

MEMORANDUM

TO: Honorable Mayor and City Council Members

FROM: Christine C. Davis, Finance Director *CDavis*

DATE: July 28, 2009

SUBJECT: Preliminary Rate Resolution 553-09 for 2009 Solid Waste Assessment

JUL 21 2009 3:50 P
PA

PURPOSE

The purpose of this item is to have Council adopt the Preliminary Rate Resolution No. 553-09 for the 2009 Solid Waste Assessment.

BACKGROUND

Previously the City adopted Ordinance No. 211, which authorized the annual imposition of the Solid Waste Service Assessments for Solid Waste collection and disposal services. The imposition of the Solid Waste Service assessment is an equitable and efficient method of allocating and apportioning solid waste cost among parcels within the assessment. Pursuant to the City's agreement with Waste Management the City established the use of the non-ad valorem method of collection. This is the second year that the solid waste will be reflected on the non-ad valorem portion of the tax bill.

The Preliminary Rate Resolution describes the method of assessing the solid waste cost against assessed property within Orange City, it determines the solid waste cost and the preliminary rate for the solid waste service assessments, and it directs the preparation of the Non-Ad Valorem Assessment Roll. Further it authorizes a public hearing and provides for the proper public notification. The solid waste cost to be assessed and apportioned among benefited parcels for the Fiscal Year commencing October 1, 2009 is recommended at \$259 per residential dwelling unit (the same as FY 08/09). Staff recommends the City provide the current level of subsidized funding in FY 09/10 as adopted in FY 08/09. In 2007, when the City established the solid waste assessment rate all affected property owners received a first class notice, this year if the rate remains the same only new property owners are required to receive a first class notice. If Council chooses not to subsidize the solid waste assessment this would increase the assessment rate and this action would require all affected property owners to receive a first class notice resulting in additional costs (estimated to be up to \$3,000).

Upon adoption of Resolution No. 553-09, the City Clerk shall publish the required advertisement depicted in Appendix "A" on August 18, 2009. At the same time staff will issue the notice found in Appendix "B" to all appropriate property owners on August 18, 2009. The City will hold the final Public Hearing on September 8, 2009 during the regular scheduled council meeting (7 p.m.). After the final Public Hearing staff shall certify the Non-Ad Valorem Assessment Roll to Volusia County by September 15, 2009, thereby completing the process of implementing the solid waste assessment program.

RECOMMENDATION

Staff recommends City Council approve Resolution 553-09 adopting the Preliminary Rate Resolution, thusly setting the 2009 Solid Waste Assessment at \$259 per residential dwelling unit.

CITY OF ORANGE CITY, FLORIDA

**PRELIMINARY RATE RESOLUTION
SOLID WASTE**

ADOPTED JULY 28, 2009

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RESOLUTION NO. 553-09

A RESOLUTION OF THE CITY OF ORANGE CITY, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE INCORPORATED AREA OF ORANGE CITY, FLORIDA; ESTABLISHING THE ESTIMATED ASSESSMENT RATE FOR SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE INCORPORATED AREA OF ORANGE CITY, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009; DIRECTING THE PREPARATION OF AN UPDATED ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Orange City, Florida (the "Council"), has enacted Ordinance No. 211 (the "Ordinance"), which authorizes the annual reimposition of annual Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs against certain Assessed Property within the incorporated area of Orange City, Florida (the "City");

WHEREAS, the imposition of a Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning Solid Waste Costs among parcels of Assessed Property; and

WHEREAS, pursuant to the City's agreement with Emerald Waste Services, LLC., the City is reimposing an annual Solid Waste and Recovered Materials collection and disposal assessment program within the incorporated area of the City, using the tax bill collection method for the Fiscal Year commencing October 1, 2009.

WHEREAS, pursuant to the Ordinance, the reimposition of Solid Waste Service Assessments for the Fiscal Year commencing October 1, 2009 requires certain processes such as the preparation of the Assessment Roll;

WHEREAS, annually a Preliminary Rate Resolution describing the method of assessing Solid Waste Costs against Assessed Property located within the incorporated area of the City, directing the preparation of an updated assessment roll, authorizing a public hearing and directing the provision of notice thereof is required by the Ordinance for the reimposition of the Solid Waste Service Assessments; and

WHEREAS, the Council deems it to be in the best interest of the citizens and residents of the City to adopt this Preliminary Rate Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the provisions of Ordinance No. 211 (the "Ordinance"), the Initial Assessment Resolution (Resolution No. 421-07), the Final Assessment Resolution (Resolution No. 425-07), Article VIII, Florida Constitution, sections 166.021 and 166.041, Florida Statutes, the Charter of the City of Orange City, and other applicable provisions of law.

SECTION 2. PURPOSE AND DEFINITIONS. This resolution constitutes the Preliminary Rate Resolution as defined in the Ordinance which initiates the annual process for updating the Assessment Roll and directs the reimposition of Solid Waste Service Assessments for the Fiscal Year commencing October 1, 2009. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance, the Initial Assessment Resolution, and the Final Assessment Resolution. Unless the context

indicates otherwise, words imparting the singular number, include the plural number, and vice versa.

