

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

September 1, 2010

The meeting was called to order by Councilman Fadgen, President of the City Council.

1. Roll Call by City Clerk:

Councilmember: Diane Veltri Bendekovic
Jerry Fadgen
Robert A. Levy
Peter S. Tingom
Sharon Moody Uria
Mayor: Rae Carole Armstrong
City Attorney: Donald J. Lunny, Jr.

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2. The invocation was offered by Councilwoman Uria.

The Pledge of Allegiance followed.

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Councilman Tingom introduced two students and their teacher visiting as part of their senior Government class at Nova High School.

ITEMS SUBMITTED BY THE MAYOR

Resolution No. 11003

3. **RESOLUTION** of Appreciation to Beth Haines for 16 years of dedicated service to the City of Plantation.

Motion by Councilwoman Uria, seconded by Councilman Tingom, to approve Resolution No. 11003. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Bendekovic, Levy, Fadgen
Nays: None

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Mayor Armstrong made the following Parks and Recreation announcements:

- Art Search is a free visual arts competition for students in grades K-12. Entry forms will be available between September 7, 2010 and October 13, 2010 at Central Park, Community Center, Volunteer Park, Jim Ward Community Center. Awards are given for each grade level and all art will be displayed at Art in the Park and later displayed at Central Park for one year.
- Kids Day Off will be held at Plantation Central Park on September 9, 2010 between 7:30 a.m. and 6:00 p.m. for children five to ten years old.
- Youth Hot Shot Basketball Tournament will be held at the Central Park gym on September 10, 2010 at 7:00 p.m. Registration is at Central Park and it is limited to 25 participants per age group.

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Mayor Armstrong introduced Mr. Nick Saviano. She thanked him for bringing his academy to the City of Plantation and to the Frank Veltri Tennis Center.

Councilwoman Bendekovic welcomed Mr. Saviano. She indicated that for Mr. Saviano to bring his academy to the Frank Veltri Tennis Center is a benefit to this City. Not only will this attract the highest level of tennis playing, but parents come with children and rent facilities to live in for as long as needed.

Mr. Saviano advised that he is excited to be coming to Plantation. He lived in Plantation in the 1970's and his brother still lives here. This is home to him; he has played tennis at the Frank Veltri Tennis Center for many years. Parents have already purchased condos and are already leasing places. Hundreds of children are expected from various parts of the world. The facility is first rate; it is run well and is incredibly organized, which makes something like this possible. It is a real credit and tribute to the City. When the parents came in they were not only excited about the tennis facility but also about the parks. He thanked everyone for their support.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Items #11 and #11a.

Mr. Lunny read the Consent Agenda by title.

5. Request to approve a purchase order to LMK Enterprises, Inc. for \$429,756, piggybacking the City of Fort Lauderdale contract for the lining of sanitary sewer laterals in the lift station 61 collection basin. (Budgeted – Utilities)
6. Approve purchase of needed database software to upgrade Public Safety CAD systems from Software House International for \$62,243. (Budgeted – IT)
8. **Resolution No. 11004**
RESOLUTION pertaining to the subject of Recreation; approving a facilities agreement for the Saviano High Performance Tennis Academy to operate within Plantation; providing findings, providing a savings clause, and providing an effective date therefor.

Resolution No. 11005

9. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 19 – August 25, 2010 for the Plantation Gateway Development District.

Resolution No. 11006

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 19 – August 25, 2010.

Resolution No. 11007

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 19–August 25, 2010 for the City of Plantation’s Community Redevelopment Agency.

- 11a. Request to authorize the expenditure of \$300,000 in CRA designated Capital Funds prior to October 1, 2010 to assist in the Peters Road design, construction and installation of a gravity sewer main.

Motion by Councilman Tingom, seconded by Councilwoman Uria, to approve tonight’s Consent Agenda as presented including the Non Agenda Item #11a. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Bendekovic, Levy, Fadgen
Nays: None

NOTE: Mayor Armstrong voted affirmatively on Item No’s 11 and 11a.

