

RULES AND PUBLIC POLICY COMMITTEE

DATE: February 3, 2009

CALLED TO ORDER: 5:37 p.m.

ADJOURNED: 6:52 p.m.

ATTENDANCE

ATTENDING MEMBERS

Robert Lutz, Chairman
Bob Cockrum
Ed Coleman
Monroe Gray
Marilyn Pfisterer
Joanne Sanders

ABSENT MEMBERS

Angela Mansfield
Lincoln Plowman

AGENDA

PROPOSAL NO. 45, 2009 – approves the Mayor’s appointment of Nicholas Weber as Deputy Mayor
“Do Pass As Amended” Vote: 6-0

PROPOSAL NO. 46, 2009 – approves the Mayor’s appointment of Olgen Williams as the Deputy Mayor for Neighborhoods
“Do Pass” Vote: 6-0

PROPOSAL NO. 36, 2009 – amends the Code to provide for delegation of authority to consent to extensions of local disaster emergency declarations
“Do Pass” Vote: 6-0

PROPOSAL NO. 462, 2008 – amends the Code to provide for the effective conservation of water furnished by the department of waterworks
“Do Pass As Amended” Vote: 5-1

RULES AND PUBLIC POLICY COMMITTEE

The Rules and Public Policy Committee of the City-County Council met on Tuesday, February 3, 2009. Chairman Robert Lutz called the meeting to order at 5:37 p.m. with the following members present: Bob Cockrum, Ed Coleman, Monroe Gray, and Joanne Sanders. Marilyn Pfisterer arrived shortly thereafter. Angela Mansfield and Lincoln Plowman were absent. General Counsel Robert Elrod represented Council staff.

Chairman Lutz asked all committee members to introduce themselves and indicate which portion of the county they represent.

PROPOSAL NO. 45, 2009 – approves the Mayor’s appointment of Nicholas Weber as Deputy Mayor

Chairman Lutz stated that Mr. Weber’s official title is Deputy Mayor of Economic and Workforce Development. He asked for a motion to amend the proposal to reflect the proper title. Councillor Sanders moved, seconded by Councillor Cockrum, to “Amend” Proposal No. 45, 2009 to reflect Mr. Weber’s official title in all instances where it occurs. The motion carried by a vote of 5-0.

Mr. Weber said that he has learned a lot this year and has pulled together some information from past years to determine how 2008 fared in economic and workforce development. He said that in 2008, the city retained or attracted commitments for approximately 10,000 jobs. Those are jobs where the city actively worked with companies to come to Indianapolis or grow an existing business. This compares well with past years, with only one year setting a higher benchmark in 2006 with 18,000 jobs, due mostly to a large project by Eli Lilly. He said that along with the 10,000 jobs came approximately \$242 million in capital investment in Marion County. This only includes those projects which came through the Metropolitan Development Commission (MDC) as part of an incentive program. Other capital investments, where incentives were not sought, bring that figure closer to \$300 million. He said that the ratio of public to private dollars has exceeded all prior years as far back as researched, with a 16-to-one ratio. For every dollar offered in incentives, there were 16 private dollars invested in projects across the county in 2008. Mr. Weber indicated that, while the country is facing challenges in economic development, 2008 has been a reasonably successful year.

Chairman Lutz asked if Mr. Weber has had any discussions with Airport Authority management regarding the High School Road and Washington Street Corridor, with the airport entrance being moved out of the county. Mr. Weber stated that he is in communication with the Airport Authority. For the past year, the board has been focused on making sure the terminal was completed and opened on time and within the

budget. Since the opening, they have focused on working out various bugs to operate efficiently. At this time they are seeking a new airport administrator, and the first issue on their plate at the moment is to fill that role. The development of the parking lots on High School Road is probably next in their sights to tackle, and while he is not sure about the process, or how long it will take to address, he is sure that project is very high on their radar. Chairman Lutz said that he has had some discussions with them and it seems the response is consistent. He urged Mr. Weber to keep in touch with the Airport regarding development of that area. Mr. Weber agreed to do so and stated that the Airport owns High School Road, and they therefore have an opportunity to plan a development there that would leverage access to the Airport.