SECTION 3. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. The legislative determinations of special benefit and fair apportionment embodied in the Ordinance, the Initial Assessment Resolution, and the Final Assessment Resolution, are affirmed and incorporated herein by reference.

SECTION 4. PROVISION AND FUNDING OF SOLID WASTE COLLECTION AND DISPOSAL SERVICES.

(A) Upon the reimposition of Solid Waste Service Assessments for Solid Waste and Recovered Materials collection and disposal against Assessed Property located within the City, the City shall cause Solid Waste and Recovered Materials collection and disposal services to be provided to such Assessed Property. Solid Waste Costs shall be paid from proceeds of the Solid Waste Service Assessments.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property will be benefited by the City's provision of Solid Waste and Recovered Materials collection and disposal services, facilities and programs in an amount not less than the Solid Waste Service Assessment upon such parcel computed in the manner set forth in this Preliminary Rate Resolution.

SECTION 5. DETERMINATION OF SOLID WASTE COST; ESTABLISHMENT OF ANNUAL SOLID WASTE SERVICE ASSESSMENTS.

(A) The Solid Waste Cost to be assessed and apportioned among benefited parcels for the Fiscal Year commencing October 1, 2009, is \$585,599.00. The approval of this Preliminary Rate Resolution determines the amount of the Solid Waste Cost. The

remainder of such Fiscal Year budget, if any, for Solid Waste and Recovered Materials services and facilities shall be funded from available City revenue other than Solid Waste Service Assessments.

(B) For the Fiscal Year in which Solid Waste Service Assessments for Solid Waste and Recovered Materials collection and disposal services, facilities and programs are imposed, the Solid Waste Cost shall be allocated among all parcels of Assessed Property within the City, based upon each parcels' classification as Residential Property and the number of Dwelling Units for such parcels. A rate of assessment equal to \$259.00 for each Dwelling Unit for Solid Waste collection and disposal services is hereby approved for the Fiscal Year commencing October 1, 2009.

(C) The rate of the Solid Waste Service Assessments established in this Preliminary Rate Resolution shall be the rates applied by the City Manager in the preparation of the updated Assessment Roll for the Fiscal Year commencing October 1, 2009, as provided in Section 6 of this Preliminary Rate Resolution.

SECTION 6. SOLID WASTE ASSESSMENT ROLL.

(A) The City Manager is hereby directed to prepare, or cause to be prepared, an updated Solid Waste Assessment Roll for the Fiscal Year beginning October 1, 2009, in the manner provided in the Ordinance. Such updated Solid Waste Assessment Roll shall contain the following: (1) a summary description of all Assessed Property within the incorporated area of the City conforming to the description contained on the Tax Roll, (2) the name and address of the owner of record of each parcel as shown on the Tax Roll, and (3) the amount of the Solid Waste Service Assessment for Solid Waste collection and disposal services. The updated Solid Waste Assessment Roll shall be open to public

inspection. The foregoing shall not be construed to require that the updated Solid Waste Assessment Roll be in printed form if the amount of the Solid Waste Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public. Such Solid Waste Service Assessment for each parcel of Assessed Property shall be computed by multiplying the assessment rate by the number of Dwelling Units on such parcel.

(B) It is hereby ascertained, determined, and declared that the foregoing method of determining the Solid Waste Service Assessments for Solid Waste and Recovered Materials collection and disposal services (1) is a fair and reasonable method of apportioning the Solid Waste Cost among parcels of Assessed Property and (2) is an equitable and efficient mechanism to address payment delinquencies and recover funds advanced for Solid Waste and Recovered Materials collection and disposal services, facilities, and programs which are allocable to specific parcels of Assessed Property.

SECTION 7. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at 7:00 p.m. on September 8, 2009, in the City Council Chambers, 201 North Holly Avenue, Orange City, Florida, for the purpose of (A) receiving and considering any comments on the Solid Waste Service Assessments from affected property owners and (B) authorizing the reimposition of such Solid Waste Service Assessments for Solid Waste and Recovered Materials collection and disposal and collection for the Fiscal Year commencing October 1, 2009 and collecting such assessment on the same bill as ad valorem taxes.

SECTION 8. NOTICE BY PUBLICATION. The City Manager shall publish a notice, as required by Section 3.04 of the Ordinance, in substantially the form attached hereto as

Appendix A. Such notice shall be published not later than August 18, 2009 in a newspaper generally circulated in the City.

SECTION 9. NOTICE BY MAIL. If required by Section 3.08(C) of the Ordinance, the City Manager shall provide notice by first class mail to the Owner of each parcel of Assessed Property in the manner provided in Section 3.05 of the Ordinance and in substantially the form attached hereto as Appendix B. Such notices shall be mailed not later than August 18, 2009.

