

RESOLUTION NO. 2009 - 077

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, ESTABLISHING A PUBLIC HEARING RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE TOWN OF SOUTHWEST RANCHES; DESCRIBING THE METHOD OF ASSESSING SOLID WASTE ASSESSED COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF SOUTHWEST RANCHES; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A FINAL PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2001 the Town Council authorized the Town Administrator to study the possibility of implementing a non-ad valorem solid waste assessment program in order to recover the costs associated with the provision of solid waste services; and

WHEREAS, a study of the service demand and rates was completed and the study was provided for the Town Council to consider policy issues associated with implementation of a solid waste assessment program; and

WHEREAS, the Town Council adopted a Solid Waste Service Assessment Ordinance, Ordinance Number 2002-8 (the "Ordinance") on final reading at the Town Council meeting of June 24, 2002; and

WHEREAS, the adoption of solid waste assessment rates resulting from the Town Council's policy direction requires the annual adoption of an Initial Assessment Resolution as provided herein and as required under the Ordinance as well as under the Uniform Method of Collection provided under Chapter 197.3632, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: AUTHORITY. This Resolution is adopted pursuant to the provisions of Ordinance No. 2002-8, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

Section 2: PURPOSE AND DEFINITIONS. This Resolution constitutes the Initial Assessment Resolution as defined in Ordinance No. 2002-8 (the "Ordinance"). All capitalized words and terms not otherwise defined herein shall have the meanings defined and set forth in the Ordinance or within any Solid Waste Franchise Agreement as may currently exist or as may exist in the future. Unless the context indicates otherwise, words imparting the singular number include the plural number, and vice versa. As used in this Resolution, the following additional terms shall have the following meanings, unless the context hereof otherwise requires:

"Assessed Costs" means the total Solid Waste Costs that are assessed to each Residential Property parcel via the Solid Waste Service Assessment as a result of the final adoption of the Final Assessment Resolution or Annual Rate Resolution.

"Franchise" means the exclusive right and obligation of a single, licensed and permitted solid waste hauling company to provide Solid Waste collection and disposal services within the Town of Southwest Ranches.

"Franchise Agreement" means the legal document entered into between the Town and the chosen Franchise Hauler setting forth the specific terms and conditions applicable to the awarding of the franchise to said hauler.

"Franchise Agreement Service Cost" means the total annual amount to be paid directly to the Franchise Hauler for the services provided to Residential Properties under the Franchise Agreement. These costs shall not include any costs paid directly to the hauler by any Business(es) as may be defined in the Franchise Agreement.

"Franchise Fee" means the percentage rate or flat fee charged by Town to the Franchise Hauler via the Franchise Agreement for the right and privilege to utilize Town property, streets, and rights-of-way to provide Solid Waste services within the Town. The fee is normally passed on to those customers and businesses receiving services and shall be collected by the Town and/or Franchise Hauler and shall be directly remitted to the Town.

"Franchise Hauler" means the selected solid waste hauling and disposal company which has been awarded the right and obligation to collect Solid Waste within the Town of Southwest Ranches per the terms of a Franchise Agreement. The term "Franchisee" shall be synonymous with this phrase.

Section 3: PROVISION AND FUNDING OF SOLID WASTE SERVICES. Upon the imposition of Solid Waste Service Assessments for solid waste services, facilities, or programs against Assessed Property located within the Town, the Town shall provide solid waste services to such Assessed Property. The total cost to provide such solid waste services, facilities, or programs shall be funded from proceeds of the Solid Waste Service Assessments. The total cost shall include any and all Solid Waste Cost as determined by the Town Council and as defined in the Ordinance.

It is hereby ascertained, determined, and declared that each parcel of Assessed Property located within the Town will be benefited by the Town's provision of solid waste services, facilities, and programs in an amount not less than the Solid Waste Service Assessment imposed against such parcel, computed in the manner set forth in this Initial Assessment Resolution.

Section 4: IMPOSITION AND COMPUTATION OF SOLID WASTE SERVICE ASSESSMENTS. Solid Waste Service Assessments shall be imposed against all Dwelling Units within the Town. Solid Waste Service Assessments shall be computed in the manner set forth in this Initial Assessment Resolution as specifically described in Appendix B.

