

Meeting Date: September 14, 2016



Agenda Item #:

6B

CITY COUNCIL AGENDA ITEM

Contact Name: Christine Davis

Department Director: Christine Davis

Department/Contact #: 386/775-5432

City Manager: Dale Arrington

Type of Item:

- | | |
|---------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> Public Hearing | <input checked="" type="checkbox"/> Resolution |
| <input type="checkbox"/> Ordinance First Reading | <input type="checkbox"/> Discussion & Action |
| <input type="checkbox"/> Ordinance Second Reading | <input type="checkbox"/> Consent Agenda |
| <input type="checkbox"/> Workshop | <input checked="" type="checkbox"/> Council Approval |

Subject: 2016 Annual Stormwater Rate Resolution 842-16

BACKGROUND:

The City Council adopted Resolution No. 832-16 (the "Preliminary Solid Waste Rate Assessment Resolution") on July 26, 2016, designating the preliminary rate of the assessment, directing the updating of the Assessment Roll, and providing provisions for the required notices. The Annual Stormwater Rate Resolution will confirm the Preliminary Stormwater Rate Assessment Resolution. As required, the City issued an individual mailed notice to newly added parcels and a public hearing notice was published in the Daytona Beach News Journal. An affidavit of mailing regarding the notice mailed to all property owners being assessed for the first time in Orange City can be found as Appendix A and the proof of publication can be found as Appendix B.

The preliminary rate Resolution No. 832-16 established the fiscal year 16/17 (tax year 2016) tax roll of \$610,000 or \$12.07 per Equivalent Benefit Unit (EBU). This changed the EBU rate from \$11.61 to \$12.07. The average number of residential EBUs is five. Last year the EBU rate of \$11.61 generated an average annual assessment of \$58.05 annually, or \$4.84 monthly. With the 2016 EBU rate of \$12.07, the average annual assessment fee will be \$60.38, or \$5.03 monthly.

Resolution 842-16 will certify the Stormwater final assessment roll.

COUNCIL DISTRICT:

Citywide

RECOMMENDATIONS:

Staff recommends Council approve Resolution No. 842-16 adopting the 2016 Annual Stormwater Rate Resolution for the fiscal year 16/17 (tax bill 2016).

ATTACHMENTS:

Resolution 842-16

FINANCIAL IMPACT:

The Annual Rate Resolution establishes the 2016 Stormwater Service Assessment that will generate \$610,000 for FY 16/17 Stormwater Fund.

STRATEGIC PLAN:

Reviewed by City Attorney:

Reviewed by Finance Dept.:

Reviewed by:

1st Discussion Date:

2nd Discussion Date:

3rd Discussion Date:

Other Discussion Date:

07/26/2016

CITY OF ORANGE CITY, FLORIDA

**ANNUAL RATE RESOLUTION
FOR STORMWATER SERVICE ASSESSMENTS
RESOLUTION NO. 842-16**

ADOPTED SEPTEMBER 14, 2016

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RESOLUTION NO. 842-16

A RESOLUTION OF THE CITY OF ORANGE CITY, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES; CONFIRMING THE PRELIMINARY RATE RESOLUTION; IMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST CERTAIN REAL PROPERTY WITHIN THE INCORPORATED AREA OF THE CITY OF ORANGE CITY ESTABLISHED AS THE STORMWATER SERVICE AREA; APPROVING THE STORMWATER SERVICE ASSESSMENT ROLL; ESTABLISHING A MITIGATION CREDIT POLICY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council (the "Council") of the City of Orange City, Florida (the "City") has enacted Ordinance No. 211 (the "Ordinance") which authorizes the imposition of annual Stormwater Service Assessments against certain Assessed Property benefited by the City's Stormwater Management Services; and

WHEREAS, the imposition of an annual Stormwater Service Assessment is an equitable and efficient method of allocating and apportioning the cost of the City's Stormwater Management Service among parcels of property that are benefited thereby; and