SECTION 10. METHOD OF COLLECTION. It is hereby declared that the Solid Waste Service Assessment shall be collected and enforced pursuant to the Uniform Assessment Collection Act as provided in Section 6.01 of the Ordinance for the Fiscal Year commencing October 1, 2009.

SECTION 11. APPLICATION OF ASSESSMENT PROCEEDS. The revenue derived from the City's Solid Waste Service Assessment will be utilized for the provision of Solid Waste and Recovered Materials collection and disposal services, facilities, and programs, as reflected by the Solid Waste Cost. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund Solid Waste and Recovered Materials collection and disposal services, facilities, and programs.

SECTION 12. EFFECTIVE DATE. This Preliminary Rate Resolution shall take effect immediately upon its passage and adoption.

CITY OF ORANGE CITY, FLORIDA

Harley Strickland, Mayor

ROLL CALL VOTE AS FOLLOWS:

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
R. Paul Rasch	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ADOPTED THIS 28TH DAY OF JULY, 2009.

ATTEST:

AUTHENTICATED:

Deborah J. Renner, City Clerk

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

W. E. Reischmann, City Attorney

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published by August 18, 2009

**NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR
COLLECTION OF SOLID WASTE SERVICE SPECIAL ASSESSMENTS**

Notice is hereby given that the City Council of Orange City, Florida will conduct a public hearing to consider reimposing solid waste service assessments against certain improved residential properties located within the incorporated area of the City to fund the cost of solid waste and recovered materials collection and disposal services, facilities and programs provided to such properties and to authorize collection of such assessments on the tax bill.

The hearing will be held at 7:00 p.m. on September 8, 2009, in the City Council Chambers, 201 North Holly Avenue, Orange City, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Manager's office at (386) 775-5400, at least seven days prior to the date of the hearing.

The assessments will be computed by multiplying the number of dwelling units on each parcel of residential property by the rate of assessment. The rate of assessment for the upcoming fiscal year shall be \$259.00. Copies of the Master Service Assessment Ordinance, the Initial Assessment Resolution for Solid Waste Services, the Final Assessment Resolution for Solid Waste Services, and the updated assessment roll, showing the amount of the assessment to be imposed against each parcel of property are

available for inspection at the office of the City Manager at City Hall, 205 East Graves Avenue, Orange City, Florida.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2009, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact the City Manager at (386) 775-5400, Monday through Friday between 8:30 a.m. and 5:00 p.m.

[INSERT MAP OF ORANGE CITY]

**CITY COUNCIL
ORANGE CITY, FLORIDA**

APPENDIX B

FORM OF NOTICE TO BE MAILED

APPENDIX B

FORM OF NOTICE TO BE MAILED

******* NOTICE TO PROPERTY OWNER *******

**Orange City
205 East Graves Avenue
Orange City, Florida 32763**

<p>ORANGE CITY, FLORIDA NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SOLID WASTE SERVICE NON-AD VALOREM ASSESSMENTS NOTICE DATE: AUGUST 18, 2009</p>

**Owner Name
Address
City, State Zip**

Tax Parcel # _____
Legal Description: _____

As required by Section 197.3632, Florida Statutes, notice is given by the City of Orange City, Florida, that an annual assessment for solid waste and recovered materials services using the tax bill collection method, may be levied on your property for the fiscal year October 1, 2009 - September 30, 2010. The purpose of this assessment is to fund solid waste and recovered materials services benefiting certain improved residential property located within the incorporated area of the City. The total annual solid waste assessment revenue to be collected within the City, is estimated to be \$585,599.00 for the Fiscal Year 2009-10. The annual solid waste service assessment is based on the number of residential dwelling units contained on each parcel of property.

The total number of residential dwelling units on the above parcel is _____.

The solid waste service assessment for the above parcel is \$_____ for Fiscal Year 2009-10 and future fiscal years.

A public hearing will be held at 7:00 p.m. on September 8, 2009, in the City Council Chambers, 201 North Holly Avenue, Orange City, Florida, for the purpose of receiving public comment on the proposed assessments. You and all other affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an

interpreter to participate in this proceeding should contact the City Manager at (386) 775-5400, at least seven days prior to the date of the hearing.

Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action at the above hearing (including the method of apportionment, the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Master Service Assessment Ordinance, the Initial Assessment Resolution, the Final Assessment Resolution, the Preliminary Rate Resolution, and the updated assessment roll are available for inspection at the City Manager's office at City Hall, 205 East Graves Avenue, Orange City, Florida.

Both the solid waste service non-ad valorem assessment amount shown on this notice and the ad valorem taxes for the above parcel will be collected on the ad valorem tax bill mailed in November 2009. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If there is a mistake on this notice, it will be corrected. If you have any questions regarding your solid waste service assessment, please contact the City Manager at (386) 775-5400, Monday through Friday between 8:30 a.m. and 5:00 p.m.

******* THIS IS NOT A BILL *******