VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Michael E. Kelly, *Vice Mayor*
Michael W. Davey
Enrique Garcia
Robert Gusman
Mayra P. Lindsay
James S. Taintor

Village Manager
Genaro "Chip" Iglesias

DATE: March 8, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

RE: Stormwater Rate Utility Fee Increase

RECOMMENDATION

It is recommended that the Village Council approve this resolution approving the Village Manager's revised Administrative Order setting a new Stormwater Utility Fee.

BACKGROUND

The Stormwater utility rate was established by Council on October 12, 1993 with the adoption of Resolution 93-46. The billing rate established is $5.00 per each Equivalent Residential Unit (E.R.U.) per month.

On September 7, 2010, the Village Council authorized Burton and Associates to conduct a Stormwater Rate Study. The rate study includes review of the existing stormwater charges, review of long term stormwater debt service, review of stormwater capital improvements and projections of revenue and expenditures for the next five years. Village staff has provided Burton and Associates with all necessary information to conduct the study.

Burton and Associates recommends a rate increase of $1.75 for Fiscal Year 2011. The recommended billing rate is $6.75 per each Equivalent Residential Unit (E.R.U.) per month.

	Current Monthly Rate	**Current Annual Fee**	**New Monthly Rate**	**New Annual Fee**
Multi Family	$5.00	$60.00	$6.75	$81.00
Single Family	$7.50	$90.00	$10.13	$121.50

Attached please find the analysis and recommendations provided by Burton and Associates for the Stormwater Rate Study.

RESOLUTION NO. _____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; APPROVING THE VILLAGE MANAGER'S REVISED ADMINISTRATIVE ORDER SETTING A NEW STORMWATER UTILITY FEE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 22, 1993, the Village of Key Biscayne adopted Ordinance No. 93-11 (Section 29 of the Village Code of Ordinances) and established a Stormwater Utility in the Village of Key Biscayne; and

WHEREAS, the Ordinance provided that Stormwater Utility Fees shall be set by Administrative Order of the Village Manager after approval by the Village Council; and

WHEREAS, on October 12, 1993, the Village of Key Biscayne adopted Resolution 93-46 which approved Administrative Order No. 1 and set the initial Stormwater Utility Fee at $5.00 per ERU (Equivalent Residential Unit); and

WHEREAS, on December 7, 2010, the Village of Key Biscayne received a report entitled "Stormwater Rate Study" prepared and presented by Village consultants, Burton & Associates, and said Study recommended a necessary increase in the Stormwater Utility Fee as a result of revenue shortfalls in the Village's Enterprise Fund arising out of the length of time that has passed since the passage of the initial Stormwater Utility Fee; and

WHEREAS, Burton & Associates recommends an increase in said fee to $6.75 per ERU as per the Technical Memorandum dated February 25, 2011; and

WHEREAS, the Village of Key Biscayne believes said Stormwater Utility Fee is fair and reasonable and supported by the data contained in the Stormwater Rate Study, noted above; and

WHEREAS, Village Council wishes to approve the attached Revised Administrative Order setting a new Stormwater Utility Fee for the Village of Key Biscayne;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Revised Administrative Order Approved. That the attached Revised Administrative Order setting the new Stormwater Utility Fee for the Village of Key Biscayne is hereby approved.

Section 3. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2011.

_____
FRANKLIN H. CAPLAN
MAYOR

ATTEST:

_____
Conchita Alvarez, MMC
Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Village Attorney

OFFICE OF THE VILLAGE MANAGER

VILLAGE OF KEY BISCAYNE

REVISED ADMINISTRATIVE ORDER NO. 1

Pursuant to the Stormwater Utility Ordinance No. 93-11 (Section of 29 of the Village Code of Ordinances), adopted on June 22, 1993, the Stormwater Utility Fee for the Village of Key Biscayne is hereby set at $6.75 per ERU (Equivalent Residential Unit) per year.

This Revised Administrative Order is approved on _____, 2011 and will be effective on same date and will supersede the Stormwater Utility Fee previously set by Administrative Order No. 1, approved on October 12, 1993, by Resolution No. 93-46 of the Village Council.

_____

GENARO "CHIP" IGLESIAS, VILLAGE MANAGER

_____

DATE

TECHNICAL MEMORANDUM

BURTON & ASSOCIATES

Burton & Associates
200 Business Park Circle, Ste. 101
St. Augustine, FL 32095

Telephone: (904) 247-0787
Facsimile: (904) 241-7708

DATE: February 25, 2011
TO: Genaro "Chip" Iglesias, Village Manager – Village of Key Biscayne
FROM: Michael Burton, President - Burton & Associates
RE: **Stormwater Rate Study**

SUMMARY: Background - Burton & Associates conducted a Stormwater Rate Study for the Village and the preliminary results were presented in a Technical Memorandum dated November 24, 2010. The results were also presented to the Village Council in a Council meeting on December 7, 2010. This Technical Memorandum presents the results of updates to the analysis and the recommended stormwater rate adjustments based upon 1) updated refinancing term assumptions to include current interest rates and a 30 year term option, 2) deferrals and reduction of projects in the capital improvement program, and 3) an analysis of additional revenue that will be realized from properties that were not previously on the billing roll and a one-time pay-back of overbillings to a few customers that were being over billed.