WHEREAS, on July 26, 2016 the Council adopted Resolution No. 832-16, the Preliminary Rate Resolution, geographically identifying the area within which the City provides Stormwater Management Services and those properties to be benefited by the City's Stormwater Management Services (the "Stormwater Service Area"), describing the method of assigning Equivalent Benefit Units and apportioning the Stormwater Management Service Cost against Developed Property located within the Stormwater Service Area, directing the preparation of the tentative Stormwater Service Assessment

Roll, and directing the provision of the notices if required by Section 3.08 of the Ordinance;
and

WHEREAS, pursuant to the provisions of Section 3.08 of the Ordinance, the City is required to confirm or repeal the Preliminary Rate Resolution, with such amendments as the Council deems appropriate, after hearing comments and receiving objections of all interested parties; and

WHEREAS, the updated Stormwater Service Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance; and

WHEREAS, notice of a public hearing has been published in accordance with Section 3.04 of the Ordinance and, if required by the terms of Section 3.08(C) of the Ordinance, mailed to each affected property owner in accordance with Section 3.05 of the Ordinance, notifying such property owners of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively; and

WHEREAS, a public hearing was held on September 14, 2016 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 THE CITY OF ORANGE CITY, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The above recitals are true and correct and are hereby incorporated herein by reference.

SECTION 2. AUTHORITY. This resolution is adopted pursuant to the provisions of the Ordinance; the Initial Assessment Resolution (Resolution No.781-15); the Final

Assessment Resolution (Resolution No. 782-15); the Preliminary Rate Resolution (Resolution No. 832-16); the Orange City Charter; Article VIII, Section 2 of the Florida Constitution; sections 166.021 and 166.041 of the Florida Statutes; and other applicable provisions of law.

SECTION 3. DEFINITIONS AND INTERPRETATIONS.

(A) This resolution is the Annual Rate Resolution for the imposition of Stormwater Service Assessments.

(B) Unless otherwise defined below, all capitalized terms in this resolution shall have the meanings defined in the Code, the Initial Assessment Resolution, the Final Assessment Resolution, and the Preliminary Rate Resolution.

SECTION 4. REIMPOSITION OF STORMWATER SERVICE ASSESSMENTS.

(A) The parcels of Assessed Property described in the Stormwater Service Assessment Roll are hereby found to be specially benefited by the provision of the Stormwater Management Services described in the Preliminary Rate Resolution in the amount of the Stormwater Service Assessment set forth in the updated Stormwater Service 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 Stormwater Management Services in an amount not less than the Stormwater 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 Stormwater Management Services to be provided and a legislative determination that the Stormwater Service Assessments are fairly and reasonably apportioned among the Assessed Property that receives the special benefit as set forth in the Preliminary Rate Resolution.

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

(D) For the Fiscal Year beginning October 1, 2016, the estimated Stormwater Service Cost, excluding collection costs, is \$610,000.00. The Stormwater Service Assessments to be charged to all benefited parcels pursuant to the methodology set forth in the Initial Assessment Resolution will be computed for each Tax Parcel of Assessed Property located within the Stormwater Service Area by multiplying the number of Net EBUs attributable thereto by the rate of \$12.07 per Net EBU.

(E) The above rate per Net EBU is hereby approved. Stormwater Service Assessments for the provision of Stormwater Management Services in the amounts set forth in the Stormwater Roll, as herein approved, are hereby levied and imposed on all Assessed Property described in the Stormwater Service Assessment Roll for the Fiscal Year beginning October 1, 2016.

(F) The Stormwater 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 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. The lien for Stormwater Service Assessments shall be deemed perfected upon adoption by the Council of this Annual Rate Resolution. Upon perfection, the lien for Stormwater

Service Assessments collected under the Uniform Assessment Collection Act shall attach to the property included on the roll as of the prior January 1, the lien date for ad valorem taxes.

(G) Any shortfall in the expected Stormwater Service Assessment proceeds due to any reduction or exemption from payment of the Stormwater Service Assessments required by law or authorized by the City 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 Stormwater Service Assessments.