Councillor Cockrum asked if there has been any consideration of a Reuse Authority, such as the one instituted for Fort Benjamin Harrison. Mr. Weber said that they have not discussed that possibility, but he could easily see a recommendation for implementation of such a plan. Councillor Cockrum urged the City to consider that whole area, and not just the property owned by the Airport. Mr. Weber said that they definitely will be looking at the big picture.

Councillor Sanders asked with regard to the 10,000 new jobs in 2008, in what areas of the city these were created and what the average rate of pay is for these jobs, to insure that competitive wages are being offered. Mr. Weber said that not all 10,000 of those jobs were new, and some were retained. Councillor Sanders asked for the breakdown of new jobs created versus retained jobs. Mr. Weber said that there were approximately 5,000 jobs retained and 4,500 jobs created, so the number was just a little short of 10,000. He said that the county's average hourly wage is \$17.54, and the Mayor is particularly interested in improving that average, and it is one of the number one drivers the Mayor considers with regard to economic development in the county. Not all jobs are at that average or higher, but many of the wages are over \$80,000. He said that he believes the wages reflect normal wages in the community. There are approximately 38 projects, and he would be happy to do an average wage report for those projects. Councillor Sanders said that she would like to see the breakdown of jobs, type of jobs and hourly rate. She asked if that \$17.54 county average includes benefits. Mr. Weber said that this wage data is exclusive of fringe benefits. Councillor Sanders said that this average seems relatively high. She asked what the dollar amount is for tax abatements given out. Mr. Weber said that with \$212,177,320 in capital investment, \$14,911,588 of that was abated. Councillor Sanders asked how many companies are included in that amount. Mr. Weber said that there were 38 new projects, but not all came to the city for an abatement, so it probably includes 31 or 32 companies. He added that he can get Councillor Sanders the exact number. Councillor Sanders suggested that since Mr. Weber comes before this committee for confirmation, it might be appropriate for him to make periodic reports to the Rules and Public Policy Committee, as well as the Metropolitan Development or Economic Development Committees. Mr. Weber said that he can make sure committee members receive the information that the MDC produces and provides for all projects that come through the incentive process.

[Clerk's Note: Councillor Pfisterer arrived at 5:49 p.m.]

Councillor Gray asked what the minority and women owned business (MBE/WBE) percentage is for these projects. Mr. Weber said that the information he has does not include this information, and the incentive program does not include that criteria. He said that he would have to look at the list in detail to share which of those projects might be MBE/WBE. Councillor Gray asked for a list of this information.

Councillor Cockrum asked if most abatements are spread over a five-year period or more. Mr. Weber said that this is correct, and abatements can be between one and ten years. The MDC approves abatements for one to five years, and those abatement numbers are usually bundled into the year the project is completed. Councillor Cockrum said that there is legislation before the state regarding the Council approving all abatements. He asked how this would affect the abatement process, since the Council is a part-time body, and does not meet as regularly as the MDC. Mr. Weber said that this would have a significant impact on the process. He said that the speed with which the city can act is often a determining factor for companies looking for locations. He said that it is especially important during this economy, and the longer the process takes puts them at a competitive disadvantage. This is further complicated by the fact that some surrounding counties have automatic abatements, which cuts significant time off the abatement approval process. Mr. Weber said that this legislation will adversely affect economic development in Indianapolis.

Councillor Gray asked out of those 38 projects, if any were a result of the Mayor's recent trip to China. Mr. Weber said that they do have one company, Good Time Technology, that would not technically count until 2009, that has an existing facility in China, employing 250 employees. They manufacture plastic, hard and soft plastic mouldings, and machinery, and the owner has been to Indianapolis half a dozen times and is currently in Indianapolis negotiating a lease for a facility here.

Larry Vaughn, citizen, asked if a return is realized at the beginning or end of an abatement. Mr. Weber said that the abatements are frontloaded, so the companies pay less in the beginning, and then after the abatement, are included on the regular tax rolls. Mr. Vaughn asked if there are contingencies if the company fails before their abatement is up. Mr. Weber said that every company that receives an incentive enters into an agreement, and the abatement can be rescinded, allowing the city to go after that lost tax revenue.