Results - The combined result of these analyses is that a large rate increase is still required in FY 2011 to correct a serious cash flow deficit and that increase is 35% instead of the previous 33% based upon a revised rate increase implementation date, refund of past overpayments, and other cost of service adjustments determined during this analysis. The positive effect of the adjustments resulting from these analyses is that the large rate increase of 32% in FY 2012 in the original analysis has been eliminated. This is possible because of capital improvement program project deferrals/reductions and additional revenue from previously unbilled accounts. The resultant required annual rate adjustments in FY 2012 through FY 2020 are 1% if the refinancing term is 20 years (Referred to as Scenario 1 herein) and 0% if the refinancing term is 30 years (Referred to as Scenario 2 herein).

BACKGROUND

The Technical Memorandum (TM) referenced above concluded that annual stormwater rate adjustments are required to ensure that the stormwater fund is sustainable on a self sufficient basis and will not require subsidies from the General Fund. If no stormwater rate adjustment is made this year, a General Fund subsidy will be required. The above referenced TM indicated that a 33% increase in the stormwater rates would provide sufficient stormwater revenues to avoid the requirement for such a subsidy. The TM further found that an additional stormwater rate adjustment of 32% would be required for FY 2012 and that no further adjustments would be required for FY 2013 – FY 2015. In FY 2016, the above referenced TM indicated that a stormwater rate reduction would be possible based upon the level of future cost projections combined with additional revenue that would be derived from the Sonesta project that is projected to be in service that year and that no additional adjustments would be required through FY 2020.

During the presentation of the results of the Study to the Village Council on December 7, 2010, it was decided by the Council to evaluate the effects of extending the refinancing period from 20 years to 30 years. Also, during the course of the Study, it was determined that a number of properties that should pay the stormwater fee, are not on the billing system. It was also decided by Council during the presentation that Village staff should thoroughly investigate the magnitude of the additional revenue that could be generated by adding those properties to the billing roll. The Village Manager indicated to the Council that these items would be evaluated, the effects upon the required stormwater rate adjustments would be determined, and a report would be made back to the Council. This Technical Memorandum presents the results of these evaluations and an adjusted plan of recommended annual stormwater rate adjustments.

ANALYSIS & RESULTS

Burton & Associates has participated in three additional analyses, which are discussed below.

1. Refinancing Options

Analysis - Ms. Lourdes Reyes Abadin of Estrada Hinojosa & Company, Inc., the Villages' Financial Advisor, updated the schedule of annual debt service for the refinancing with a 20 year term to reflect current interest rates. She also developed a schedule of annual debt service for the refinancing with a term of 30 years. Upon receipt of these debt service schedules, Burton & Associates updated our Stormwater Rate Model to include the determination of a schedule of required annual rate adjustments with the updated 20 year debt service schedule and we created another scenario of required annual rate adjustments with the 30 year debt service schedule.

Results – The 30 year refinancing results in slightly lower required rate adjustments throughout the forecast period, but has no effect upon the rate adjustment in FY 2011 which is driven by the need for a large rate adjustment to cure other cash flow deficiencies. The net effect of these scenarios combined with the adjustments as discussed in the following items is presented in the Combined Results section below.

2. Adjustments to the Capital Improvement Program (CIP)

Analysis - Burton & Associates, Village staff and the Village Manager participated in an interactive work session via the Go-to-Meeting internet forum. During this session all parties were able to view the control panel of our Stormwater Rate Model through the Go-to-Meeting connection and with a simultaneous telephone conference call we were able to evaluate the impact of the above described refinancing scenarios. Also, during the session the Village Manager lead an evaluation of the ability to defer and reduce CIP projects to lessen the burden on rates in early years of the forecast period without causing a significant effect upon the desired level of service.

Results – The deferral and reduction of capital projects throughout the projection period had a significant effect upon the required rate adjustments in FY 2012 through FY 2020 in both refinancing term scenarios. However, the rate increase in FY 2011 was not affected because the primary reason for the FY 2011 rate increase is to correct a serious cash flow deficiency. The net effect of these adjustments combined with the adjustments as discussed in the previous and following items is presented in the Combined Results section below.

3. Additional Revenue from Previously Unbilled Properties

Analysis - Village staff conducted a detailed investigation of all Village properties to identify properties that have not previously been billed the stormwater fee and should be added to the stormwater fee billing roll. During the course of this investigation, several properties were also identified that appear to have been overbilled for some years. Burton & Associates was asked to perform essentially a peer review of the entire staff investigation to ensure that the process and results of the staff analysis were reasonable and to identify adjustments that we felt were necessary to achieve that objective. We conducted that review and the results of the analysis were updated in our Stormwater Rate Model for both the 20 year term refinancing scenario and the 30 year term refinancing scenario.