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4. Approve resident request to have a garage sale every Saturday from 8:00 a.m. until noon, beginning Saturday, September 3 until Saturday, December 4, 2010.

A memorandum to Mayor Rae Carole Armstrong and Council from Daniel W. Keefe, Assistant to the Mayor, dated August 23, 2010, follows:

Please place the attached item on the Consent Agenda for Wednesday, September 1, 2010.

Resident requesting permission to have a garage sale every Saturday from 8:00 a.m. until noon beginning, Saturday, September 3rd until Saturday, December 4, 2010.

Resident needs to downsize from home to apartment. He has contracted with an Auction service but there are many items that they do not wish to handle.

Councilwoman Bendekovic is very sympathetic to the circumstances that the applicant is currently undergoing. She was worried that by allowing this we would be setting precedence throughout the City. She suggested having a friend take the items to the Swap Shop or perhaps use Ebay or Craigslist to sell the items. She cannot support this item.

Councilman Fadgen had a similar concern. He was considering whether to approve the request but on a conditional basis, which might be more of an incentive for him to be sure that he does not have a negative impact on his neighbors. As far as he knows, there have not been any complaints about him or his operation.

Councilman Levy expressed concerned that if carte blanche was given for every Saturday between now and Christmas, that anyone in the neighborhood that has anything to sell would participate and it would be a permanent festival. As much as he empathizes with the applicant's situation, he believes approving this request would allow an open garage sale every Saturday from now until Christmas with no supervision. It also leaves it open for anyone else to say that they want to run a garage sale every Saturday.

Mayor Armstrong advised that there have been complaints regarding traffic. An additional garage sale has been authorized. The ordinance says that the Council can be petitioned if there is a need and if there is something that can be justified in having more garage sales. The City has been very consistent in recognizing that garage sales are appropriate twice a year and not on a continual basis in any one neighborhood. She encouraged Council not to consistently give a blanket for this long period of time because Code Enforcement is already dealing with a number of garage sales around the City in an attempt to maintain consistency.

Councilwoman Uria believed that some of the suggestions given by Councilwoman Bendekovic made were excellent; however, there are people who love garage sales and that is a great way to make some money. She would not have a problem with approving a lesser amount. Every Saturday would be problematic but he is requesting September 3, 2010 until December 4, 2010. She suggested allowing twice a month in September, October and November; no December. That allows six days.

In response to Councilman Fadgen, Councilwoman Uria clarified that this option is being given due to the applicant's hardship, not just because he wants to.

Councilman Tingom reiterated Councilman Levy's point. In essence the applicant is setting up a business. He suggested allowing him to choose two dates between now and December 4, 2010 to have garage sales. He is not in favor due to the previous complaints and because the sales would be on a weekly basis.

Robert Boler, resident, was present. He has lived at this location for 13 years. He retired in 2005, is 67 years old and has cancer and diabetes. Due to the economy he is desperate; he has no job and has been looking for a job for a year and a half. Not having the income he was forced to use credit cards, which he is unable to pay. He has failed to meet his mortgage payments and expects to foreclose on the house. He has several collections and decorations and his house became known as the "Christmas house". He understands the concerns of running a business, these are all personal belongings and they are being sold because he has to downsize. He submitted Halloween and Christmas photographs to the Council.

In response to Councilman Levy, Mr. Boler assured that he would not take in any consignments or items from neighbors; he will only sell his personal items.

In response to Councilman Fadgen, Mr. Boler commented that he requested through December because maybe he may not feel well one Saturday or maybe it will rain.

Councilwoman Uria indicated that her motion was for two garage sales per month so you can pick and choose the dates.

In response to Mayor Armstrong, Mr. Boler guaranteed that the garage sales would not go more than four or five hours.

Mayor Armstrong emphasized that if Code Enforcement finds there is a problem that causes a concern with the neighbors that they have the right to say no more garage sales from this date forward.