Councillor Cockrum moved, seconded by Councillor Pfisterer, to send Proposal No. 45, 2009 to the full Council with a "Do Pass As Amended" recommendation. The motion carried by a vote of 6-0.

PROPOSAL NO. 46, 2009 – approves the Mayor's appointment of Olgen Williams as the Deputy Mayor for Neighborhoods

Mr. Williams stated that while this position is different from what he has been accustomed to and he is still experiencing a learning curve, the job has been very rewarding.

Councillor Pfisterer asked Mr. Williams what his proudest achievement has been this past year. Mr. Williams said that he takes pride in the work he does, and people allowing him to work for them is his greatest enjoyment. Even when he disagrees, he can learn from others. He said that he is especially proud of the re-entry initiative, to help citizens returning from incarceration become productive members of the community. He said that they cannot continue to just lock everyone up, and have to do more than that. He is proud of the crime prevention task force and the recently awarded grants, which allows the community to work together with law enforcement to address social challenges. He is optimistic about the results of these crime prevention efforts.

Councillor Pfisterer said that when she first met Mr. Williams, he was known as the Mayor of Haughville, and it is good to have him working with the neighborhoods. Mr. Williams said that he still lives in Haughville and loves his neighborhood. Chairman Lutz said that it is evident Mr. Williams takes pride in his neighborhood, and he met Mr. Williams by knocking on his door while campaigning door-to-door.

Councillor Sanders asked after a year working with neighborhood organizations, what seems to be most important to them and how does he plan to focus on that. Mr. Williams said that public safety, crime rates, and infrastructure seem to be the most important things for neighborhood organizations. There is also strong concern about absentee landlords and their accountability. He said that he wants to focus on helping neighborhoods do more for themselves and partner with the city to address the challenges they have. There are also a large amount of youth who want and need jobs, and they are working with businesses and social services to find programs to meet the needs of youth in the community. He said that in outlying areas, they have different challenges, and where one community could get 700 volunteers to come out and help plant trees, another community might struggle to get seven volunteers. He said that he is frustrated with neighborhood clean-ups where neighbors will not come off their porch to help make their community a better place to live. He said that apathy is a big problem and he wants to engage people to care about their neighborhoods and take pride in what they can do to change it for the better. He said that this is a great city and has great people. While public safety is a major concern, the police cannot do it by themselves, and he hopes he is getting that message out.

Councillor Gray said that Mr. Williams has done a great job, always returns his phone calls and is always willing to work with him to get things done in his district. Mr. Williams said that he was hired to serve the people and it is his job to respond to neighborhood needs, as that is what the Mayor hired him to do.

Chairman Lutz echoed Councillor Gray's sentiments and stated that Mr. Williams has attended many community meetings in his district and it means a lot to the citizens. He

said that Mr. Williams' efforts toward re-entry are commendable and critical. He said that with more than 5,000 ex-offenders every year, it is critical to do all they can to help them become productive members of society.

Reverend C L Day, service provider to children at risk and member of the Concerned Clergy, said that Mr. Williams has brought a sense of hope, opportunity and encouragement to the community; not only to the vulnerable in the community, but also to those who have paid their debt to society and are looking for an opportunity to be productive. He said that he appreciates the Mayor's appointment and Mr. Williams' commitment.

Pastor Richard Willoughby, president of the Concerned Clergy, stated that Mr. Williams is still considered the Mayor of Haughville, and he appreciates the work he does. He said that he has helped to improve communication between the Mayor's office and the faith-based community and has helped communities partner with Director Scott Newman and other public safety officials to address crime. He said that grass roots organizations feel Mr. Williams is concerned about the citizens and people in the community.

Larry Vaughn, citizen, stated that Mr. Williams is a very able person to fill this position and offers great insight from the black community to help the Mayor in his decision-making process.

Councillor Gray stated that while the Mayor of Haughville has a nice ring to it, maybe Mr. Williams should consider a run for Mayor of Indianapolis, which also has a nice ring. Mr. Williams said that he is flattered, but he is a servant and knows his calling and loves working with people.