Results – Based upon our peer review of staff's investigation, we believe that the methodology used is sound and we concur with the estimate of additional revenue that will be realized by adding these properties to the billing roll. The estimated net annualized additional revenue based upon current stormwater rates is estimated to be approximately $65,000. Based upon our review of the potential over collection of revenue from the commercial parcels identified by staff, we believe that the total amount of over collection over the past four (4) years[1] determined by staff of approximately $42,000, is correct and we also concur with staff that it is not possible to determine which parcels should be adjusted without significant additional investigation. This is because these are sub-parcels on one master parcel and some sub-parcels have no stormwater fee while others have a stormwater fee. This indicates that some sub-parcels must be master metered utility accounts and their stormwater fee includes the fee for the other sub-parcels on their master meter, but it is not possible to tell these specific relationships from data available through the stormwater system. Therefore, we believe that additional research, including possible field investigations, will be necessary to determine which of these sub-parcels are being overcharged and how much of the total overcharge applies to each sub-parcel. The net effect of these adjustments combined with the adjustments as discussed in the previous items is presented in the Combined Results section below.

[1] According to Village staff, the Village Attorney indicates that four (4) years is the statute of limitations on such overpayment liability.

COMBINED RESULTS

The combined results of the above analyses are represented in two scenarios which are differentiated by the term of the refinancing. Both scenarios require a 35% increase in FY 2011 because of the combine effects of 1) the cash flow deficit that needs to be immediately corrected, 2) the refunding of past overpayments, and 3) achieving a 0% rate adjustment in FY 2012 in the 30 year refinancing term scenario (Scenario 2).

The combined effects of the adjustments described herein eliminate the need for the large increase in FY 2012 in both scenarios, primarily due to the reduction of capital projects expenses in FY 2012 and the additional rate revenue from properties that previously were not billed. The combined effects of the adjustments described herein allow for 1% annual rate adjustments in FY 2012 and future years in Scenario 1 (20 year refinancing term), and no annual rate adjustments in FY 2012 and future years in Scenario 2 (30 year refinancing term).

The tables below present the required annual rate adjustments and resultant stormwater rates for each scenario:

Scenario 1 - 20 Year Refinancing Term

Description	Current	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
Rate Increase	N/A	35.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
Effective Date	N/A	4/1/11	10/1/11	10/1/12	10/1/13	10/1/14	10/1/15	10/1/16	10/1/17	10/1/18	10/1/19
MF Bill (per unit)	$5.00	$6.75	$6.82	$6.89	$6.95	$7.02	$7.09	$7.17	$7.24	$7.31	$7.38
Single-Family Bill	$7.50	$10.13	$10.23	$10.33	$10.43	$10.54	$10.64	$10.75	$10.86	$10.96	$11.07

Scenario2 - 30 Year Refinancing Term

Description	Current	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20
Rate Increase	N/A	35.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Effective Date	N/A	4/1/11	10/1/11	10/1/12	10/1/13	10/1/14	10/1/15	10/1/16	10/1/17	10/1/18	10/1/19
MF Bill (per unit)	$5.00	$6.75	$6.75	$6.75	$6.75	$6.75	$6.75	$6.75	$6.75	$6.75	$6.75
Single-Family Bill	$7.50	$10.13	$10.13	$10.13	$10.13	$10.13	$10.13	$10.13	$10.13	$10.13	$10.13

RECOMMENDATIONS

The first decision that the Village Council must make is the term of the refinancing. If it is decided to refinance with a 20 year term, we recommend that the rate adjustments in Scenario 1 above be adopted. If it is decided to refinance with a 30 year term, we recommend that the rate adjustments in Scenario 2 above be adopted. In either case the recommended rate adjustment for FY 2011 is 35% and we recommend that this adjustment be implemented as soon as possible to avoid the need for further subsidy of the stormwater fund from the General Fund in FY 2011. If adoption of the 35% adjustment is delayed past April of 2011, either 1) the increase will have to be larger to avoid a cash flow deficit in the Stormwater Fund, or 2) an additional subsidy will be required from the General Fund.

We also recommend that the properties that have been identified that need to be added to the billing roll be added as soon as possible so as to achieve the additional revenue which is included in the projections of both Scenarios 1 and 2. We further recommend that additional analyses be conducted to determine which sub-parcels have overpaid on the master parcel

where an overpayment has been identified by staff, which may include the need for cross referencing to water accounts and possible field investigations.

Finally, we recommend that this analysis be updated annually or bi-annually to ensure that the stormwater system is sustainable without the need for subsidy and that large increases in the future are avoided by recognizing changes in costs sooner rather than later so that smaller rate adjustments can be made sooner if needed.

We appreciate the opportunity to have been of service to the Village on this important project and if you have any questions, please do not hesitate to call me at (904) 247-0787.

Very truly yours,

Michael E. Burton
President