



Agenda Memo

AGENDA ITEM: I.

TO: Mayor and Commission

AGENDA DATE: 9/19/2016

FROM: Jane K. Shang, City Manager

AGENDA ITEM: 9 - I

SUBJECT:

Ordinance No. 14-2016, Amending Division 3, "Collection and Use", of Article III, "Stormwater Utility", of Chapter 54, "Special Assessments", of the Code of the City of Deltona, by adding a provisions for stormwater utility fee credits, at first reading - Becky Vose, Legal Department (407) 448-0111.

Strategic Goal: Infrastructure

LOCATION:

City-wide

BACKGROUND:

There has been a request to amend the stormwater utility fee ordinance relating to developed properties that have constructed and currently operate and maintain stormwater facilities that can reduce stormwater runoff impacts from the subject property and reduce the burden on the city to maintain, operate and provide capital improvements to the stormwater management system.

This ordinance was discussed at the workshop on August 22, 2016, at which time the question was raised as to the potential impact of the credit on the revenues to the stormwater utility. This question has been addressed by the City's consultant Tetra Tech, and it was concluded that the worst case impact on the utility revenues is less than 5%.

The proposed ordinance has been reviewed by the Deltona Business Alliance and the DBA has indicated its support of this ordinance.

COST:

N/A

SOURCE OF FUNDS:

N/A

ORIGINATING DEPARTMENT:

Legal Department

STAFF RECOMMENDATION PRESENTED BY:

Becky Vose - To approve Ordinance No. 14-2016, at first reading.

POTENTIAL MOTION:

AGENDA ITEM: I.

“I move to approve Ordinance No. 14-2016, at first reading.”



August 29, 2016

Mr. Gerald Chancellor
Public Works & Utilities Director
City of Deltona
Department of Public Works
255 Enterprise Road
Deltona, FL 32725

Subject: Revised Stormwater Credit Policy

Project #: 200-08534-14009

Gerald,

Per your request I have reviewed the proposed changes to the City's Stormwater Utility Credit Policy and evaluated their potential impact on the revenues to the Stormwater utility. Reading the Ordinance there are three primary changes that will influence the utility revenues:

- An increase of the credit from 30% to 35% for parcels in non-landlocked basins.
- An increase in the credit from 45% to 50% for parcels in landlocked basins.
- A relaxing of the credit application procedures such that new development will automatically be granted a credit provided it has built on-site stormwater facilities in compliance with the prevailing regulatory requirements of the St. Johns River Water Management District or Florida Department of Environmental Protection.

We approached our analysis conservatively with our assumptions representing the highest impact to the revenues. Our assumptions include:

- All currently developed commercial property will receive a 46% credit. This is a composite credit based on the approximate ratio of land locked to non-land locked area in the City. As of this date, very few developed properties have filed for a credit.
- All currently vacant commercial property will be granted a 46% credit equivalent to the currently assessed ERUs. (Typically developed commercial property will have a much higher number of ERUs over vacant due to the amount of impervious area constructed such that there is a net increase of ERUs even with the credit.)
- All commercial properties will receive the credit instantaneously. This is conservative since the vacant property will develop over time dependent upon the economic conditions in the City.

Taking these factors into account the worst case impact on the utility revenues is less than 5%. Again, this is a quite conservative approach, and it is likely that as vacant property is developed utility revenues will increase as the total number of ERUs increase.

If you require any further information please let me know.

Very truly yours,

Tetra Tech

A handwritten signature in blue ink, appearing to read 'Andrew T. Woodcock'.

Andrew T. Woodcock, P.E., MBA
Senior Project Manager

ATW/ab/ProjMgmt/Corresp/Chancellor_082916

ORDINANCE NO. 14-2016

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING DIVISION 3, "COLLECTION AND USE", OF ARTICLE III, "STORMWATER UTILITY", OF CHAPTER 54 "SPECIAL ASSESSMENTS", OF THE CODE OF THE CITY OF DELTONA, BY ADDING A PROVISION FOR STORMWATER UTILITY FEE CREDITS; AND PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the city recognizes that some developed properties that are subject to the stormwater utility fee have constructed and currently operate and maintain stormwater facilities that can reduce stormwater runoff impacts from the subject property and reduce the burden on the city to maintain, operate and provide capital improvements to the stormwater management system; and

WHEREAS, the city recognizes that some property owners may wish to mitigate the stormwater utility fee by constructing and maintaining a stormwater facility that will reduce the impact of the subject property; and

WHEREAS, as an incentive for operating and maintaining a stormwater facility, fee credits may be granted to the utility customer when the management facility reduces the pollutant load on the water quality, reduces the flow of water quantity from the subject property, or both.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

Section 1. A new Section 54-189, "Stormwater Utility Fee Credits", of Division III, "Collection and Use", of Article III "Stormwater Utility", of Chapter 54, "Special Assessments", of the City's Code of Ordinances, is hereby amended to read as follows:

Section 54-189. Stormwater Utility Fee Credits.