Motion by Councilwoman Uria, seconded by Councilman Fadgen, to approve the garage sales for two Saturdays per month during September, October and November with no other requests for next year. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Levy, Fadgen

Nays: Bendekovic

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Resolution No. 11008

7. **RESOLUTION** of the City of Plantation, Florida pertaining to the subject of Stormwater Management; authorizing the Administration to develop and implement a Phase III Focus Group Program to consider the City's Stormwater Program and potential funding sources in conjunction with the consulting engineering firm, Camp, Dresser and McKee (CDM) at a consulting cost not to exceed \$25,000; and providing an effective date therefore.

Mr. Lunny read the resolution by title.

Mr. Lunny advised that the City had a recent Workshop concerning the stormwater utility and it was the Administration's desire to proceed with a focus group effort to generate public awareness and get input by the public. This is the cost to proceed along those lines.

Councilman Fadgen pulled the item because he believes it should be deferred at least a year. He would rather use the money to purchase a police car.

In response to Councilman Levy, Mr. Lunny explained that this is an effort to go to the public to solicit their advice concerning the proposed fee and the program and to conduct focus meetings as part of an outreach to determine whether there is public support for the project.

In response to Councilman Levy, Mr. Lunny clarified that this is different than lobbying; the City is reaching out to selected members of the community as described in the previous Workshop to say that this is a program the City is interested in and see what input and advice the citizens give about this topic.

Mr. Keefe advised that one of the requests from Council was that they wanted input from the public and this is the attempt to do so. We have reached out to various Homeowner's Associations, the Chamber, churches, and schools and they have tried to put a group together that would be representative of the community in an attempt to get some input. The purpose for staff would then be to bring that feedback back to Council prior to proceeding, if that is the Council's desire, with the stormwater utility.

Councilman Levy stated that his concern is the \$25,000 cost to do this; he questioned whether it could be done less expensively. He also questioned whether the City Engineer could do this, as he is trying to avoid consultant costs. He believes that \$25,000 to educate the public is too much money.

Mr. Keefe indicated that it will take an effort on the consultants in order to put this together, as well as putting together a public awareness campaign that would be utilized if moving forward. This was presented to staff so we feel this is a positive move. In presenting this to the community it might not be as well received. It is believed it would be more objective coming from the consultant who has done this with multiple communities.

Mr. Butler explained that CDM is an extremely well known firm particularly on the basis of stormwater utilities and we are getting them at a very good rate. This is not a fee that was rolled over and accepted, there were negotiations. They are very well versed at reaching out to the public and explaining the stormwater utility concept. Mr. Butler understands the concepts but may not necessarily convey it in a way that this consultant has a vast amount of experience doing. In order to present this to the public in the very best way it is better to have CDM do it.

Mayor Armstrong commented that part of this outreach is to define the element of the program as it relates to how we might make a decision on the rate structure, the implementation and understanding where some of the areas of need may be.

Mr. Butler stated that Council wished to have the public aware of what was being contemplated and what better way to educate them. It is necessary for the public to understand what stormwater is, how our program functions and why we would ask them to support a funding mechanism that otherwise is out of sight out of mind. When there is a storm event they will make the calls and ask why were unable to reconcile their issue for them and we need to deal with that. This is an opportunity to educate the public and allow them to come back and challenge us. Give them an opportunity to voice their concerns, give us input and let us share that with you.

In response to Councilman Levy, Mr. Butler advised that once the report comes back to Council they will have an opportunity to decide whether to move forward or not. This is an exercise Council requested that staff perform. Council will be the decision makers.

Councilman Levy stated that it is overwhelmingly negative when going out in the public. He has received several calls on this subject with people saying they do not want to pay anymore fees.

Mr. Butler indicated that those comments come from the lack of knowledge base of the person presenting that view. They may not fully understand what is done in the stormwater program. It is believed that once they are educated they can, on their own, reach a different conclusion.

Councilwoman Uria believes we should go forward. This may not be something that can be implemented this year but it also may be something that might be able to be increased next year and sunsetted in five years. She would like to understand so she can explain to residents. She questioned who would be picking the people from the Associations and groups.

Mr. Butler commented that there is latitude as to how you wish to structure something. Staff is appealing that we have a program that needs funding. This program is necessary for this City and it is necessary that it be funded. Mr. Butler stated that the Associations have been invited to nominate one person to represent their community; the group is limited to 20 people.