(H) As authorized in Section 3.09 of the Ordinance, interim Stormwater 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.

(I) The Stormwater Service 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 Stormwater Service 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 D.

SECTION 5. CONFIRMATION OF PRELIMINARY RATE RESOLUTION. The Preliminary Rate Resolution is hereby confirmed.

SECTION 6. APPROVAL OF STORMWATER ROLL. The updated Stormwater Service Assessment Roll, copies of which were present or available at the public hearing, on file in the office of the Assessment Coordinator, and incorporated herein by reference, is hereby approved. The foregoing shall not be construed to require that the Stormwater Roll

be in printed form if the amount of the Stormwater Service Assessment for each Parcel is available on compatible electronic medium and can be determined by use of an available computer terminal.

SECTION 7. APPROVAL OF MITIGATION CREDIT POLICY.

(A) As used in this Resolution, the following terms shall have the following meanings:

"Mitigation Credit" means, for any Parcel of Developed Property, a number between 0.0 and 0.50 representing a reduction in the burden expected to be generated by such Parcel attributable to privately maintained Stormwater management facilities and other factors affecting the quantity or quality of Stormwater runoff.

"Mitigation Credit Factor" means the figure computed by subtracting the Mitigation Credit from 1.00.

"Mitigation Credit Policy" means the Orange City Stormwater Utility Adjustments and Credits Policies and Procedures Manual attached hereto as Appendix C.

(B) The City Council hereby finds that the Mitigation Credit Policy is fair and reasonable and, therefore, approves the Updated Mitigation Credit Policy attached hereto as Appendix C.

(C) The City Council recognizes the benefits provided by privately maintained Stormwater management facilities. Properties supporting private Stormwater management facilities should be credited for the public benefits they provide. Accordingly, the number of ERUs otherwise attributable to such property shall be adjusted by a Mitigation Credit determined in accordance with the Mitigation Credit Policy.

(D) In order to receive a Mitigation Credit for which property is eligible, by May 1 preceding the October 1 start date of the Fiscal Year for which reapplication is required, the property owner shall file a Mitigation Credit application with the Assessment Coordinator on a form approved by the City. The property owner may be required to provide the Assessment Coordinator with "as built" drawings of the Stormwater management facility sealed by a Florida registered professional engineer, a certification from a Florida registered professional engineer as to the standards of retention and detention achieved by the facility, evidence of compliance with any exemptions mandated under state law, or such other reasonable requirements as may be necessary to effectuate the purposes of this Section.

(E) The Assessment Coordinator, with the assistance of other members of the administrative staff of the City, shall, within sixty (60) days after the filing of such application, review the application and such other supporting data that may be filed therewith and make such further investigation as may be reasonably required in order to determine if the applicant is qualified for a Mitigation Credit pursuant to this Section.

(F) The Assessment Coordinator shall furnish his or her written decision to such applicant by United States mail, postage prepaid, addressed to the applicant at the address stated on the application.

(G) No Mitigation Credit shall be applied for service provided to property by a Stormwater management facility constructed or maintained with City funds.

(H) Upon approval, Mitigation Credits shall be valid for two Fiscal Years. Prior to the expiration of the Mitigation Credit, property owners must reapply in accordance with paragraph (D) of this Section.

SECTION 8. COLLECTION OF STORMWATER SERVICE ASSESSMENTS.

(A) The Stormwater Service Assessments shall be collected pursuant to the Uniform Assessment Collection Act, as provided in Section 6.01 of the Ordinance.

(B) The Mayor is hereby authorized and directed to certify and deliver or cause the certification and delivery of the Stormwater Roll for the Stormwater Service Assessments to the Tax Collector by September 15, 2016, in the manner prescribed by Section 197.3632 of the Florida Statutes. The Stormwater Roll for the Stormwater Service Assessments, 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 D.

SECTION 9. 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 apportionment methodology, the rate of the fee for service to Government Property, the rate of assessment, the adoption of the updated Stormwater Service Assessment Roll and the levy and lien of the Stormwater Charges), 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 10. EFFECTIVE DATE. This resolution shall take effect immediately upon its adoption.

CITY OF ORANGE CITY, FLORIDA

Tom Laputka, Mayor

ROLL CALL VOTE AS FOLLOWS:

Gary A. Blair, Vice Mayor _____

O. William Crippen _____

Ron Saylor _____

Tom Abraham _____

Michael G. Wright _____

Anthony Pupello _____

Tom Laputka, Mayor _____

ADOPTED THIS 14TH DAY OF SEPTEMBER, 2016.

ATTEST:

AUTHENTICATED:

Gloria Thomas, CMC, City Clerk

Tom Laputka, Mayor

Approved as to form and legal sufficiency:

W. E. Reischmann, Jr., City Attorney

APPENDIX A

PROOF OF PUBLICATION

THE NEWS-JOURNAL

Published Daily and Sunday
Daytona Beach, Volusia County, Florida

State of Florida,
County of Volusia

Before the undersigned authority personally appeared

Jennifer Lynch

who, on oath says that she is

LEGAL COORDINATOR

of The News-Journal, a daily and Sunday newspaper,
published at Daytona Beach in Volusia County, Florida; the
attached copy of advertisement, being a
.....

PUBLIC NOTICE

L 2208939

in the Court,
was published in said newspaper in the issues.....

AUGUST 24, 2016

Affiant further says that The News-Journal is a newspaper
published at Daytona Beach, in said Volusia County, Florida,
and that the said newspaper has heretofore been continuously
published in said Volusia County, Florida, each day and
Sunday and has been entered as second-class mail matter at
the post office in Daytona Beach, in said Volusia County,
Florida, for a period of one year next preceding the first
publication of the attached copy of advertisement; and affiant
further says that he has neither paid nor promised any person,
firm or corporation any discount, rebate, commission or
refund for the purpose of securing this advertisement for
publication in the said newspaper

Jennifer Lynch

Sworn to and subscribed before me

This 24TH of AUGUST

A.D. 2016

Deborah L. Keesee

49D



**NOTICE OF HEARING
TO IMPOSE AND
PROVIDE FOR
COLLECTION OF
NON-AD VALOREM
ASSESSMENTS AND FEES**

The City Council of the City of Orange City (the "Council") will conduct a public hearing to consider the continued imposition of Stormwater Service Assessments within the City. The hearing will be held at 6:00 p.m., or as soon thereafter as the item can be heard, on September 14, 2016 in the City Council Chambers, 201 North Holly Avenue, Orange City, Florida. 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) 775-5408, at least seven 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. All written objections to the non-ad valorem assessments must be filed with the City Council within twenty (20) days of this notice. Please include your name, parcel number, and the reason you object to the assessment on all written objections. Address all written objections as follows: Public Works Director, 205 East Graves Avenue, Orange City, Florida 32763. Any person wishing to appeal any decision of the Council 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 Service Assessments will fund the City's cost to provide Stormwater Management Services in the City. The Stormwater Service Assessments are based upon the estimated amount of stormwater runoff generated by impervious surface on the property. Impervious surfaces include the roof top, patios, driveways, parking lots and similar areas. The City has determined that the EBU value with the City is 500 square feet of impervious surface. The annual Stormwater Service Assessment rate for the upcoming Fiscal Year will be \$12.07 for each EBU. The maximum annual Stormwater Service Assessment rate that can be imposed without further notice for Fiscal Year 2016-17 and future fiscal years is \$17.06 per EBU for the above parcel.

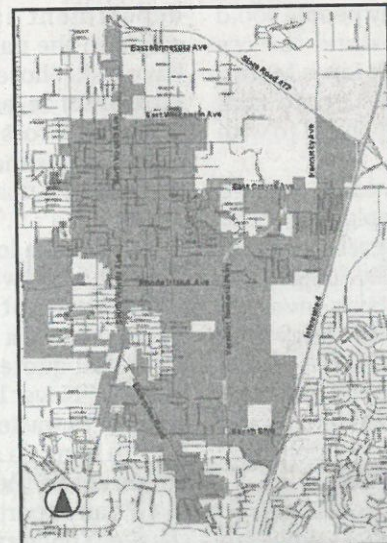
Generally, the number of EBUs were calculated individually for each parcel of property by dividing the impervious surface area by 500 square feet. If a property owner applies and qualifies, credits for privately maintained Stormwater management facilities and other factors affecting the quantity or quality of Stormwater runoff will be applied, resulting in a reassignment of EBUs. A more specific description of the Stormwater Service Assessments is set forth in the Initial Assessment Resolution (Resolution No. 781-15), the Final Assessment Resolution (Resolution No. 782-15), and the Preliminary Rate Resolution (Resolution No. 832-16). Copies of these resolutions and the updated stormwater roll are available for inspection at the office of the City Manager at City Hall, 205 East Graves Avenue, Orange City, Florida. Additional information about the Stormwater Service Assessment, including the application for credits, is available at www.ourorangepcity.com

The Stormwater Service Assessment will be collected by the Tax Collector of Volusia County, pursuant to Chapter 197, Florida Statutes, on the tax bill to be mailed in November 2016.

Failure to pay the Stormwater Service Assessment will cause a tax certificate to be issued against the assessed property, which may result in a loss of title to your property.

If you have any questions, please contact the City Engineer at (386) 851-7525, Monday through Friday between 8:30 a.m. and 5:00 p.m.

CITY OF ORANGE CITY, FLORIDA



APPENDIX B

AFFIDAVIT OF MAILING

AFFIDAVIT OF MAILING

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

1. Dale Arrington, 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 3.05 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 26, 2016 (the "Preliminary Rate Resolution").

2. If required by Section 3.08 of the Ordinance, Ms. Arrington 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 24, 2016, Ms. Arrington 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.

Dale Arrington, affiant

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing Affidavit of Mailing was sworn to and subscribed before me this _____ day of _____, 2016 by Dale Arrington, City Manager, City of Orange City, Florida. She 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.: _____

APPENDIX C
MITIGATION CREDIT POLICY

Mitigation Credit Policy

Based on the City of Orange City's Stormwater Service Assessments, any parcel of developed property is entitled to request a mitigation credit. As outlined in Section 7(D), the property owner shall file a mitigation credit application on a form approved by the City.

In order to pursue a mitigation credit, the property owner must provide the following information associated with an existing on-site stormwater management system:

- ☐ The stormwater management system must have received a permit from the St. Johns River Water Management District (SJRWMD).
- ☐ The stormwater management system must be properly maintained. In order to meet this criteria, the property owner must provide a signed and sealed letter from a registered Florida Professional Engineer certifying that, based on actual observations, the existing stormwater management system performs properly with respect to the original design and the SJRWMD permit.
- ☐ The letter from the registered Florida Professional Engineer must also document the design criteria associated with the existing stormwater management system. In other words, does the stormwater management system provide pollution abatement (water quality) volume only or does it meet retention volume criteria for a closed drainage basin. In other words, the stormwater pond provides retention volume that meets the difference in runoff volumes between pre-development and post-development conditions for the City's 100-year / 24-hour design storm event or the SJRWMD's 25-year / 96-hour design storm event.
- ☐ If the property owner does not have a SJRWMD permit, the property owner may commission their own engineering study (certified by a Florida Professional Engineer) to demonstrate a functioning stormwater management system.

Assuming the property owner meets the requirements outlined above, the stormwater management system may qualify for the following mitigation credits:

- ① If the existing stormwater management system only provides pollution abatement (water quality) volume, the site will receive a 25% mitigation credit.
- ② If the existing stormwater management system provides retention volume based on closed basin criteria, the site will receive a 50% mitigation credit.

APPENDIX D

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

**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 Stormwater Management 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, 2016.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Orange City Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this _____ day of _____, 2016.

CITY OF ORANGE CITY, FLORIDA

By: _____
Mayor

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