(a) Properties that currently operate and maintain an approved stormwater management system that is shown to reduce stormwater runoff and improve the quality of stormwater runoff are eligible for a reduction in the stormwater utility fee in the form of a credit. Stormwater utility customers with property meeting the criteria provided in this section may receive a stormwater utility fee credit of up to, but not exceeding, thirty-five percent (35%) on the fee for the subject property if such property is non-land locked, and fifty percent (50%) on the fee for the subject property if such property is land locked. For purposes of this credit, the term non-land locked shall refer to properties that have the ability to discharge off-site with excess stormwater, and it retains a 25 year, 24 hour, storm event on-site before it is allowed to discharge off-site. For purposes of this credit, the term land locked shall refer to properties that have no ability to discharge off-site with any excess stormwater to a lake, drainage ditch, canal, or other water body, and it retains a 100 year, 24 hour, storm event on-site.

(b) In order to qualify for a utility fee credit as set forth above, the property owner must demonstrate one of the following:

(1) The stormwater management system has been permitted by the St. Johns River Water Management District or the Florida Department of Environmental Protection and proof of such permitting is submitted to the city; or

(2) The subject property is serviced by an on-site stormwater management system that reduces stormwater runoff and improves the quality of stormwater runoff, and such facility is operated and maintained in accordance with standard practices in the industry. Determination of qualification for such credit shall reasonably be made by the city manager or designee based upon an examination of the site, and an affidavit of the property owner in a form acceptable to the city attorney, which includes a statement indicating that the stormwater management system was permitted by the St. Johns River Water Management District or the Florida Department of Environmental Protection, and was built in conformance with such permit, or that was built in accordance with the then current requirements or standards in effect at the time of construction without a permit, and that the stormwater management system has been operated and maintained in accordance with standard practices since placed in operation. It is acknowledged by the city that as to certain properties, such permitting was not in effect at the time of construction. Credits permitted under this sub-section (2) shall be a maximum of 35%.

(3) Once a qualification for a utility fee credit is established, the credit can continue unless the city becomes aware that the on-site stormwater management system has been removed, modified, or discontinued, or that

the on-site stormwater management system has not been adequately maintained, or if it is ineffective to prevent flooding on site or off-site, or excessive flowing of water off the property it serves. No less than ninety (90) days prior to the revocation of a utility fee credit, the property owner will be notified of corrective actions needed by certified mail, and shall be given sixty (60) days to perform the required corrective actions. The property owner shall notify the city when the corrective action is complete and the city shall make a determination and notify the property owner as to the adequacy of the corrective action. Any appeal from a decision to revoke the utility fee credit shall be made in writing to the city manager no later than either ten (10) days after the date set for completion of the corrective action, if no corrective action was taken or if it was not completed, or ten (10) days after notification to the property owner that the corrective action taken was insufficient to maintain the credit. Revocation of the credit shall be stayed pending completion of an appeal. The decision of the city manager on the appeal shall be final, with any further appeal to a court of competent jurisdiction.

(4) Credit application and affidavit forms shall be available from the city upon request or can be downloaded from the city website.

(5) After the effective date of this Ordinance No. 14-2016, a 35% or 50% credit, as applicable, shall be granted to new construction at the time of the issuance of a certificate of occupancy if the newly installed stormwater management system servicing the property was permitted by the St. Johns River Water Management District or the Florida Department of Environmental Protection, and construction of the stormwater system was in compliance with such permit.

Section 2. Conflict. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

Section 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

Section 4. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA THIS _____ DAY OF _____, 2016.**

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____
JOHN C. MASIARCZYK, SR., Mayor

ATTEST:

JOYCE RAFTERY, CMC, City Clerk

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

GRETCHEN R. H. VOSE, ESQ., City Attorney