

CITY OF LIGHTHOUSE POINT, FLORIDA
CITY COMMISSION AGENDA ITEM REPORT
DATE OF COMMISSION MEETING – July 14, 2015

AGENDA ITEM NO. - _____

PREPARED BY – Frank DiPaolo, Finance Director

DIRECTOR APPROVAL - _____
ADMINISTRATOR APPROVAL - _____

SUBJECT: Preliminary resolution establishing estimated non-ad valorem assessment rate for Stormwater Utility Services for the Fiscal Year beginning October 1, 2015 and ending September 30, 2016.

1. BACKGROUND/HISTORY

In 2009, the City first levied an annual special assessment to fund a portion of the costs for Stormwater Utility Services. The Equivalent Stormwater Unit (ESU) was initially assessed at \$60 for the year.

2. FINDINGS/CURRENT ACTIVITY

The attached Preliminary Assessment Resolution sets forth the proposed assessment rates for the Fiscal Year 2015-2016. It also provides for a public hearing for the adoption of the final assessment roll for Monday, September 14, 2015, and for notice for such hearing. The September 14, 2015 meeting is noticed through the annual TRIM (Truth in Millage) notices forwarded by the Broward County Property Appraiser's Office to all property owners, as well as published notice by the City Clerk. State law requires the City to conduct a public hearing to levy the special assessment, with no less than twenty (20) days' notice of the public hearing. The methodology used for the 2015-2016 special assessment is the same used since 2009, and is described in the resolutions adopted in 2009. Additionally, the rates to be assessed will be exactly the same as the ones first assessed in 2009 and in the years thereafter. The Equivalent Stormwater Unit would be assessed \$60 for the year. The assessment would be collected through the Broward County Revenue Collector on the annual property tax bill as a non-ad valorem assessment.

Rate Class	Parcel Count	ESU's
Single-Family Residential	3,295	3,296
Multi-Family/Condominium	1,927	428
General Parcel	250	903
Total	5,472	4,628

3. ATTACHMENTS

Preliminary Assessment Resolution

4. FINANCIAL IMPACT

The Stormwater Special Assessment is intended to fund approximately \$265,000 of the City's Stormwater Fund budget with a gross levy of \$277,658. The purpose of the assessment is to provide for storm drainage improvements and for emergency repairs to storm drainage infrastructure.

5. ACTION OPTIONS/RECOMMENDATION

Recommend that the City Commission adopt the preliminary resolution establishing the estimated non-ad valorem assessment rate for Stormwater Utility Services for the Fiscal Year beginning October 1, 2015 and ending September 30, 2016.

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A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT PROVIDED BY THE CITY'S STORMWATER UTILITY; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING THE METHOD OF ASSESSING THE COST OF STORMWATER MANAGEMENT SERVICE AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; DIRECTING THE CITY ADMINISTRATOR TO PREPARE OR DIRECT THE PREPARATION OF A PRELIMINARY STORMWATER ASSESSMENT ROLL FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2015 BASED UPON THE METHODOLOGY SET FORTH HEREIN; ESTABLISHING A PUBLIC HEARING FOR THE PROPOSED STORMWATER ASSESSMENTS AND DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COMMISSION OF
THE CITY OF LIGHTHOUSE POINT, FLORIDA, AS FOLLOWS:**

ARTICLE 1

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. This resolution constitutes the Preliminary Stormwater Assessment Resolution as defined in Ordinance 2009-0884 (the "Ordinance"). All definitions set forth in the Ordinance and Resolution 2009-1725 (the "Initial Stormwater Assessment Resolution") are incorporated and applied within this Preliminary Stormwater Assessment Resolution.

SECTION 1.02. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this resolution; and,

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the term “hereafter” means after, and the term “heretofore” means before, the effective date of this resolution. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

SECTION 1.03. It is hereby ascertained, determined, and declared by the City Commission of the City of Lighthouse Point that:

(A) Upon the adoption of this Preliminary Assessment Resolution determining the Stormwater Service Cost and imposing Stormwater Assessments, the legislative determinations ascertained and declared in Sections 1.03 and 3.01 of the Ordinance are hereby ratified and confirmed.

(B) Upon the adoption of this Preliminary Assessment Resolution, that certain report prepared by Government Services Group entitled “City of Lighthouse Point, Stormwater Funding Report,” dated as of October, 2009 presented to and accepted by the City Commission at its October 13, 2009, meeting, and the November 2009, Addendum, are hereby approved, adopted, and incorporated herein by reference, including the assumptions, conclusions, and findings in such study as to the determination of the Stormwater Assessments.