Section 5: LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. It is hereby ascertained and declared that the Solid Waste Assessed Costs provide a special benefit to the Assessed Property based upon the following legislative determinations:

GENERAL

Upon the adoption of this Initial Assessment Resolution determining the Solid Waste Assessed Costs and identifying the Assessed Property to be included in the Assessment Roll, the legislative determinations of special benefit ascertained and declared in Section 1.4 of the Ordinance are hereby ratified and confirmed.

Solid waste services possess a logical relationship to the use and enjoyment of improved property by: (1) protecting and enhancing the value of the land, improvements, and structures through the provision of available solid waste services; (2) protecting the health, life and safety of intended occupants in the use and enjoyment of improvements and structures within improved parcels; (3) preventing the infestation of rodents and vermin that would otherwise be attracted by the accumulation of Solid Waste on Residential Property through the provision of a professional and comprehensive Solid Waste removal program within the Town; and (4) preventing the spread of disease and illness caused by unsanitary conditions through the frequent removal of Solid Waste in order to protect both the structures and occupants of Dwelling Units within the Town.

The provision of solid waste services, facilities, or programs enhances and strengthens the relationship between such services and the use and enjoyment of Residential Property within the Town.

The Town shall fund from special assessment proceeds the total Solid Waste Cost of the consolidated Solid Waste Collection and Disposal program as well as a Residential Recycling Services program, as defined herein, for all of those services meeting the criteria of special benefit and fair apportionment as they relate to Solid Waste services.

It is fair and reasonable to use the existing Solid Waste Assessment Roll provided by the Property Appraiser as a means of determining those Residential Properties receiving Solid Waste services because: (1) the Property Appraiser's Tax Roll database containing the Property Use Codes is the most comprehensive, accurate, and reliable information readily available to determine Residential Property within the Town, and (2) the Tax Roll database containing the property use codes and Dwelling Units is maintained by the Property Appraiser and is thus consistent with parcel designations on the Tax Roll which compatibility permits the development of an Assessment Roll in conformity with the requirements of the Uniform Method of Collection.

COST APPORTIONMENT FOR RESIDENTIAL PARCELS

Apportioning Solid Waste Assessed Costs equally among those Residential Properties that are receiving Solid Waste Service Assessment program services is fair and reasonable and proportional to the special benefit received. It is fair and reasonable to assume that each Residential Property/Dwelling Unit generates an equivalent Solid Waste service demand based on its occupancy as a living quarters for residents of the Town. It is not possible or practical to apportion costs in another manner (such as per resident, per square foot of building size, or per square foot of parcel size) due to the fact that there is no way to determine what solid waste service demand each resident, building or parcel will generate due to variables such as, but not limited to, number of occupants in the dwelling, income/consumer spending level, lifestyle, manner and methods of maintenance used in and about the Residential Property, type and amount of landscaping, etc.

The size or the value of the residential parcel does not determine the scope of the required solid waste service demand. The potential demand for solid waste services is driven by the existence of a residential unit and the anticipated average occupant population. This validates classifying travel trailers, multi-family or other residential uses as Dwelling Units equivalent to a single-family unit.

The use of a combined Dwelling Unit rate for solid waste services to include all Residential Property is sound in consideration of the insignificant number of residential properties that are not single family in nature.

Apportioning the assessed costs for solid waste services attributable to the single-family residential property use category maintained by the Property Appraiser on a per residential unit basis is required to avoid cost inefficiency and unnecessary administration and is a fair and reasonable method of parcel apportionment.

NON-RESIDENTIAL PARCEL APPORTIONMENT

The Solid Waste Service Assessment program and cost shall not apply to non-residential property. Non-residential property shall receive services directly from the authorized Franchise Hauler and shall be billed directly by the Franchise Hauler based upon the rates, terms and conditions contained in the Franchise Agreement with the Town.

Section 6: COST APPORTIONMENT METHODOLOGY. The apportionment of Solid Waste Cost among Residential Property shall be consistent with the Apportionment Methodology described and determined in Appendix B.

Section 7: PARCEL APPORTIONMENT METHODOLOGY. The apportionment among Residential Property of Solid Waste Costs shall be consistent with the Parcel Apportionment methodology described and determined in Appendix B, which Parcel Apportionment methodology is hereby approved, adopted, and incorporated into this Initial Assessment Resolution by reference.

It is hereby acknowledged that the Parcel Apportionment methodology described and determined in Appendix B is to be applied in the calculation of the estimated Solid Waste Service Assessment rates established in Section 8 of this Initial Assessment Resolution.