Councillor Gray moved, seconded by Councillor Pfisterer, to send Proposal No. 46, 2009 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 6-0.

Mr. Williams thanked the Committee for the opportunity to serve another year.

PROPOSAL NO. 36, 2009 – amends the Code to provide for delegation of authority to consent to extensions of local disaster emergency declarations

Councillor Cockrum said that this proposal arose out of a concern about the Council being a part-time body with sometimes a month between meetings, making the approval of an extension difficult. He said that there were some concerns expressed at the last Committee meeting, and he agreed to a postponement so that members could draft possible amendments, but he has not had any feedback on proposed amendments since then.

Councillor Sanders said that she is glad to hear why the proposal was initiated. She said that she cannot recall any emergencies where this process was put into practice in the past, other than recent tornadoes, which were not necessarily under the Mayor's authority to call the emergency, but were federal and state decisions. She said that the proposal says that the president will determine after consultation with the minority and majority leaders whether a meeting is possible. She asked for clarification and does not understand why seven days would not be sufficient to schedule a meeting. Councillor Cockrum said that in reality, because of their notification regulations of calling a meeting 72 hours in advance, they would actually only have four days to take action. Councillor Sanders said that she does not have any real concerns about the proposal but hopes that there will be an effort to contact all Councillors as the proposal states, and not just a select majority. Mr. Elrod added that for clarification, it should be noted that the Council is not actually extending the emergency declaration, but just consenting to the Mayor extending it.

Chairman Lutz stated that he has lived in Indianapolis since the mid-1950s, and in times of emergency, response always seems to have been handled in a non-partisan fashion, and he trusts that it will continue to be that way. He said that chances are slim this provision will ever need to be used, but if it does happen and is not handled properly, they can re-visit the language at that time.

Councillor Pfisterer agreed that chances are slim this will need to be used, but this has both a fiscal and resource effect, as the declaration of an emergency often is needed to trigger federal or state resources or funds.

Councillor Cockrum moved, seconded by Councillor Pfisterer, to send Proposal No. 36, 2009 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 6-0.

PROPOSAL NO. 462, 2008 – amends the Code to provide for the effective conservation of water furnished by the department of waterworks

Jean Farison, Greater Indianapolis Chamber of Commerce, stated that the Chamber supports the proposal for health and safety reasons but still has a few concerns from a development and economic standpoint. She said that she would like to see more commitment from surrounding counties to make this intergovernmental, so that Indianapolis would not have any disadvantage during drought-like conditions. She added that they would like to see golf courses added back into the exempted entities, as maintaining their greens is vital to staying in business, and jobs also might be lost due to unnecessary groundskeeping positions. She said that with these concerns, they are still overall supportive, and are willing to help educate the public on the value of water in the community.

[Clerk's Note: Chairman Lutz passed the gavel to Councillor Cockrum.]

Councillor Lutz made the following motion:

Mr. Chairman:

I respectfully move to amend Proposal No. 462, 2008, as previously amended, and before this committee, by adding a second paragraph as indicated in the following underlined language to Section 1, Sec. 706-103, Voluntary Conservation, to read:

Sec. 706-103. Voluntary Conservation.

During normal conditions and advisory conditions, water users should follow the voluntary conservation measures as found in the Wise Water Use Policy adopted by the board of directors of Indianapolis Water.

It shall be the public policy of the City of Indianapolis to direct the Indianapolis Water and the Board of Waterworks to establish a rate structure that provides a financial incentive to customers to conserve water. Such a rate structure shall provide that customers are charged a water usage rate which encourages the conservation of our public water supply through lower fees and rates per cubic foot of water consumption as the customer and/or water user uses a lower volume of water and for higher fees and rates per cubic foot of water consumption as the customer and/or water user uses a greater volume of water.

Councillor Lutz stated that he discussed this amendment with counsel at the Water Company and understands they have no concerns about the amendment. Lauren Toppen, counsel for the Department of Waterworks, stated that they are currently studying proper rates for conservation at this time and are fine with offering rates that promote conservation. Councillor Lutz said that the current rate structure for the Water Company indicates that users will receive a lower per-cubic-foot charge if they use a higher volume of water, which is counterproductive to conservation efforts.