(C) The special benefits provided by the Stormwater Management Services to all Developed Property located within the Stormwater Service Area include, but are not limited to: (1) the provision of Stormwater Management Services and the availability and use of facilities and improvements by the owners and occupants of Developed Property to properly and safely detain, retain, convey, and treat Stormwater discharged from Developed Property;

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(2) stabilization of or the increase of Developed Property values; (3) increase safety and better access to Developed Property; (4) improved appearance; (5) rendering Developed Property more adaptable to a current or reasonably foreseeable use; (6) alleviation of the burdens caused by Stormwater runoff and accumulation attendant with the use of Developed Property; and (7) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the Stormwater Service Area.

(D) The City’s Stormwater Management Services are necessitated by the existence of Impervious Area. Accordingly, it is fair and reasonable to not impose a Stormwater Assessment against Undeveloped Property.

(E) The Stormwater Assessments authorized by Section 3.02 of the Ordinance and this Preliminary Assessment Resolution provide an equitable method of funding the Stormwater Service Cost attributed to Developed Property by fairly and reasonably allocating the Stormwater Service Cost to specially benefited Developed Property. Developed Property is classified on the basis of the Stormwater burden expected to be generated by the physical characteristics and use of such property.

(F) Any shortfall in the expected proceeds from the Stormwater Assessment due to any reduction or exemption from payment of the Stormwater Assessment required by law or authorized by the City Commission 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 Stormwater Assessment. In the event a court of competent jurisdiction determines any

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exemption or reduction by the City Commission is improper or otherwise adversely affects the validity of the Stormwater Assessment imposed for this Fiscal Year, the sole and exclusive remedy shall be the imposition of a Stormwater Assessment upon each affected Tax Parcel in the amount of the Stormwater Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel.

ARTICLE II

STORMWATER ASSESSMENTS

SECTION 2.01. The Stormwater Assessment will fund the Stormwater Management Services provided by the City. The descriptions of the Stormwater Management Services provided by the City, including the definition of the term “Stormwater Management Service” set forth within the Ordinance, are incorporated herein.

SECTION 2.02. (A) The City Commission hereby establishes the entire incorporated area of the City of Lighthouse Point as the Stormwater Service Area.

(B) The Stormwater Utility shall provide Stormwater Management Services to all Developed Property within the Stormwater Service Area. All or any portion of the Stormwater Service Cost may be funded from the proceeds of the Stormwater Assessments.

(C) The Stormwater Utility may also acquire and construct capital facilities to assist and facilitate the provision of Stormwater Management Services within the Stormwater Service Area.

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SECTION 2.03. (A) A Stormwater Assessment shall be imposed against all Developed Property within the Stormwater Service Area. The Stormwater Service Cost shall be assessed against all Tax Parcels of Developed Property within the Stormwater Service Area at a rate of assessment based upon the special benefit accruing to such Developed Property from the City's provision of Stormwater Management Services, measured by the number of Equivalent Stormwater Unit (ESUs) attributable to each Tax Parcel.

(B) The Stormwater Assessment will be computed for each Tax Parcel of Developed Property located within the Stormwater Service Area by multiplying the number of ESUs attributable thereto by \$60.00 annually.

(C) The City Commission hereby finds that the rate per ESU of \$60.00 ensures that the aggregate Stormwater Assessment within the Stormwater Service Area does not exceed the Stormwater Service Cost for the Stormwater Utility for the Fiscal Year beginning on October 1, 2015.

(D) The total Assessed Costs to be levied for the Stormwater Assessment for the Fiscal Year beginning on October 1, 2015, is \$277,658.

SECTION 2.04. The City Administrator is hereby directed to prepare, or direct the preparation of, the updated Stormwater Assessment Roll for the Stormwater Assessment in the manner provided in the Ordinance. A copy of this Preliminary Assessment Resolution and the Stormwater Assessment Roll for the Stormwater Assessment shall be maintained on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to

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require that the Stormwater Assessment Roll be in printed form if the amount of the Stormwater Assessment for each Tax Parcel can be determined by use of an available computer terminal.