Section 8: DETERMINATION OF SOLID WASTE ASSESSED COSTS; ESTABLISHMENT OF INITIAL SOLID WASTE ASSESSMENT RATES. The Solid Waste Assessed Costs to be assessed and apportioned among benefited parcels pursuant to the Cost Apportionment and the Parcel Apportionment for the Fiscal Year commencing October 1, 2009, is the amount determined in the Estimated Solid Waste Assessment Rate Schedule, attached hereto as Appendix A. The approval of the Estimated Solid Waste Assessment Rate Schedule by the adoption of this Initial Assessment Resolution determines the amount of the Solid Waste Assessed Costs.

The estimated Solid Waste Service Assessments established in this Initial Assessment Resolution shall be one-hundred percent (100%) the amount to be paid to the Franchise Hauler, plus any Solid Waste service needs not funded by the Franchise Agreement Service Cost, plus any Franchise Fee required and adopted by the Town Council as may exist now or in the future. The total shall be the estimated assessment rate applied by the Town Administrator in the preparation of the preliminary Assessment Roll for the Fiscal Year commencing October 1, 2009, as provided in Section 9 of this Initial Assessment Rate Resolution.

The estimated Solid Waste Service Assessment specified in the Estimated Solid Waste Assessment Rate Schedule attached hereto as Appendix A is hereby established to fund the specified Solid Waste Assessed Costs determined to be assessed in the Fiscal Year commencing October 1, 2009. No portion of such Solid Waste Assessed Costs are attributable to capital improvements that are funded by impact fee proceeds necessitated by new growth or development.

Section 9: ASSESSMENT ROLL. The Town Administrator is hereby directed to prepare, or cause to be prepared, a preliminary Assessment Roll for the Fiscal Year commencing October 1, 2009, in the manner provided in the Ordinance. The Assessment Roll shall include all Tax Parcels within the Residential Property Use Category. The Town Administrator shall apportion the estimated Solid Waste Assessed Cost to be recovered through Solid Waste Service Assessments in the manner set forth in this Initial Assessment Resolution. A copy of this Initial Assessment Resolution, with

documentation related to the estimated amount of the Solid Waste Assessed Cost to be recovered through the imposition of Solid Waste Service Assessments, and the preliminary Assessment Roll, shall be maintained on file in the office of the Town Clerk and open to public inspection. The foregoing shall not be construed to require that the preliminary Assessment Roll proposed for the Fiscal Year beginning October 1, 2009 be in printed form if the amount of the Solid Waste Service Assessment for each parcel of property can be determined by the use of a computer terminal available to the public.

It is hereby ascertained, determined, and declared that the method of determining the Solid Waste Service Assessments for solid waste services, as set forth in this Initial Assessment Resolution, is a fair and reasonable method of apportioning the Solid Waste Assessed Cost among parcels of Assessed Property located within the Town.

Section 10: AUTHORIZATION OF FINAL PUBLIC HEARING. The Town Administrator is hereby directed to insure the scheduling of a public hearing to be held at 7:00 p.m., on September 17, 2009, at the Southwest Ranches/SBDD Meeting Chambers, 6591 SW 160 Avenue, Southwest Ranches, Florida, at which time the Town Council will receive and consider any comments on the Solid Waste Service Assessments from the public and affected property owners. The Town Council will consider imposing Solid Waste Service Assessments and collecting such assessments on the same bill as ad valorem taxes by confirmation of the Initial Assessment Resolution rates as provided herein via the adoption of a Final Assessment Resolution at said public hearing.

Section 11: NOTICE BY PUBLICATION. The Town Administrator shall publish a notice of the final public hearing described in Section 10 herein in the manner described in Section 2.6 of the Ordinance in the event circumstances so require.

Section 12: NOTICE BY MAIL. The Town Administrator shall also provide notice by mail to the Owner of each parcel of Assessed Property of the final public hearing described in Section 10 herein in the manner described in Section 2.7 of the Ordinance in the event circumstances so require.

Section 13: APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the Town from the Solid Waste Service Assessments will be utilized for the provision of solid waste services, facilities, and programs. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund solid waste services, facilities, and programs.

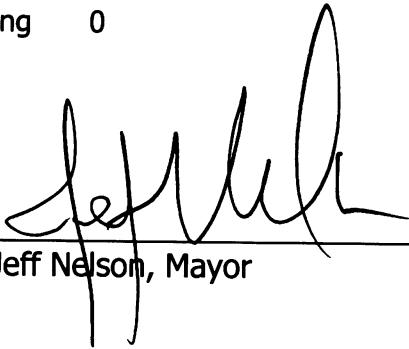
Section 14: CONFLICTS. All Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of the conflict.