Councillor Gray asked how he can tell when he receives his bill if he is getting the conservation rate or a normal rate. Ms. Toppen said that at this time, the Water Company has a declining rate structure, but if a conservation rate structure is put in place, they will do public outreach to inform citizens of when those new rates go into effect. She added that the Indiana Utilities Regulatory Commission (IURC) may not approve the new rate structure, so they cannot guarantee it will go into effect. However, the IURC is open to it and is encouraging them to make conservation efforts, and this ordinance helps to show them that they are making that effort. Councillor Gray said that he has heard rates are going up. Ms. Toppen said that a rate increase petition will be submitted to the IURC, but the Waterworks board has to first authorize it. She said that they are asking them to consider this proposal at their February 19th meeting. They will then follow with the petition for a rate increase shortly thereafter.

Councillor Lutz said that when he first drafted the amendment, he used the word "encourage" instead of "direct" in the first line of that added sentence. However, currently the residential rates are the highest, and he wanted to reverse that to help encourage conservation of the water supply and to provide the financial incentive of a reduced water bill to those who have a lower water usage.

Councillor Gray asked if it will be readily identifiable in a person's bill that they are being rewarded for conserving water. Ms. Toppen said that it should be. Councillor Gray said that the adjustment needs to be significant enough to be noticeable or it is really no incentive to participate. Ms. Toppen said that the conservation rates would be aimed at reducing discretionary unnecessary water usage, like watering lawns in a drought.

Councillor Pfisterer said that she agrees with the sentiments that have been expressed and feels that the rate structure has been upside down for some time. She said that she believes the conservation rates have been instituted in other cities with positive results. Ms. Toppen said that they may have been done outside of Indiana, and there are others ahead of them whose lead they are following in conservation efforts. Councillor Pfisterer said that following the examples of Georgia and North Carolina, it behooves the city to address this now, before it becomes an emergency. Ms. Toppen said that studies show that discretionary usage is definitely affected by this rate structure.

Councillor Pfisterer seconded the motion to "Amend" Proposal No. 462, 2008, and the motion carried by a vote of 6-0.

Councillor Lutz stated that another amendment has been provided by the Department of Waterworks, and he asked Ms. Toppen to summarize this proposed amendment (attached as Exhibit A).

Ms. Toppen stated that golf courses were not exempted in the ordinance, but this amendment allows that the Department of Parks and Recreation could be authorized to water city-owned courses at the instruction of the Mayor. She said that the penalties of shutting off a person's water for non-conservation was eliminated, as this is not a likely scenario. She added that the amendment assigns enforcement to the Department of Metropolitan Development and creates a designated fund to defray enforcement costs. The amendment also addresses the concerns about other communities participating by consulting with the IURC to make conservation measures comply with other counties; and by giving the Mayor the opportunity to consult with other communities before declaring a conservation emergency, in order to factor that into his decision-making.

Councillor Coleman said that some of his questions have been addressed, but he still has lingering concerns. He said that the language exempts car washes where a majority of their water is recycled, but 51% is a majority, and does not go far enough. He added that he thinks all golf courses should be exempted, including city golf courses, and if some are going to be restricted, then all should. He said that he still has issues with enforcement, as DMD employees already have assigned duties, and this extra enforcement responsibility might require the hiring of new employees, which would constitute a waste if no drought takes place. Councillor Coleman added that he has concerns about getting this amendment at 5:15 p.m. this evening, when he was

promised it on Friday afternoon. He said that he has not had time to properly review the language, and more notice should have been given.

Councillor Gray stated that almost all golf courses build retention ponds and develop their own pump systems to use their own water and recycle that water, so that they use very little city water. Councillor Lutz said that the water conservation would only apply to the use of water from the public system, and this type of water usage would not be affected.

Councillor Coleman said that there are a few areas that still need to be re-worked. He moved to "Table" Proposal No. 462, 2008 to make sure they get the language right the first time instead of having to come back and re-work it later.