SECTION 2.05. (A) For the Fiscal Year beginning on October 1, 2015, the Stormwater Assessments shall be collected using the Uniform Assessment Collection Act pursuant to Section 4.01 of the Ordinances, through the ad valorem tax bill to be mailed in November 2015, as authorized by Section 197.3632, Florida Statutes.

(B) The Stormwater Assessments shall be collected from City-owned property in accordance with Section 4.03 of the Ordinance. Property owned by Governmental entities other than the City shall not be assessed pursuant to the findings and legislative determinations as set forth in Section 4.03 of the Ordinance.

ARTICLE III

DETERMINATION OF ESUs

SECTION 3.01. Each Tax Parcel located within the Stormwater Service Area shall be assigned to one of the following classifications: Single-Family Parcels, Condominium Residential Unit Parcels, or General Parcels.

SECTION 3.02. (A) The Commission hereby finds and determines as follows:

(1) Single-Family Parcels constitute approximately 60% of the 5,472 Parcels located within the Stormwater Service Area.

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(2) The cost of measuring or verifying the Impervious Area for each individual Single-Family Parcel greatly exceeds any benefit to be derived from individual measurement and verification.

(3) Through a statistically valid sampling procedure, including review of City data and the ad valorem tax roll information for residential properties within the City, it has been determined that the average Single-Family Parcel within the Stormwater Service Area contains 5,492 square feet of Impervious Area.

(B) The City has computed the ESU Value (5,492 square feet) as the Impervious Area for the average Single-Family Parcel within the Stormwater Service Area. The City has determined that all Single-Family Parcels within the Stormwater Service Area are likely to have a similar impact on the Stormwater system; therefore, it is fair and reasonable to assign one (1) ESU to each Single-Family Parcel.

SECTION 3.03. The Commission hereby finds and determines as follows:

(1) Residential Condominium and Townhouse Parcels:

(a) Residential Condominium and Townhouse parcels constitute a unique form of real property ownership comprised of Condominium or Townhouse Residential Unit Parcels, to which there may be an appurtenant undivided share in Condominium or Townhouse Common Area Parcels.

(b) It is fair and reasonable to equally attribute the Impervious Area of Condominium or Townhouse Common Area Parcels to the Condominium or Townhouse Residential Unit Parcels

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to which such Condominium or Townhouse Common Area Parcels are appurtenant since the entire property collectively impacts the Stormwater Utility System.

(c) The number of ESUs attributable to each Condominium or Townhouse Residential Unit Parcel in a residential Condominium or Townhouse complex shall be calculated by determining the total Impervious Area of the townhouse/condominium complex, then dividing it by the ESU Value established herein, resulting in a Total ESU Value for the entire complex. The Total ESU Value for the complex is then divided by the total number of Condominium or Townhouse Residential Unit Parcels, resulting in the total assessment per Condominium or Townhouse Residential Unit Parcel.

(2) Office Condominium Parcels:

(a) An Office Condominium parcel constitutes a unique form of commercial real property ownership comprised of Condominium Office Unit Parcels, to which there may be an appurtenant undivided share in Condominium Common Area Parcels.

(b) It is fair and reasonable to equally attribute the Impervious Area of Condominium Common Area Parcels to the Condominium Office Unit Parcels to which such Condominium Common Area Parcels are appurtenant since the entire property collectively impacts the Stormwater Utility System.

(c) The number of ESUs attributable to each Condominium Office Unit Parcel in an Office Condominium shall be calculated by determining the total Impervious Area of the condominium complex, then dividing it by the ESU Value established herein, resulting in a Total

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ESU Value for the entire complex. The Total ESU Value for the complex is then divided by the total number of Condominium Office Unit Parcels, resulting in the total assessment per Condominium Office Unit Parcel.

SECTION 3.04. The number of ESUs attributable to each General Parcel shall be determined by dividing the Impervious Area of the General Parcel by the ESU Value (5,492 square feet).

SECTION 3.05. The City Commission hereby finds that it is fair and reasonable to provide for a mitigation credit where no portion of the parcel drains into the City right-of-way or any part of the Stormwater Utility System over which the City has maintenance responsibilities, and hereby adopts and incorporates the legislative findings relating to the mitigation policy set forth within the Initial Assessment Resolution, and authorizes the continued use of the mitigation credit pursuant to the criteria set forth in the Initial Assessment Resolution.

