

RESOLUTION NO. 652-11

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, 2011; 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, 2011;

WHEREAS, the Council, on July 12, 2011, adopted Resolution No. 646-11 (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, 2011, 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 August 23, 2011 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 August 23, 2011, 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. 646-11 (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, 2011, the Solid Waste Cost of \$432,895.20 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 \$190.20 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.

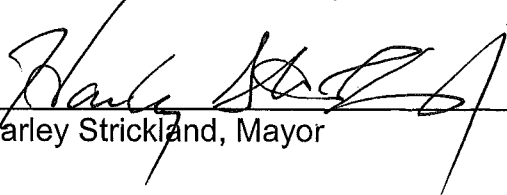
(H) The Solid Waste Assessment Roll, as herein approved, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Solid Waste Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to 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



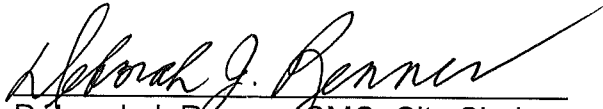
Harley Strickland, Mayor

ROLL CALL VOTE AS FOLLOWS:

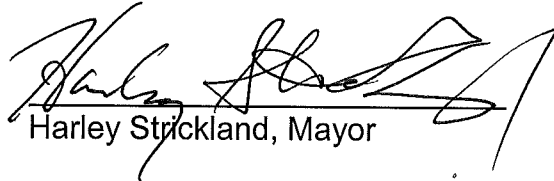
Gary A. Blair	<u>yes</u>	Jeff H. Allebach	<u>Absent</u>
Bill Crippen, Vice Mayor	<u>yes</u>	Tom Abraham	<u>yes</u>
Anthony Pupello	<u>yes</u>	Tom Laputka	<u>yes</u>
Harley Strickland, Mayor	<u>yes</u>		

ADOPTED THIS 23RD DAY OF AUGUST, 2011.

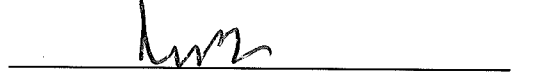
ATTEST:


Deborah J. Renner, CMC, City Clerk

AUTHENTICATED:


Harley Strickland, Mayor

Approved as to form and legal sufficiency:


W. E. Reischmann, Jr., City Attorney

APPENDIX A

AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS

AFFIDAVIT OF MAILING

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

1. Jamie Croteau, 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 12, 2011 (the "Preliminary Rate Resolution").

2. In accordance with the Ordinance, Ms. Croteau 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 2, 2011, Ms. Croteau 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.

Jamie Croteau
Jamie Croteau, affiant

STATE OF FLORIDA
COUNTY OF VOLUSIA

18th The foregoing Affidavit of Mailing was sworn to and subscribed before me this August, 2011 by Jamie Croteau, City Manager, City of Orange City, Florida. She is personally known to me or has produced _____ as identification and did take an oath.

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

NOTARY PUBLIC-STATE OF FLORIDA
Deborah J. Renner
Commission # EE005833
Expires: JULY 16, 2014
BONDED THRU ATLANTIC BONDING CO., INC.

APPENDIX B
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

Cynthia Maley

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
.....

NOTICE OF HEARING

C 949029

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

AUGUST 3, 2011

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

Cynthia Maley

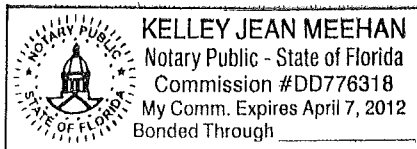
Sworn to and subscribed before me

This **3RD** of **AUGUST**

A.D. 2011

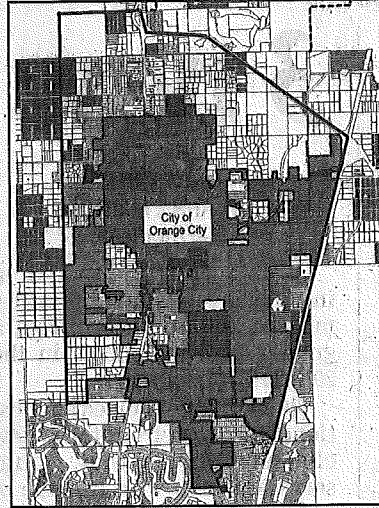
Kelley Jean Meehan

49D



0000949029

**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 August 23, 2011, in City Council Chambers, 201 N. 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 386/775-5408 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 \$191.00 per dwelling unit. Copies of the Master Service Assessment Ordinance, the Initial Assessment Resolution for Solid Waste Services, the Final Assessment Resolution for Solid Waste Services, the Preliminary Rate Resolution (Resolution No. 612-10), 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 205 E. Graves Avenue, Orange City, Florida.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2011, 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 386/775-5408 Monday through Friday between 8:00 a.m. and 5:00 p.m.

APPENDIX C

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

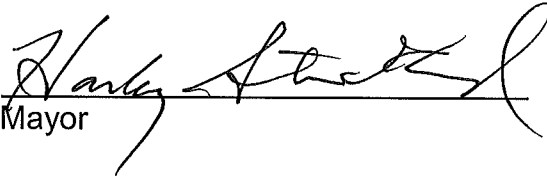
**CERTIFICATE
TO
NON-AD VALOREM ASSESSMENT ROLL**

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 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, 2011.

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 26th day of August, 2011.

CITY OF ORANGE CITY, FLORIDA

By: 
Mayor

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

CITY OF ORANGE CITY, FLORIDA

**ANNUAL RATE RESOLUTION
SOLID WASTE**

ADOPTED AUGUST 23, 2011

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