Mr. Lunny advised that the legal environment for costs associated with stormwater is changing. Our Utilities Director has to undergo mechanical integrity tests every five years, along with all kinds of testing and permitting, which we pay for. Stormwater, especially in the quality arena, is right there. These are regulations and regulatory costs that are coming down the line from above and are going to be the Council's responsibility to handle. Either the millage rate needs to be increased, which would not be transparent, or a good funding mechanism needs to be found and that is the benefit of the stormwater fee; it is a more transparent and dedicated funding source.

Mayor Armstrong indicated that this is a journey in order to find the appropriate time and dollars and how to proactively address a problem that we know is there and is not going to get any better. Timing is something that will continue and it is important that this keeps moving at this point.

Councilman Fadgen commented that the consultant made the point and when it is presented to the focus group they will agree there is a need. They will probably agree that it should be funded at "x" amount of dollars; however, in his view, that will not happen this year.

***Motion by Councilman Tingom, seconded by Councilwoman Bendekovic to approve Resolution No. 11008.
Motion carried on the following roll call vote:***

Ayes: Tingom, Uria, Bendekovic, Levy
Nays: Fadgen

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ADMINISTRATIVE ITEMS

Resolution No. 11009

12. **RESOLUTION PERTAINING TO THE SUBJECT OF FINANCE; RATIFYING THE PLANTATION ACRES ROADWAY IMPROVEMENT PROJECT 2009/2010; ACCEPTING THE TWO PUBLIC RIGHT-OF-WAY FACILITIES IMPROVEMENTS THE FIRST BEING KNOWN AS THE NW 4TH COURT RIGHT-OF-WAY FACILITY AND THE SECOND BEING KNOWN AS THE NW 19TH STREET RIGHT-OF-WAY FACILITY; FIXING AND DETERMINING THE ACCEPTANCE DATE OF THE SAID PROJECT; PROVIDING CORRECTIONS AND UPDATES TO THE ASSESSMENT ROLL; DETERMINING THE ACTUAL COSTS THEREOF AS REQUIRED BY SECTIONS 170.08, FLORIDA STATUTES; PROVIDING FOR RATIFICATION OF THE FINAL ASSESSMENT ROLL; DETERMINING THE FINAL ASSESSMENTS AS REQUIRED BY SECTION 170.08, FLORIDA STATUTES, AND SECTION 5 OF RESOLUTION NO. 10663; DIRECTING THE CITY FINANCE DIRECTOR TO PREPARE AND MAIL THE NOTICES TO OWNERS OF BENEFITED PARCELS AS PROVIDED BY SECTION 10(H) OF RESOLUTION NO. 10663; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A memorandum to Mayor Rae Carole Armstrong and Members of the City Council and copied to Donald J. Lunny, Jr., City Attorney, and Quentin Morgan, Assistant City Attorney, from Daniel W. Keefe, Assistant to the Mayor, Brett Butler, City Engineer and Herb Herriman, Finance Director dated September 1, 2010, follows:

History

As the Council may recall, certain owners of property in Plantation Acres along NW 4th Court and NW 19th Street in Plantation Acres requested Staff and the Council to improve these two (2) right-of-ways to public road standard. As discussed at prior Council meetings, the City would undertake this Project provided it was largely financed by a municipal special assessment. An interim report was made to the City Council concerning estimated costs and proposed assessment methodology. At that time, Staff was directed to proceed with the Project.

The Project costs are set forth in the chart below:

Acres IV Special Assessment Actual Costs

	NW 4th Court	NW 19th Street
Base Construction to extend NW 4th Court & NW 19th Street	196,747.69	157,584.53
Administrative Costs (Eng/Admin/Public Works)	17,000.00	11,400.00
Administrative Contingency (10%)	1,700.00	1,140.00
Legal Expenses (City, Bank & Bond Counsel)	10,775.00	14,225.00
Capitalized Interest	4,115.84	3,117.67
Subtotal	233,788.53	184,017.20
Deduct Admin Costs and 37.5% Capitalized Interest	-19,869.13	-14,083.44
Total	212,921.23	170,931.93

Assessments for NW 4th Court

Of the total project costs for NW 4th Court, the City absorbed its soft costs and 37.5% of the debt service's capitalized interest as its contribution as was previously discussed. The Assessable Project Costs will be split equally among the seven (7) benefitting building sites. Therefore, the proposed assessment for each assessed parcel in the NW 4th Court Assessment Area is \$30,417.32. (Preliminary assessment was \$32,476.68).

Assessments for NW 19th Street

Of the total project costs for NW 19th Street, the city absorbed its soft costs and 37.5% of the debt service's capitalized interest as its contribution as was previously discussed. The Assessable Project Costs would be split equally among the five (5) benefitting building sites. Therefore, except as provided below, the proposed assessment for each parcel in the NW 19th Street Assessment Area is \$34,186.39. (Preliminary assessment was \$34,765.66). Two assessed parcels within the NW 19th Street Component Part of the Project have wetland resources which will need to be mitigated as part of this Project; therefore, the assessment on these two (2) parcels only will be increased. As a result of this adjustment, the Assessable Costs will be increased to \$49,471.66 for NW 19th Street Building Site Number 1 described as follows: (Note: This assessment and wetland mitigation fee has already been paid.)

NW 19th Street – Building Site 1
 Folio No. 494025030940
 (Lot 1 – Washington Mutual Bank)

In addition, the Assessable Costs will be increased from \$34,186.39 and to \$51,566.39 for NW 19th Street Building site Number 4 described as follows:

NW 19th Street – Building Site 4
 Folio No. 494025030990
 (Lot 8 – Rauh)

Assessment Debt Service

The Special Assessment would be payable in equal principal installments over a 15 year period. As was previously discussed, the assessment methodology will allow the special assessments to be prepaid at any time and without penalty (as long as an assessment is not in default). Additionally, any special assessment can be fully paid without interest within thirty (30) days of the Project Acceptance Date. Thus, if interest rates fall such that a resident may obtain better market terms than the currently proposed 4.975% on the City assessment, and since the Project was finished and accepted on September 1, 2010, then he or she would have until October 1, 2010 to pay off the assessment and can thereafter take advantage of his or her lower financing rate. The assessment on any parcel will become entirely due and payable upon sale of any parcel.

Action Needed

Pass the Resolution accepting the Project after construction and making debits and credits against levied assessments as appropriate in consideration of the Project's final costs.

Mr. Lunny read the resolution by title.

Motion by Councilwoman Bendekovic, seconded by Councilman Tingom, to approve Resolution No. 11009. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Bendekovic, Levy, Fadgen

Nays: None

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LEGISLATIVE ITEMS

13. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA PERTAINING TO THE SUBJECT OF OFFENSES, AMENDING CHAPTER 17 OF THE CODE OF THE CITY OF PLANTATION, ENTITLED "OFFENSES," TO CREATE ARTICLE III, TO BE ENTITLED "SEXUAL OFFENDERS: AND CREATING SECTIONS 17-35, ENTITLED "DEFINITIONS" AND CREATING SECTION 17-36, ENTITLED "SEXUAL OFFENDER RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS," PROVIDING FOR A PROHIBITION FOR SEXUAL OFFENDERS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUES FORM LIVING WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF PLANTATION; PROVIDING FOR CODIFICATION, REPEALER, AND SEVERABILITY; PROVIDING A SUNSET ON SEPTEMBER 30, 2012; AND PROVIDING AN EFFECTIVE DATE OF OCTOBER 1, 2010.

A memorandum to Mayor Rae Carole Armstrong and Members of the City Council and copied to Chief Howard Harrison, Plantation Police Chief, from Legal Department dated August 26, 2010, follows:

This Ordinance is sponsored by the Police Department.

The Ordinance is intended to renew the Ordinance creating the 2,500-foot protective area around parks, playgrounds, playing fields, schools, and day care centers, such that it will be a municipal offense if sexual predators or sexual offenders move into such areas. As the elected officials may recall, the Legal Department has added a "sunset provision" to the Ordinance anticipating action by the Legislature to globally address the issue across the State. There has been no legislation to address this matter, thus there continues to be a need for municipal regulation.