Acting Chairman Cockrum asked if a delay to the March 10th Committee meeting would cause problems. Ms. Toppen said that they would respectfully request a vote tonight. She said that they are going before the IURC to file a petition regarding rates very soon and would like to show them that they are dedicated to conservation. The petition needs to be filed before the next meeting, and they would like to have this proposal included in that petition.

John Cochran, Special Counsel to the Mayor, stated that they have been working on this proposal for some time now, and the Mayor's office would appreciate an up or down vote on the issue this evening.

Councillor Pfisterer said that the matter has already been delayed several times, and asked if amendments can be offered on the Council floor. Acting Chairman Cockrum stated that they can. Councillor Coleman said that he was elected to serve the citizens of Indianapolis, not the Water Company, and he thinks it is better to have the language right before pushing it forward.

Councillor Lutz moved, seconded by Councillor Pfisterer, to "Amend" Proposal No. 462, 2008 as per Exhibit A. The motion carried by a vote of 5-1, with Councillor Coleman casting the negative vote.

Councillor Lutz said that this proposal was introduced on October 6, 2008, and he believes it is good public policy to have a conservation ordinance in effect. He wanted to emphasize that this ordinance has nothing to do with the proposed rate increases, as he was not even aware of rate increases until a few weeks ago. He said that he is not pleased that they have tied those rate increases to this ordinance. He added, however, that he nonetheless thinks it is good public policy, and many of the outlying communities are looking to Indianapolis for leadership on this issue. He said that his concerns have been addressed with the amendments this evening. He moved to send Proposal No. 462, 2008 to the full Council with a "Do Pass As Amended" recommendation.

Councillor Pfisterer said that she, too, believes this is good public policy, as she has lived without water for a period of time and understands how vital water availability is. She thinks it is important to conserve water now and not have to address the problem of any citizen having to go without water. She supports the proposal.

Councillor Gray said that he wishes the Water Company could be as concerned about people in his district without city water who need it badly as they are about conservation efforts. Councillor Lutz stated that James Steele, interim director of Waterworks, addressed this issue at the last meeting of the Waterworks board and explained his desire to change the funding to decrease the cost of bringing public water to people who do not have access to it. He said that Councillor Gray can go online and jump to that specific portion of the meeting to see that they are hoping for a substantial reduction in cost to citizens to bring them city water. Councillor Gray said that they reduced the pay structure with interest free loans and cost reductions several years ago, but it was still way more than most average citizens could afford. He said that there are citizens in his district who have to boil their water when it rains, and there are senior citizens who really could use city water. Councillor Lutz said that he believes they are proposing to cut the cost by one-third, which would be significant, and he has several citizens in his district with the same issues and concerns. Acting Chairman Cockrum stated that he helped some constituents whose wells were going dry to work with the Water Company. Even with 60 residents needing access, the cost would be approximately \$10,000 per household to just put the lines down the road. This cost did not include hooking up to those lines and the re-working of pipes in the house to sync up with the system. He said that only a few of those residents could even afford to participate. He said that he believes the Water Company should put the lines in, and citizens should only have to pay to hook up to those lines.

Councillor Gray seconded Councillor Coleman's motion to "Table" Proposal No. 462, 2008. The motion failed by a vote of 1-5, with Councillor Coleman casting the affirmative vote.

Councillor Pfisterer seconded Councillor Lutz's motion to send Proposal No. 462, 2008 to the full Council with a "Do Pass As Amended" recommendation. The motion carried by a vote of 5-1, with Councillor Coleman casting the negative vote.

[Clerk's Note: Acting Chairman Cockrum returned the gavel to Chairman Lutz.]

Councillor Coleman said that while it may be good public policy, he is disappointed they had to push the issue out of Committee this evening, therefore wasting taxpayers' time and money by not doing it right the first time.

Chairman Lutz said that they have worked on this proposal for several months, and he even chided the Water Company for not offering amendments to address Councillor concerns raised at the Committee hearings. He said that further amendments can still be offered on the Council floor.

Councillor Gray added that amendments need to come to the Committee in a more timely manner, so that they have time to think about the changes and review them properly. He said that this process was poorly done for something this important.