ARTICLE IV

NOTICE AND PUBLIC HEARING

SECTION 4.01. There is hereby established a public hearing to be held at 7:30 p.m. on September 14, 2015, at Lighthouse Point City Hall, 2200 Northeast 38th Street, Lighthouse Point, Florida 33064, to consider imposition of the Stormwater Assessments and their collection pursuant to this Preliminary Resolution.

SECTION 4.02. The City Administrator shall publish a notice of the public hearing authorized by Section 4.01 hereof in the manner and the time provided in Section 3.05 of the

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Ordinance, and the Uniform Assessment Collection Act. The published notice shall be in substantially the form attached hereto as Appendix A.

SECTION 4.03. The Assessment Coordinator shall ensure that proper and timely notice is provided to the Owners of Assessed Property through use of the TRIM notices forwarded by the Property Appraiser's Office to Property Owners within the City in a manner consistent with the requirements of the Ordinance.

ARTICLE V

GENERAL PROVISIONS

SECTION 5.01. The process for adjustments of ESUs, including the filing and review of Petitions for review of the number of ESUs attributed to any Tax Parcel and the City Administrator's authority to initiate review for an adjustment of ESUs, shall be as set forth within the Initial Assessment Resolution.

SECTION 5.02. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

SECTION 5.03. All resolutions or parts of resolutions on in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

SECTION 5.04. This Resolution shall become effective immediately upon its passage and adoption.

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PASSED this 14th day of July, 2015

BY: _____
Michael S. Long, Commission President

ATTESTED

BY: _____
Jennifer M. Oh, City Clerk

APPROVED

BY: _____
Office of the City Attorney

	Yes	No	Absent
Commission President Michael S. Long	_____	_____	_____
Commission Vice President Kyle Van Buskirk	_____	_____	_____
Commissioner Jason D. Joffe	_____	_____	_____
Commissioner Sandy Johnson	_____	_____	_____
Commissioner Earl Maucker	_____	_____	_____

**APPENDIX A
FORM OF NOTICE TO BE PUBLISHED**

To Be Published by August 25, 2015

[INSERT MAP OF CITY]

**NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR
COLLECTION OF STORMWATER SPECIAL ASSESSMENTS**

Notice is hereby given that the City Commission of City of Lighthouse Point, Florida (“City”), will conduct a public hearing to consider imposing Stormwater Special Assessments within the City of Lighthouse Point, as shown above. The hearing will be held at 7:30 p.m. on September 14, 2015, at 2200 N.E. 38th Street, Lighthouse Point, Florida 33064. 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 Clerk at (954) 943-6500 at least seven (7) days prior to the date of the hearing. All affected property owners have a right to appear at the hearing and to file written objections with the City Commission. All written objections to the non-ad valorem assessments must be filed with the City Commission within twenty (20) days of this notice. Any person wishing to appeal any decision of the City Commission with respect to any matter considered will need a record of the proceedings and may wish to ensure that a verbatim record of the proceedings is made.

The Stormwater Special Assessments have been proposed to fund the City’s cost to provide Stormwater Management Service within the City of Lighthouse Point. The Stormwater Special Assessments are based upon the estimated amount of stormwater runoff generated by impervious surface on the property. Impervious surfaces include the rooftop, patios, driveways, parking lots, and similar areas. The City has determined that the average single-family residence

in the Stormwater Service Area includes 5,492 square feet of impervious surface, which is defined as the “Equivalent Stormwater Unit” or “ESU Value.” The annual Stormwater Special Assessment rate for the upcoming Fiscal Year will be \$60.00 for each ESU. Each single-family parcel in the City will be charged for one ESU, which is \$60.00 for the Fiscal Year beginning October 1, 2015.

Generally, the number of ESUs was calculated individually for each parcel of property other than single-family residential parcels, by dividing the impervious surface area by 5,492 square feet. Assessments for residential condominium and townhouse units are calculated by dividing the total ESUs on a condominium or townhouse complex property by the number of condominium or townhouse residential units on the property. Assessments for office condominiums are calculated by dividing the total ESUs on the office condominium complex by the number of office condominium units on the property. A more specific description is set forth in the Preliminary Assessment Resolution adopted by the City Commission on July 14, 2015. Copies of the Preliminary Assessment Resolution and the updated assessment roll are available for inspection at the Office of the City Clerk, City Hall, 2200 N.E. 38 Street, Lighthouse Point, Florida 33064-3913.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2015, 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 Finance Department at 954-784-3432, Monday through Friday, between 8:00 a.m. to 4:00 p.m.

CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA