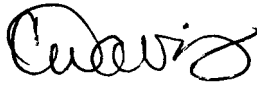



MEMORANDUM

TO: Honorable Mayor and City Council Members

FROM: Christine C. Davis, Finance Director 

DATE: September 8, 2009

SUBJECT: Annual Rate Resolution 562-09 for the Solid Waste Assessment Program

SEP 02 2009


PURPOSE

The purpose of this item is to have Council adopt the Annual Rate Resolution No. 562-09 for the Solid Waste Assessment Program Update for 2009.

BACKGROUND

The City Council adopted Resolution No. 553-09 on July 28, 2009 (the “Preliminary Rate Assessment Resolution”), designating the preliminary rate of the assessment, and directing the updating of the Assessment Roll and provide provisions for the required notice. The Annual Rate Resolution will confirm or repeal the Preliminary Rate Assessment Resolution, with such amendments as the Council deems appropriate, after hearing comments and objections from all interested parties. As required the City caused an individual mailed notice to newly added parcels and a public hearing notice was published in the Daytona Beach News Journal. An affidavit regarding the notice mailed to property owner of residential property being assessed can be found as Appendix A and the proof of publication can be found as Appendix B.

This final public hearing satisfies the requirement depicted in the enabling Ordinance No. 211. The final step of this process is to Certify the Solid Waste Tax Roll to the Volusia County Tax Collector by September 15, 2009 (said form of certification can be found as Appendix C). The Solid Waste Assessment Fee of \$259 will appear on the 2009 tax bill mailed in November 2009. As proposed the 1-4 % discount will be paid via City funds other than from the assessment proceeds and any effected party paying in November through February will be eligible to receive the statutory discount, thereby reducing the annual assessment below the \$259.00 (please see the chart below).

Month Paid	Gross Assessment	Statutory Discount	Discount	Net Assessment	Monthly Rate
November	259.00	4%	10.36	248.64	20.72
December	259.00	3%	7.77	251.23	20.94
January	259.00	2%	5.18	253.82	21.15
February	259.00	1%	2.59	256.41	21.37
March	259.00	0%	0	259.00	21.58

RECOMMENDATION

Staff recommends City Council approve Resolution 562-09 adopting the Final Assessment Resolution for the Solid Waste Assessment Program.

CITY OF ORANGE CITY, FLORIDA

**ANNUAL RATE RESOLUTION
SOLID WASTE**

ADOPTED SEPTEMBER 8, 2009

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RESOLUTION NO. 562-09

A RESOLUTION OF THE CITY OF ORANGE CITY, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE CITY OF ORANGE CITY, FLORIDA; REIMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF ORANGE CITY, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009; APPROVING THE RATE OF ASSESSMENT; APPROVING THE SOLID WASTE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the Council desires to reimpose an assessment program for Solid Waste and Recovered Materials collection and disposal services, facilities or programs within the City using the tax bill collection method for the Fiscal Year beginning on October 1, 2009;

WHEREAS, the Council, on July 28, 2009, adopted Resolution No. 553-09 (the "Preliminary Rate Resolution"), containing a brief and general description of the Solid Waste and Recovered Materials collection and disposal services, facilities or programs to be provided to Assessed Property, describing the method of apportioning the Solid Waste

Cost to compute the Solid Waste Service Assessment for Solid Waste and Recovered Materials collection and disposal services, facilities or programs against Residential Property, designating a rate of assessment, and directing preparation of the Solid Waste Assessment Roll and provision of the notice required by the Ordinance;

WHEREAS, in order to reimpose Solid Waste Service Assessments for the Fiscal Year beginning October 1, 2009, the Ordinance requires the City to adopt an Annual Rate Resolution, during its budget adoption process for each Fiscal Year, which establishes the rate of assessment and approves the Solid Waste Assessment Roll for the upcoming Year, with such amendments as the Council deems appropriate, after hearing comments and objections of all interested parties;

WHEREAS, the updated Solid Waste Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance;

WHEREAS, notice of a public hearing scheduled for September 8, 2009 has been published and, if required by Section 3.08(C) of the Ordinance, mailed to each Owner of Residential Property proposed to be assessed notifying such Owners of their opportunity to be heard, an affidavit regarding the form of notice mailed to each Owner of Residential Property being attached hereto as Appendix A and the proof of publication being attached hereto as Appendix B; and

WHEREAS, a public hearing was held on September 8, 2009, and comments and objections of all interested persons have been heard and considered as required by the terms of the Ordinance.

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

SECTION 1. AUTHORITY. This resolution is adopted pursuant to Ordinance No. 211; Resolution No. 421-07 (the "Initial Assessment Resolution"); and Resolution No. 425-07 (the "Final Assessment Resolution") and Resolution No. 553-09 (the "Preliminary Rate Resolution"); Article VIII, Section 2, Florida Constitution; the Charter of the City of Orange City; sections 166.021 and 166.041, Florida Statutes; and other applicable provisions of law.

