffic Fund.

Councilman Jacobs questioned the timing as to when people would actually have to start paying the fee if an ordinance were passed tonight with a fee.

Mr. Keefe believed the payments would begin in January or February 2012. Currently the mechanism considered would be to put it on the utility bill.

Councilman Levy read the letter from Congressman Alan West, where he is helping us recover money that we say FEMA owes us from previous storms and storm management. He questioned whether it would be possible to allocate the money received towards storm water management.

Mayor Bendekovic indicated that we received \$380,000 for Wilma and we are now requesting the funds from Francis. Nothing has been done for us. The \$380,000 was used to balance the budget because it was forthcoming.

Mr. Keefe stated the money could be put towards the storm water management but he would not count on it.

In response to Councilman Levy, Mr. Keefe advised that we have explored mitigation funds provided by FEMA; however, we are not eligible. According the FEMA guidelines, we do not have any of the chronic flooding areas within the City.

Councilman Jacobs commended Councilman Levy for trying to come up with creative solutions.

Councilwoman Uria commented that it is unfortunate that this was not addressed previously and now we are in these economic times and have to address this.

Councilperson Stoner mentioned that other sources of funding and grants have been explored so even if the fund is set up with zero dollars we are not getting funds from any other sources.

Councilman Jacobs stated that his original thought process was that we have some money in the General Fund that could be transferred into the utility as a bookkeeping measure and then spend it from there.

Mr. Keefe reiterated that there is not that much. Even with a grant there must be a source of income.

Councilwoman Uria indicated that some tough decisions have to be made. This needs to be done but come next year at budget time employees may not get another raise. Just for Park East we need \$2.2 million to start. We cannot pay for everything; we either have to cut somewhere, increase or make a tax. Taxes were recently increased, Waste Management is going up on garbage, insurance premiums are going up; everything is going up except salaries.

Councilman Jacobs stated that we have a fiduciary duty to the City and we have to look to the future.

In response to Councilman Jacobs, Mr. Lunny advised that changes could be made to the ordinance prior to now and the second reading.

Mr. Petrocelli commented that no matter what fee is implemented, there is not going to be an immediate impact to Park East or any other areas.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Item No. 20 with a \$1 fee. Motion FAILED on the following roll call vote:

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

Motion by Councilman Levy, seconded by Councilwoman Uria, to approve Item No. 20 with no fee. Motion carried on the following roll call vote:

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

In response to Councilman Tingom, Mr. Lunny advised that the title is written in a fashion that the Council could, on second reading, propose a storm water fee; the title will not change. Council has indicated at first reading it is not considering a fee but it is not precluded on second reading for some to change their mind.

* * * * *

QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 21.

Resolution No. 11361

21. **RESOLUTION** APPROVING THAT CERTAIN RELEASE OF A PORTION OF EXISTING UTILITY EASEMENT ATTACHED HERETO AS EXHIBIT "1", PROVIDING FINDINGS; 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.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Resolution No. 11361. Motion carried on the following roll call vote:

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

* * * * *

Mr. Lunny read Item No.'s 18 and 22. These items were heard in tandem.

18. DISCUSSION CONCERNING PROPOSED VOLUNTARY NEIGHBORHOOD DECORATIVE STREET SIGNAGE PROGRAM.

Resolution No. 11362

RESOLUTION of the City of Plantation pertaining to the subject of community planning; approving a decorative street sign installation and maintenance program for the City's residential neighborhoods; approving a sign code special exception to the extent same may be needed; approving a form decorative street sign installation and maintenance agreement; providing findings; providing a savings clause; and providing an effective date therefor.

A memorandum dated October 5, 2011 to Mayor and Members of City Council from Brett Butler, City Engineer, follows:

In 2007 the City completed a pilot project with grant funds to install decorative street sign assemblies within the City roadways servicing the Plantation Historical District area. Since that time, staff has received positive feedback from other neighborhoods. In particular, the Jacaranda Cay Homeowners Association (HOA) has approached the City with a request to introduce the decorative street signs into their neighborhood.

In meetings with the HOA, City administration and staff have explained to the HOA that while the City is not in a position to fund an expansion of decorative street signage into other areas of the City, it would support a voluntary neighborhood-funded program for decorative street signage. The HOA informed Administration and staff that they have utilized information supplied by the City to secure a cost from the City's sign vendor for the fabrication and installation of decorative street sign assemblies in their neighborhood. They have secured the funds to purchase and install the decorative street signage and have requested Administration and staff to develop a City program for their neighborhood to work through.

Administration and staff have developed a voluntary decorative street signage program (Program) that will provide two decorative street sign assembly alternatives for a neighborhood to choose from. A first alternative matches the existing decorative street sign assembly in the Historical District in compliance with required Manual of Uniform Traffic Control Device (MUTCD) standards adopted and enforced through Chapter 23 of the City Code. A second alternative incorporates a separate supplemental sign blade/frame assembly into the standard assembly for the express purpose of allowing the name of the neighborhood. Staff has applied required MUTCD standards to determine that a neighborhood name can be included on the sign assembly only if it is physically separated from all regulatory signage on the assembly. In other words, a neighborhood name cannot be included on the same sign blade as a regulatory sign. Attached are graphical representations of both alternative assemblies.

Furthermore, please be advised that the inclusion of a supplemental sign on the street sign assembly triggers the requirement for application to approve a sign special exception to applicable sections of the City's Sign Code. Staff has prepared a companion City Council agenda item for a sign special exception application sponsored by the City for your consideration. Staff requests the Council to consider approval of the sign special exception as they consider approval of the proposed Program.

Staff and the City's Legal Department have developed a draft of a Uniform Decorative Street identification Sign Installation and Maintenance Agreement (Agreement) for use by staff to administer the Program. The Agreement establishes terms and conditions for neighborhood funding, purchase, installation and maintenance of

decorative street signage within City roadways servicing single family residential neighborhoods. The attached Agreement makes specific reference to Jacaranda Cay as a first neighborhood to utilize the proposed Program. A proposed Resolution to adopt the Program is also attached for your consideration.

Should the City Council approve of the Program and sign special exception, staff will proceed to work with the Jacaranda Cay HOA to incorporate required exhibits into an agreement and execute same. This item is ready for City Council consideration.

22. REQUEST FOR SIGN SPECIAL EXCEPTION FOR DECORATIVE STREET SIGNS FOR JACARANDA CAY AND OTHER SIMILARLY SITUATED RESIDENTIAL COMMUNITIES.

A Staff Report dated October 12, 2011 to City Council from the Engineering Department and the Planning, Zoning and Economic Development Department follows:

SUBJECT: PP11-0024: Sign Special Exception Application to establish a Decorative Street Sign Program in Single Family Residential Communities.

APPLICANT: City of Plantation

LOCATION: Single Family Residential Zoned Communities in Plantation, including PRD Districts that are developed as single family residential.

Planning, Zoning and Economic Development is sponsoring the subject application for sign special exception at the request of Administration in concert with a proposed decorative street sign program to be made available to single-family residential neighborhoods.

The attached application (includes the basis for the request) has been prepared by the PZED and Engineering Departments and requests approval for the inclusion of a separate supplemental message sign on decorative street sign assemblies located in City public roadways governed by Manual of Uniform Traffic Control Devices (MUTCD) standards. The supplemental message sign would be used to accommodate the name of a single-family residential neighborhood on a decorative street sign subject to authorization by Administration.

Staff has prepared a companion agenda item for the adoption of a voluntary neighborhood-funded decorative street sign program (Program). Staff requests the City Council to consider approval of the Program as they consider approval of this application for sign special exception.

Mr. Butler introduced Jeffrey Teeger and Alan Forgea. This is a unique type of program stimulated to the credit of Jacaranda Cay because they have a vested interest in promoting and furthering a project that we performed elsewhere in the City for decorative street signage. During discussion with residents of Jacaranda Cay solutions were worked out. A voluntary type of program has been developed that will be available to Jacaranda Cay and it is being developed as a general type of a program so if there is any other neighborhood in the future who wishes do this that there will be a mechanism to work through. The special exception works as a companion item due to the fact that two alternative designs are being offered; one is consistent with what is in the historical district neighborhood today and the other as a separate supplemental sign that would give a neighborhood an opportunity to introduce some uniqueness by adding their neighborhood name. There are certain requirements

imposed upon the City and during navigation of those requirements it has been determined that the requirements are acceptable and supportable. A form of agreement has been provided to further the program. This agreement has been reviewed by the HOA and their legal representation and they have explained that they are in support of the language and are anxious to move forward with the City.

Councilperson Stoner announced that she will not be voting on this item since she resides in Jacaranda Cay. She questioned the average number of years that a sign lasts before replacement. The agreement is for ten years with two additional terms. She questioned what happens at the end of ten years if the City should decide they no longer like the sign.

Mr. Butler indicated that signs, as far as the lettering, tend to fade over time. As far as maintenance, that part would not be subjective as there will be direct implications for maintenance.

Mr. Teeger, President of the Jacaranda Cay Homeowner's Association, and Alan Forgea, Vice-President of Jacaranda Cay Homeowner's Association, were present.

In response to Councilwoman Uria, Mr. Teeger stated that they have read the draft legal contract, are paying for the signs, for the implementation, the maintenance, etc. They are also setting up a reserve fund for a potential of any signs being damaged. If they need to address dating, he mentioned that the whole sign does not have to be replaced; there is a vinyl insert put inside at a much lower cost. Mr. Teeger went on to say that Jacaranda Cay has been very active in improving what we have in the City. They have tried to do improvements to help the value of their homes and to make Plantation a nicer and better place to live. In the past they spent over \$20,000 in plants. Recently they added some additional foliage borders at the entrance, repaired and repainted the wall, and installed security cameras. This particular project was brought up by Alan Forgea. He and Mr. Forgea went to the historical district and were impressed with the signs. They then looked into where the signs were obtained, got the name of the vendor, did all of the costing and felt they had a viable solution to what they were aiming to develop. They had a Homeowner's meeting and received complete and unanimous approval on what they wanted to do. The cost of this project was incorporated into their annual dues, which is paid in support of the project. They would like the name Jacaranda Cay on their signs and because of various governmental restrictions they understand that they cannot put it directly on the sign that directs people to a specific street. In cooperating with the Mayor and Mr. Butler they feel they have come up with a good compromise solution. This draft was made as a precedent for the program and also a blueprint for other communities to do what they are doing, as it is believed that other communities will probably like to duplicate when they can afford to do so.

In response to Councilman Levy, Mr. Forgea advised that the project cost is about \$18,000 for 24 signs, including installation.

Mr. Forgea indicated that he has been working on this for about two years and thanked Mayor Bendekovic, Councilwoman Uria and Councilperson Stoner for their assistance. He also thanked Mr. Butler for all of his assistance. They believe this is something that will catch on in other parts of the City. They want to beautify their neighborhood and this is a great example of neighborhoods reinvesting. They are purchasing the signs and have requested the City to be their partner to allow them to put their private property in the public right-of-way.

Mr. Teeger commented that this is a win-win situation. The existing signs will be returned to Mr. DeCelles and the burden of maintenance that currently fall under his department will be taken away.

Councilperson Stoner understood that she could not vote for Jacaranda Cay but questioned whether she could vote on the other item, which is a model agreement.

Mr. Lunny advised that she should abstain from both items.

Councilman Levy questioned why Councilperson Stoner should not vote since she does not receive any financial gain.

Mr. Lunny indicated that the item involves a sign on her property. It is always the elected official's prerogative regardless of the law to determine that she feels it would be inappropriate. When looking at the voting issues the question is whether you are benefiting in some differing kind or degree than the neighborhood in general. When Councilperson Stoner stated there was a sign on the right-of-way near or on her property that pretty much allowed her to draw the conclusion that it would be inappropriate.

Councilman Levy believed that there was no benefit on behalf of Councilperson Stoner other than the fact that she has already paid for the sign through her dues in the Homeowner's Association.

Mr. Lunny advised that the sign will be in a public right-of-way, which is what a lay person would call swale land. The particular sign in question will be on swale land on or adjacent to Councilperson Stoner's lot. In that respect, an objective observer might conclude that there is a benefit different in kind or degree than a person six or seven homes down who benefits from the sign program but does not have an upgraded sign on his or her property.

Councilman Levy stated that there are times when a person is not financially vested in something is required to vote by being here.

Mr. Lunny explained that all of the Council members are required by State Law to vote on every matter that is presented as long as you are at this meeting and if you are somewhere on the grounds of City Hall your vote is a yes even if you are not in the Chambers. State Law requires you to vote unless your ethics indicate that you should not and one of the ethical considerations that all elected officials have is that if there is an appearance of impropriety.

Mr. Forgea respects Councilperson Stoner's decision not to vote. She was not involved in this program; this program was long in the works prior to hearing that she might be involved with the City Council.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve Resolution No. 11362 and Item No. 22. Motion carried on the following roll call vote:

Ayes: Tingom, Jacobs, Levy, Uria

Nays: None

Abstain: Stoner

* * * * *

COUNCILMEMBERS' COMMENTS

Councilperson Stoner expressed concern about fees and noted that she did not vote for park fee increases, as Parks and Recreation seem to be doing very well financially. She noted that across the board Administration has the ability to increase fees by whatever they choose; it is not tied to anything such as the CPI or the true inflation rate which she thinks is at 1%; however, fees were increased over 4%, maybe more. She believes that these increases need to come back and be tied into something solid. With regard to the employee issue, Councilperson Stoner has felt for some time that the City should have had an employment hiring freeze in place, especially considering the budget issues. Since she has been here there have been a couple of times where the approval of new hires has been brought to this Council. She mentioned the Pen and Ink and noted that these are all promotions and new hires, two of which came only to the City. She found it interesting that one person was promoted to an Electrical Inspector and a new hire was also and Electrical Inspector.

Motion by Councilperson Stoner that there be a hiring freeze for new hires and promotional. There was no second to the motion.

Councilwoman Uria concurred that there should be a hiring freeze and no promotions for General Employees.

Councilman Jacobs commented that he would not do something like this without any discussion. We also need to hear from the experts who run the City, who say not to do that.

Councilwoman Stoner stated that Department Heads can still bring requests to Council and give their rationalization as to why they need it at that point. She believed that instead of having to listen to 16 Departments Heads they could come on a case by case basis.

Councilman Jacobs indicated that is not the role of the Council.

In response to Councilperson Stoner, Mayor Bendekovic emphasized that this is a Strong Mayor form of government and she assured her that she was not doing anything other than what has been indicated. New positions are not being made.

Councilperson Stoner commented that she has not heard anything saying that we are not hiring new hires and the Pen and Ink says otherwise. We are hiring new people and the few times it has come before Council we are being told that they are being promoted because someone has left and it is through attrition.

Councilwoman Uria believed that Councilperson Stoner can make a motion for anything she wants and that any of the Council members can. In her opinion, since we are struggling so much with the budget, Councilperson Stoner is saying that we cannot keep going the way we are going and we cannot keep hiring and giving promotions. She does not see anything wrong with that.

In response to Councilman Jacobs, Councilperson Stoner indicated that she is not trying to shut down the City. We have already been told that we are in the hole.

In response to Councilwoman Uria, Councilman Levy stated that his City has reduced staff.

In response to Councilman Levy, Mr. Lunny advised that the only ordinance on the books that he can recall is that the Charter Officers are appointed by the Mayor subject to Council ratification and he believes Department Heads, under the Human Resources law that we tried to fix before, have their employment approved by the members of the Council. The practice of the City is that exempt employees, meaning those that are exempt from overtime requirements, has been that those employees hirings were approved by the Council and there are some employees, who have previously been advised, have State Law requirements that they get appointed by the governing body. When the Council decided not to act on the Human Resources law, the result was that only Department Heads will be required to be brought to Council for approval. If the Council wishes to adopt an ordinance saying that everyone needs to be approved by the Council for every job description, it has the ability to adopt that ordinance and if it gets passed by the requisite number of Council, even if it is vetoed and it overcomes, then that will be the law of the City with the exception of the Charter Officers, which are the Mayor's prerogative. Currently the law of the City is only Department Heads; the past practice has been a little different. As indicated earlier, they were trying to make things a little more efficient and at that time Council did not want to go the whole distance. We will probably be brought back to Council at some point.

Councilwoman Uria indicated that when we keep having budgetary issues maybe some things should change. She does not think that a hiring freeze is a bad thing.

Councilperson Stoner stated that the motion has been stated very well as to the rational for bringing this forward; she is not trying to micromanage anyone; however, we have some serious budgetary issues. Based on what she has seen in the last nine months, we may want to consider putting this motion in place for obvious reasons.

Councilman Jacobs concurred with the intent and where Councilperson Stoner is trying to go with the budget; however, he did not necessarily agree with the methodology. He does not want to see another millage increase next year. Most of the costs of operating the City go to people; therefore, that would be a logical place to try to cut. Not filling empty positions might be an easy way to do so. The motion saying there is a hiring freeze does not sit well with him because of his understanding of the philosophy of a body and a balance of powers where there is a legislative body and an executive body. At this point he cannot say that he would support a motion for a hiring freeze. Perhaps we should Workshop how we are going to address next year's budget and make it clear that as a body we are not going to increase taxes next year; we have to cut costs more.

Councilwoman Uria stated that she has been saying that she does not want another millage increase for five years and nothing has changed; until something changes we are setting ourselves up for a millage increase. She believed that a Workshop was a good idea.

Councilman Levy believes that we could get bogged down if we started looking at every hire. He feels that the Mayor should be in charge of personnel and held responsible for that. Department Heads do come to Council. He understands if a hiring freeze is set that people would be held responsible but he would hope that it would not be such that if something happened to someone that they could not be replaced appropriately if necessary.

* * * * *

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to continue the meeting for five minutes after midnight. Motion carried unanimously.

* * * * *

Councilman Levy mentioned traffic on I-595 and the Turnpike. He wants everyone to know that the signs are not sufficient to get southbound off of State Road 7; you have to go to Griffin Road and pick up the Turnpike from Griffin Road. From Sunrise Boulevard to Griffin Road there is no way to get on the Turnpike. This will stay in effect through December 9, 2011.

* * * * *

Mayor Bendekovic thanked the public safety departments; both the Fire and Police Departments, for the way they reacted on Tuesday.

* * * * *

Mr. Lunny advised that the County adopted a new ethics code, which will become effective once it is filed with the Department of State. One of the amendments was that Elected Officials should be able to seek advice from Counsel from their municipal attorney and if they act in accordance with that Counsel and make a full disclosure of facts in writing, they will not be held in violation of the ethics code; it is similar to the State model. He was pleased to report that is a concept that this City was involved in early; it got some traction and was incorporated in the law. It was recognized in the final version that Selection Committees would not work for a strong Mayor. He felt that the Broward League of Cities did a nice job on this issue in terms of how they monitored it and the work they put into it. They had an entire rewrite of the code that, for various reasons, did not get fully adopted. He believes they should be recognized as doing a good job. This will affect all of us. The first contact sheets will be implemented so that everyone can get a copy of the law and study it very quickly. An electronic account needs to be made of any contact from any lobbyists showing the date and time of the communication, the lobbyist name, who the lobbyist represents, and the purpose of the meeting. That is a requirement of the lobbyist and also a requirement of Council. That disclosure has to be done within ten days of the communication or before a vote, whichever is earlier. The ex parte disclosure now has to be in writing.

In response to Councilman Jacobs, Mayor Bendekovic advised that she has a test form that she has been using. It also has to go on the website.

In response to Councilman Jacobs, Mr. Lunny indicated that the forms must be filed with the City Clerk and it has to be maintained in a searchable database. The other change is that Council members' outside employment remuneration now needs to be disclosed on an annual basis. This was a particular concern for many municipal officials because their municipal service is part-time, which is true of our Council. There is one exception to the disclosure and that is if there is an employment agreement, which is confidential, and your employer, under oath, executes a jurat that indicates that there is a confidential employment relationship, then you have the ability to get grandfathered. Another thing that has gone into effect is that there are restrictions, not only on Elected Officials, but also relatives in terms of what they can and cannot do. In the areas of gifts and what not; any gifts from lobbyists or vendors, this is something that is going to be a trap for the unwary and we need to get this ordinance. Please remember these rules when engaging in your normal course of conduct. We are intending to do some defensive things such as coming up with an expanded definition of what Council people can do. There will be some things recommended in an attempt to protect Council while they are acting on behalf of constituents will be made related to your official function. There is a fundraising exemption if the City sponsors the item; therefore, he recommended that we liberalize what it takes in order for the City to sponsor something.

In response to Councilman Jacobs, Mr. Lunny advised there are some exceptions for serving on boards of charities, etc. The most important thing is that we have some discussion about this at the next meeting, either publicly or one on one. He would prefer to have one on one discussions opposed to public.

Councilman Levy mentioned a part that says, "You cannot accept anything from a lobbyist or a vendor." He questioned whether it still says that if a constituent were to give you up to a \$50 gift it could be accepted".

Mr. Lunny indicated that the \$50 limit on gifts applies as long as it is not a vendor a lobbyist. There were some issues about the constitutionality about certain aspects of this law. There were some exemptions; some Elected Officials in other cities do lobby horizontally and those Elected Officials can finish out their current term. There was another where there was a term type exception where you can engage in conduct until the end of your term. He requested that everyone watch this issue and make an appointment with him to discuss the law. As soon as the reporting is implemented the reporting will begin.

In response to Councilwoman Uria, Mr. Lunny advised that the Advisory Board members do not have to file their employment remuneration at this time. There is another phase of work that will happen for municipal employees and he does not know whether Advisory Board members will be in that bunch.

Mr. Lunny indicated that if you have a confidential employment agreement where certain aspects of that employment agreement are confidential, your employee would have an interest in saying, "This is confidential; you are not allowed to talk about it". If there was a confidential employee relationship in place before the law became affective the employer would be able to execute a jurat saying, "That's my arrangement with my employee" and you would not need to disclose for the remainder of your term.

In response to Councilman Jacobs, Mr. Lunny advised that the language is remuneration, which is a broader term than salary. It says, "Employment or contractual employment".

In response to Councilman Levy, Councilwoman Uria stated that this will become legal as of January 2, 2012.

Mr. Lunny commented that generally the League of Cities had a number of good points that he advocated.

* * * * *

Councilwoman Uria mentioned Waste Management's rate schedule. She did not understand why the cpi was increased by 4%.

Councilman Levy advised that 4% was the cpi increase for Dade and Broward Counties; nationally it was not.

Mr. Lunny stated that he has been requested to review that. He is fairly confident that Mr. Keefe or the Mayor would have looked at that.

Mr. Keefe indicated that they used the Dade, Broward or South Florida cpi and it was 4%. They charged 80% of that in the Franchise Agreement; therefore, it is 3.2% to residents.

* * * * *

PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Loretta Kenna, President of the Plantation Acres Homeowner's Association, was present. She mentioned a letter she received advising that the City would start charging their Association \$25 per meeting to meet at Plantation Acres Volunteer Park. The Homeowner's Association is not happy about this charge. The Association is a

voluntary Association; no one has to join and no one has to pay \$45 per household per year dues. The money they get from membership is used to improve their community. In the past they have used the money to add and replace trees located on City property. She requested reconsideration. They meet approximately nine to ten months out of the year and take off two to three months for the summer and when their meeting conflicts with elections they do not hold a meeting in November.

Councilwoman Uria believed that she read that the Homeowner's Association would still be able to have monthly meetings but if they went over that there would be a charge.

Mayor Bendekovic advised that it was \$25 for every time they meet. She questioned the cost of one tree. If the Homeowner's Association meets ten times per year the cost would be \$250; don't put one extra tree in. Mayor Bendekovic concurred that members of the Homeowner's Association are taxpayers but so are the residents. They pay to swim in the pool and to use the tennis courts. Council did approve it and it is part of the budget; to take that away would be other funds that we do not have.

Ms. Kenna stated that the trees were different prices.

Councilwoman Uria apologized for misreading the letter.

Mr. Romano explained that that was the previous arrangement. Parks and Recreation was requested to generate as much revenue as possible and that is when a three-page list of different fees. Across the board fees were raised from the swim team to the Homeowner's Association. These proposed fees would equate to approximately \$60,000 of additional revenue. The fees from the Homeowner's Association would be roughly about \$6,000 and the non-profits would be about another \$6,000 to \$7,000.

Councilman Levy read the letter the same way as Councilwoman Uria.

Eileen Parante, President of the Plantation Equestrian Foundation and President of the Plantation Acres Saddle Club, was present. Her concerns have grown because one of their main promoters is not happy along with different organizations that use the Equestrian Center. Currently the stall rental is \$15 and now there will be an additional \$7 to clean the stalls. As it stands, they will be able to clean their own stalls but when the next circuit starts in September that fee will go directly to the City; there will be no option. The Saddle Club began 37 years ago and is a non-profit organization.

Councilwoman Uria questioned whether other places charge cleaning fees.

Ms. Parante has been told that the Jim Brandon Equestrian Center is also implementing the cleaning charge for stalls; however, they do not require stalls.

Councilwoman Uria commented that might be something to consider because we have never allowed tying up a horse. In her opinion, we might need to revisit this.

Councilman Levy indicated that the budget is a tool and there may be some kinks that need to be changed at times. He believed that we should encourage Homeowner's Associations to meet in our facilities and they should not be required to pay for using a facility. With regard to the Equestrian Center, if a stall is cleaned properly by the person who rented it and it is overseen by a person in charge, there should not be a fee for cleaning if it is cleaned to the specifics required. He does not see any problem by saying if the stall is cleaned satisfactorily there is no charge.

Councilwoman Uria suggested looking at full profit organizations that cater to a different equestrian clientele, which can afford to pay for cleaning. The Saddle Club is a non-profit organization and is for beginners and up.

Mayor Bendekovic advised that they have been given the option that if they clean the stalls they will not be charged this year. It takes four people to clean the stalls and Parks and Recreation does not have the personnel anymore because they have lost six people this year.

In response to Ms. Kenna, Mayor Bendekovic indicated that no extra employees have been hired; there have been replacements but Parks and Recreation has lost six vacancies.

Ms. Parante expressed concern that the larger horse show that wrote the City a check for \$120,000 last year is going to go elsewhere. She has heard comments that this property should be a ball park and she would like to remain as is.

Councilwoman Uria commented that the promoter is for-profit and that is how they make their living. If they can change their show to a different venue to save money that is what they will do.

Mr. Romano advised there is not another venue and the other problem is that the promoter is very happy where he is at; he has full reign of what he wants to do at our facility. He spoke with him regarding the cleaning fees, etc. This promoter is bringing in a cleaning crew to clean up after his events. Next year he will be charged the \$7 unless he continues to bring in a cleaning crew. With regard to the Homeowner's Association, Mr. Romano indicated that if an organization donates back to the City to the tune of \$200 to \$225 for the year, the facilities are given at no charge. Apparently the communication did not get through.

Ms. Kenna stated that the Homeowner's Association donated \$15,000.

In response to Ms. Kenna, Mr. Romano indicated that Park East has donated to the City. Most of the other Homeowner's Associations have not made any donations. If the Homeowner's Association do not want to pay the fee and don't want to use the facility that is fine, it can be rented out to another group or have a program put in there that will generate additional revenue.

Councilman Levy suggested that Ms. Kenna provide documentation regarding the contribution made by the Homeowner's Association to the City.

Mr. Petrocelli commented that an exemption should be added for anyone who donates to the City.

Councilman Jacobs suggested we not act on this immediately.

Councilwoman Uria noted that it has been brought to our attention and it is something to discuss.

* * * * *

SEALED COMPETITIVE SOLICITATIONS

23. REQUEST FOR APPROVAL TO AWARD SODIUM HYPOCHLORITE AND CALCIUM HYPOCHLORITE BID BASED ON SEALED PROPOSALS OPENED ON SEPTEMBER 20, 2011.

Motion by Councilman Tingom, seconded by Councilman Levy, to approve Item No. 23. Motion carried on the following roll call vote:

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

Mr. Lunny explained that **Odyssey Manufacturing Company** has the sodium hypochlorite at a price of \$0.682 per gallon for full and split tanker loads. The other proposal, which was **Allied Universal Corporation**, had a price for calcium hypochlorite of \$124 per 100-pound drum and was approved.

* * * * *

WORKSHOPS - None

* * * * *

Meeting adjourned at 12:23 a.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