The referenced studies in the Ordinance, previously provided to the Council, remain on file with the City Clerk as well as the most current maps generated by the Police Department displaying the protected areas within the City.

This Ordinance is ready for First Reading.

Mr. Lunny read the ordinance.

Mr. Lunny explained that under State Law there are specified distances of 1,000 feet for certain types of persons convicted of sex related crimes from certain locations. Several cities proceeded to adopt a 2,500-foot requirement. The City, in a defensive recommendation, also adopted the 2,500-foot requirement to in part avoid a continued migration of these persons to Plantation. It has been the recommendation of the Legal Department to have a sunset provision in the hopes that State Law will be more comprehensive on this subject. He is still making that recommendation so that Council is forced to review this in another two years to see what the legal landscape is. There is litigation concerning this subject. The sunset, he believes, is a result of Plantation not being a target. He recommended that Council adopt this protective measure for our citizens including the sunset. The amended version had a sentence on page 5 where there was a grandfather provision where if a person of this type established a permanent residence by September 1st they would be allowed to maintain that residence. This is why there are such residences in Plantation. The new sentence says, "Should the offender not maintain the permanent residence, the offender may not re-establish the residence". That was recommended by the Police Department and we concurred.

In response to Councilman Fadgen, Mr. Lunny clarified that the date on page 5 is September 1, 2005. The change is at Section 17-36, subsection I, second sentence. Council previously passed a similar ordinance, it sunsetted and it was adopted. The second time was with changes and that sunsetted. Every time this is reviewed tweaks are made. There is still local government regulation on this; the Counties adopted a law and people are still struggling on the local level and looking to the State for some sort of guidance on this subject, which will hopefully come one day so there is no diversity. Mr. Lunny believes that the sunset makes Plantation less of a target for a lawsuit. It is a recommended strategy for a number of different reasons. He believes this is valid and the Legal Department will defend it.

Motion by Councilwoman Bendekovic, seconded by Councilwoman Uria, to approve the first reading of the ordinance. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Bendekovic, Levy, Fadgen
Nays: None

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14. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE RELATING TO THE SUBJECT OF TRAFFIC; AUTHORIZING THE USE OF TRAFFIC INFRACTION DETECTORS FOR RED LIGHT INFRACTIONS IN ACCORDANCE WITH STATE LAW; AUTHORIZING CITY ADMINISTRATION TO TAKE ALL STEPS NECESSARY TO IMPLEMENT AND OPERATE THE ENFORCEMENT PROGRAM PURSUANT TO THE REQUIREMENTS OF STATE LAW; AUTHORIZING FINES IN ACCORDANCE WITH STATE LAW; PROVIDING FOR THE LOCATION OF TRAFFIC INFRACTION DETECTORS WITHIN THE CITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

A memorandum to Mayor Rae Carole Armstrong and Members of the City Council and copied to Donald J. Lunny, Jr., City Attorney, Quentin Morgan, Assistant City Attorney, Brett Butler, City Engineer, Howard Harrison, Police Chief, Lt. Brian Hager, Police Department from Daniel W. Keefe, Assistant to the Mayor dated September 1, 2010, follows:

REQUEST Approve ordinance on first reading.

ANALYSIS

The proposed ordinance is intended to implement the State law red light camera enforcement program pursuant to Chapter 2010-80, Laws of Florida. It provides definitions to coincide with the language in the State law, and the process of review by the City's Traffic Infraction Enforcement Officers consistent with the State law. The State law program became effective July 1, 2010. By adopting this ordinance on first reading tonight and on second reading later in September, the City Council will enable the City to move forward with a Request for Proposal in order to secure a vendor to implement the program later this year. Under State law, the city's portion of the \$158.00 fine would be \$75.00 per paid violation. The agreement will come before the City Council to approve the terms and provide for the financial impact to the City under State law.

Attached is the proposed ordinance, a summary of the State legislation relating to red light camera enforcement program and the Request for Proposal.