Chairman Lutz said that he did not see the amendments on Friday either, as they had been promised, and he further asked that anyone submitting an amendment indicate where changes were made with highlighting or underlining, so that members do not have to spend extra time looking at the two versions and trying to figure out what changes have been made.

There being no further business, and upon motion duly made, the meeting was adjourned at 6:52 p.m.

Respectfully Submitted,

Robert Lutz, Chairman

RL/ag

Proposal No. 462, 2008

MOTION TO AMEND

Mr. Chairman:

I respectfully move to amend Proposal No. 462, 2008, in four (4) instances, as follows.

Councillor

I.

In SECTION 1 of the Proposal, proposed Sec. 706-105 shall be and hereby is amended by the substitution of a NEW subsection (c) for that which appears in the Proposal, to read as follows:

(c) The following water users and water uses shall be exempt from the prohibitions contained in subsections (a) and (b) of this section:

- (1) Nurseries, provided water use is limited to the amount essential to preserve inventories;
- (2) Automatic commercial car washes, provided a majority of the water used is recycled;
- (3) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized; and
- (4) Any watering of property owned or controlled by the Department of Parks and Recreation as directed by the mayor or mayor's designee where such watering is necessary or appropriate for asset preservation.

II.

In SECTION 1 of the Proposal, proposed Sec. 706-106 as it appears in SECTION 1 of the Proposal shall be and hereby is amended by the substitution of NEW Secs. 706-106 and 706-107, to read as follows:

Sec. 706-106. Violations; penalties.

(a) Each customer shall be responsible for compliance with Section 706-105 of this chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(b) A person's first and second violations of Section 703-105 in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103, Article III, of the Code.

(c) With respect to violations not resolved under Chapter 103, Article III, of the Code, including a person's third and subsequent violations of Section 703-105 in a twelve-month period, Indianapolis Water may refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in Chapter 103, Article V of the code. Violations under this subsection are subject to the general penalties provided in Section 103-3 of the code; however, the penalty for each such violation shall not be less than Five Hundred Dollars (\$500.00).

(d) All moneys collected from violations of this chapter shall be deposited in the water conservation enforcement fund created by Section 135-391 of the Code.

Sec. 706-107. Enforcement.

This chapter shall be enforced by the division of compliance of the department of metropolitan development and any other designee of the director of the department of metropolitan development.

III.

The Proposal shall be and hereby is amended by the addition of a NEW SECTION 8, SECTION 9, and SECTION 10, to read as follows:

SECTION 8. Article III of Chapter 185 of the "Revised Code of the Consolidated City and County," regarding nonreverting city funds, hereby is amended by the addition of a NEW Division 9, to read as follows:

DIVISION 9. WATER CONSERVATION ENFORCEMENT FUND

Sec. 135-391. Created.

There is hereby created in the city a fund to be designated the "water conservation enforcement fund," in the office of finance and management, under the controller. The controller and auditor shall deposit in such fund all moneys collected from violations of Chapter 706 of the Code.

Sec. 135-392. Use.

This fund shall be a continuing, nonreverting fund, with all balances remaining therein at the end of the year, and such balances shall not revert to the city or county general funds or be diverted directly or indirectly for any use other than water conservation enforcement efforts. Moneys in the water conservation enforcement fund shall be used for expenses incurred by the division of compliance of the department of metropolitan development and any other designee of the director of such department to carry out the functions and duties as provided in Section 706-107 of the Code.

Sec. 135-393. Appropriations.

Moneys from this fund shall be appropriated in accordance with the procedures for expenditures of public funds.

SECTION 9. Upon passage of this ordinance, the Council hereby directs Indianapolis Water to consult with the Indiana Utility Regulatory Commission to determine available means to require out-of-county customers to comply with the measures contained herein.

SECTION 10. The Council also hereby directs the mayor or mayor's designee to consult with executive bodies of out-of-county governmental entities that use Indianapolis Water prior to declaring a water shortage or water emergency under this ordinance.

IV.

SECTION 8 through SECTION 10, inclusive, of the Proposal shall be and hereby are renumbered as SECTION 11 through SECTION 13, respectively.