SECTION 2. DEFINITIONS AND INTERPRETATION. This resolution constitutes the Annual Rate Resolution as defined in the Ordinance. All capitalized terms in this resolution shall have the meanings defined in the Ordinance, the Initial Assessment Resolution, the Final Assessment Resolution, and the Preliminary Rate Resolution.

SECTION 3. REIMPOSITION OF SOLID WASTE COLLECTION AND DISPOSAL ASSESSMENTS.

(A) The parcels of Assessed Property described in the Solid Waste Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of Solid Waste and Recovered Materials collection and disposal services, facilities or programs described in the Preliminary Rate Resolution in the amount of the Solid Waste Service Assessment set forth in the updated Solid Waste Assessment Roll, a copy of which was present at the above referenced public hearing and is incorporated herein by reference.

(B) It is hereby ascertained, determined and declared that each parcel of Assessed Property within the City will be benefited by the City's provision of Solid Waste and Recovered Materials collection and disposal services, facilities or programs in an amount not less than the Solid Waste Service Assessment for such parcel, computed in the manner set forth in the Preliminary Rate Resolution. Adoption of this Annual Rate Resolution constitutes a legislative determination that all parcels assessed derive a special benefit, as set forth in the Ordinance, the Initial Assessment Resolution and the Preliminary Rate Resolution, from the Solid Waste collection and disposal services, facilities or programs to be provided and a legislative determination that the Solid Waste Service Assessments are fairly and reasonably apportioned among the Residential Properties that receive the special benefit as set forth in the Preliminary Rate Resolution.

(C) The method for computing Solid Waste Service Assessments described in the Preliminary Rate Resolution is hereby approved.

(D) For the Fiscal Year beginning October 1, 2009, the Solid Waste Cost of \$585,858.00 shall be allocated among all parcels of Assessed Property, based upon each parcels' classification as Residential Property and the number of Dwelling Units for such parcels. An annual rate of assessment equal to \$259.00 is hereby imposed for each Dwelling Unit. Solid Waste Service Assessments for Solid Waste and Recovered Materials collection and disposal services, facilities or programs in the amounts set forth in the Solid Waste Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Solid Waste Assessment Roll.

(E) Any shortfall in the expected Solid Waste Service Assessment proceeds due to any reduction or exemption from payment of the Solid Waste Service Assessments

required by law or authorized by the Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Solid Waste Service Assessments.

(F) As authorized in Section 3.09 of the Ordinance, interim Solid Waste Service Assessments are also levied and imposed against all Residential property for which a Certificate of Occupancy is issued after adoption of this Annual Rate Resolution based upon the rates of assessment approved herein.

(G) Such Solid Waste Service Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(H) The Solid Waste Assessment Roll, as herein approved, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Solid Waste Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

SECTION 4. CONFIRMATION OF PRELIMINARY RATE RESOLUTION. The Preliminary Rate Resolution is hereby confirmed.

SECTION 5. EFFECT OF ADOPTION OF RESOLUTION. The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the method of apportionment, the rate of assessment, the

Solid Waste Assessment Roll and the levy and lien of the Solid Waste Service Assessments for Solid Waste and Recovered Materials collection and disposal services, facilities or programs) unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Annual Rate Resolution.

SECTION 6. EFFECTIVE DATE. This Annual 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	_____
Paul Rasch	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ADOPTED THIS 8TH DAY OF SEPTEMBER, 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

AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Chester Murray, who, after being duly sworn, deposes and says:

1. Chester Murray, as the City Manager of the City of Orange City, Florida ("City"), pursuant to the authority and direction received from the City Council, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with Sections 3.04 and 3.08 of Ordinance No. 211 adopted by the City Council on August 10, 2004 (the "Ordinance") and in conformance with the Preliminary Rate Resolution adopted by the City Council on July 28, 2009 (the "Preliminary Rate Resolution").

2. In accordance with the Ordinance, Mr. Murray caused the notices to be prepared and sent to all affected property owners. Each notice included the following information: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the City expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

3. On or before August 18, 2009, Mr. Murray directed the mailing of the above-referenced notices in accordance with the Ordinance and the Preliminary Rate Resolution by First Class mail to each affected owner, at the addresses then shown on the real property assessment tax roll database maintained by the Volusia County Property

Appraiser for the purpose of the levy and collection of ad valorem taxes.

FURTHER AFFIANT SAYETH NOT.

Chester Murray, affiant

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing Affidavit of Mailing was sworn to and subscribed before me this _____ day of _____, 2009 by Chester Murray, City Manager, City of Orange City, Florida. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of Florida
At Large
My Commission Expires: _____
Commission No.: _____

**CERTIFICATE
TO
NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that, I am the Mayor of the City Council or the authorized agent of the City of Orange City, Florida (the "City"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for solid waste services (the "Non-Ad Valorem Assessment Roll") for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Volusia County Tax Collector by September 15, 2009.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Volusia County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this ____ day of _____, 2009.

CITY OF ORANGE CITY, FLORIDA

By: _____
Mayor

[to be delivered to Volusia County Tax Collector prior to September 15]