Please contact me if you have any questions or concerns.

RECOMMENDATION

Approve red light camera ordinance on first reading.

Mr. Lunny read the ordinance.

Mr. Lunny explained that this subject has been on the back burner for some time. Administration and the Legal Department made a recommendation quite a while ago to wait until the legal landscape was better defined. The Legislature clearly authorized the use of detectors and created a new and different program than the municipal scheme prior to the State Law that was being followed by other Cities. The Police Department believes that this is an appropriate measure to protect the health, welfare and safety of the citizens.

Councilman Fadgen announced that resident Chris Love wanted to be here to speak on this subject. Mr. Love is opposed to the red light cameras on a due process basis.

Councilwoman Bendekovic requested that we look into this about two years ago. She is glad we waited because there would have been some legal costs. She hopes residents understand this is a safety issue and not a revenue generating issue. The revenue generated at first may be a sizeable amount but as time goes on hopefully people will learn a lesson and it will decrease. This will not be revenue that can be depended on. During discussion with Chief Harrison, he stated that people will not be fined for right turns; it is just for running red lights. She supports this and the effort.

Mayor Armstrong indicated that this has been looked at for multiple different purposes but the primary purpose is predicated on the public safety opportunities that are here for several reasons. If a fine were not attached there would be no reason to seek compliance. After reviewing this very carefully she recommends that we move forward.

Councilman Fadgen mentioned positive results in other municipalities along with negative results that seem to contradict the positive. He questioned whether there has been any testing as far as to the constitutionality in the State of Florida.

Mr. Lunny stated that he was not aware of any Florida based cases concerning whether there is a constitutional defect in this State Traffic Law Enforcement program that has been reported. The basis for other jurisdictions not being successful was the fundamental issue of whether a municipal corporation was authorized to have this program in the absence of a specific State Law saying that it can be done. The Court decided that traffic control and legislation for traffic control was pre-empted to the State and did not accept the argument of several Cities that this was not traffic control legislation and that is why the State then adopted this legislation and spent a considerable amount of time trying to determine what the fine would be and who would share in the fine. It is Mr. Lunny's view that the primary defect that staff and the Legal Department has been worried about has been resolved.

Councilwoman Uria does not have a problem with the red light cameras. She was under the impression that the view would be the person going through the red light with the red light; she did not think it would be coming in from the front. If we are considering this perhaps we could research speeding cameras as well; other Cities are doing both. She questioned whether we could have a presentation on this when we get closer to a vendor.

Police Chief Harrison advised that the purpose of the photographs is to get a description of the vehicle and primarily the tag; the intent is not to look inside the vehicle. He stated the cameras are well used in highway purposes. He is very positive on the red light cameras for a number of reasons such as an officer safety issue. Some of the negativity is a lack of knowledge. Several people think this is an automated system when in actuality there is a police officer reviewing each and every violation prior to sending it as a violation.

Councilman Tingom has had several phone calls from residents complaining that this is purely a revenue source. He also spent time with a Driver Education instructor with over 35 years experience and in his opinion, this does reduce the injury and damage to personal vehicles as well as the occupants of the vehicles. It is his understanding that the red light runners and also the people that turn left against the red will be ticketed.

Chief Harrison stated it is violation of rights-of-way. Certain intersections have green, yellow and red. It is problematic when vehicles continue making the left hand turn.

Councilwoman Bendekovic concurred with Councilwoman Uria regarding the speeding cameras.

In response to Councilwoman Uria, Chief Harrison indicated that this will take time to implement, the RFP has to go out, a vendor has to be picked and the sites have to be looked at again to be sure that it is feasible and that the statistics run on the intersections merit the cameras. With regard to cost, a normal citation issued by a police officer without a camera is \$263; a camera citation is \$158 and no points. There is a difference. The main goal is to stop red light violations. The camera system also provides a lot more flexibility from a Police Department standpoint as they have streaming video. If there is a major accident it can be reviewed to determine what caused the accident and who caused the accident and more importantly, vital evidence, leads and information can be gained.