Section 15: SEVERABILITY. If any clause, section, or 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 16: EFFECTIVE DATE. This Resolution shall become effective immediately upon its passage and adoption.

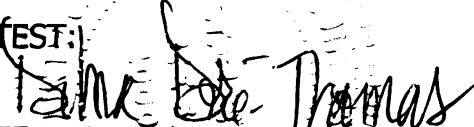
PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 28th day of July 2009, on a motion by Council Member Doug McKay and seconded by Council Member Aster Knight.

Nelson	NO	Ayes	3
Breitkreuz	YES	Nays	2
Fisikelli	NO	Absent	0
Knight	YES	Abstaining	0
McKay	YES		



Jeff Nelson, Mayor

ATTEST:



Debra Doré-Thomas, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney

ACTIVE: 2639934_1

APPENDIX A

ESTIMATED SOLID WASTE ASSESSMENT RATE SCHEDULE

SECTION B-1. DETERMINATION OF SOLID WASTE ASSESSED COSTS. The estimated Solid Waste Assessed Costs to be assessed for the Fiscal Year commencing October 1, 2009 are \$1,652,524.

SECTION B-2. ESTIMATED SOLID WASTE SERVICE ASSESSMENTS. The estimated Solid Waste Service Assessments to be assessed and apportioned among benefited property, pursuant to the Cost Apportionment and Parcel Apportionment, to generate the estimated Solid Waste Costs for the Fiscal Year commencing October 1, 2009, are hereby established as follows for the purpose of this Initial Assessment Resolution:

Property Use Category	Billing Unit Type	FY 2009-10
Residential, Single-Family	Rate Per Dwelling Unit	\$ 687.00

APPENDIX B

APPORTIONMENT METHODOLOGY

SECTION C-1. COST APPORTIONMENT. The total Solid Waste Service Assessment amount of \$ 1,652,524 shall consist of (1) the estimated Franchise Agreement Service Cost that will be paid directly to the Franchise Hauler, plus (2) the cost of Solid Waste services needing to be funded that are outside of the Franchise Agreement, plus (3) any Franchise Fee rate or amount determined by the Town Council and included in the Franchise Agreement. The total shall be apportioned among the single-family Residential Property contained in the real property tax roll database maintained by the Property Appraiser for property within the Town. The total Solid Waste Service Assessment amount is based upon 100 percent of the total Solid Waste service costs paid to the Franchise Hauler, plus related, non-franchise services and any Franchise Fee. Included in the cost apportionment is the underlying special benefit and fair apportionment assumptions.

SECTION C-2. GENERAL METHODOLOGY. To determine the total Solid Waste Service Assessment amount to be applied to each Residential Property/Dwelling Unit, the total service demand and Solid Waste Cost for Collection, Disposal, and Residential Recycling Services was first determined. The historical demand for Solid Waste services was determined by the collection of data from Broward County representing the service demand in their District #9 which is exclusive to the Town of Southwest Ranches. The anticipated cost of service was negotiated and determined by the Town Administrator using the data provided. A total Franchise Agreement Service Cost was negotiated with the prospective Franchise Hauler which represents the total amount to be paid to the hauler for Collection, Disposal, and Residential Recycling Services. This gross, annual amount of \$ 1,497,414 to be paid to the hauler is then divided by the total number of single-family Residential Properties contained on the Property Appraiser's Assessment Roll (2,405) to determine a base services rate of \$ 622.62 (equal to \$ 51.89 per month).

To that amount, an amount of \$ 64.50 per Dwelling Unit was added which will generate approximately \$ 155,110 for unanticipated Solid Waste services that may occur outside of the Franchise Agreement, such as removal of illegally dumped waste on public streets, properties and right-of-ways. This brought the rate to \$ 687.12. To that amount, a Franchise Fee of 10% (ten percent) per Dwelling Unit (\$0) was added per the pending Franchise Agreement which will generate approximately \$0. The three components of the assessment were added and then rounded to the nearest dollar for ease of preparation of the assessment roll to bring the annual rate to an even \$687.00. The billing unit of measure used to apportion and calculate the rate for each individual single-family residential parcel is shown in the following table.

Category	Billing Unit Type
Residential Property	Dwelling Unit (Single-Family Occupancy Residence)

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