Councilwoman Uria would like to get this implemented and afterwards that money could be set aside to be sure it is not challenged.

Councilman Fadgen expressed concern about collecting fees along with the vendor over a period of time and it is ultimately decided to be unconstitutional then we would have to pay it all back and perhaps the vendor will go bankrupt and then we will have to pay his portion too. He has heard that the owner of the vehicle cannot challenge the equipment. He will not support the ordinance at this time.

Chief Harrison stated that anything can be challenged. There is an opportunity to go to court if you feel you are unjustly cited; there is due process.

Motion by Councilwoman Bendekovic, seconded by Councilman Tingom, to approve discussion regarding the red light camera ordinance. Motion carried on the following roll call vote:

Ayes: Tingom, Uria, Bendekovic, Levy
Nays: Fadgen

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QUASI-JUDICIAL CONSENT AGENDA - None.

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QUASI-JUDICIAL ITEMS - None.

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COUNCILMEMBERS' COMMENTS

Mayor Armstrong reminded everyone that Monday is Labor Day and the offices will be closed. There also will not be a City Council meeting next week, September 8, 2010.

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Councilman Levy advised that next week starts the Jewish holidays and he wished everyone a Happy Holiday.

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Councilwoman Uria provided an update on the Plantation Isles waterway discussion. She recognized Ann and Larry Ebberts, residents.

Mayor Armstrong spoke with Ms. Ebberts on Monday and knows that they met with a biologist and an environmentalist the previous Friday morning. Mayor Armstrong is going to schedule a meeting with South Florida Water Management and Old Plantation Water Control District and then begin looking for solutions.

Councilman Tingom received a copy of the report from the biologist and there were five pages of companies that clean waterways listed. There was nothing about the conditions of the waterways.

Ms. Ebbert believed attempts are being made to resolve where the sludge is coming from prior to treatment.

Councilman Tingom believed it would be counterproductive to take action at this time until the cause is known.

In response to Councilwoman Uria, Ms. Ebbert stated there will be a meeting at her house on Friday at 9:30 a.m. With regard to the contractor, she has been speaking with Melanie Sexton, who is bringing someone to the meeting.

Councilman Fadgen contacted Mike Massa with the South Florida Water Management District and he said that he hoped to have some information by the end of this week about the maintenance of the North New River Canal west of the dam and also the water release information for the last two years.

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Councilman Tingom appointed Bruce Antcill to the Planning and Zoning Board as an alternate.

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Councilwoman Bendekovic and Councilman Fadgen wished everyone a Happy Holiday.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Larry Ebbert clarified that Melanie Sexton is the public information officer for the I-595 project. He mentioned the traffic pattern between Publix and Whole Foods. Curbs are being installed so there are no longer any left turns out of Whole Foods and you can no longer travel east from Publix. The only way to get out of there is to go way out west then make a u-turn and come back. The majority of the residents that shop at that Publix live east.

Councilman Levy believed that making a u-turn is more dangerous than making a left turn.

Mr. Butler advised that this access point has a notorious history of traffic accidents because of the left turn cross traffic movements. There is a history of complaints about the unsafe condition at this location, which prompted staff and the County to look at this. There are not too many options of how to deal with this other than trying to eliminate the movements that create the problems. Drivers are also experiencing an inconvenience; however, statistics show that a u-turn is a safer movement. This is a safety issue.

Mayor Armstrong commented that the same traffic situation exists at Pet Smart.

Councilman Fadgen believed that once the permanent structures are in the u-turn might not be too bad. The problem is when people are coming out of Whole Foods.

Councilwoman Bendekovic indicated that drivers need to be reprogrammed and retrained.

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Dennis Conklin, resident, referenced the Green City Resolution No. 10481 and requested that the resolution be rescinded.

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Nikki Ermantanger, resident, expressed concern with EMS response time in her neighborhood.

Mayor Armstrong suggested that she contact Fire Chief Harris, as he can provide the details and background information on that particular call and response time.

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WORKSHOP - None.

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Meeting adjourned at 9:31 p.m.

Jerry Fadgen, 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 _____, 2011.

Susan Slattery, City Clerk