

**RESOLUTION NO. 2011 - 084**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, REPLACING RESOLUTION NO. 2011-074 BY MODIFYING IN PART AND RESTATING AND REAFFIRMING IN PART SUCH RESOLUTION RELATING TO THE PROVISION OF FIRE PROTECTION SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF SOUTHWEST RANCHES, FLORIDA AND FIRE PROTECTION SPECIAL ASSESSMENTS; PROVIDING AUTHORITY FOR FIRE PROTECTION SERVICES ASSESSMENTS; PROVIDING PURPOSE; PROVIDING DEFINITIONS MODIFIED IN PART AND REAFFIRMED IN PART; PROVIDING FINDINGS MODIFIED IN PART AND REAFFIRMED IN PART; REFERENCING THE FIRE PROTECTION ASSESSMENT REPORT; DIRECTING THE PREPARATION OF A MODIFIED ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; AND PROVIDING AN EFFECTIVE DATE.**

**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. 2001-9 as codified and as may have been amended, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

**Section 2. Purpose and Effect of Resolution.** This resolution constitutes the Initial Assessment Resolution as defined in the Ordinance (codified as Sections 12-19 through 12-85 in the Town of Southwest Ranches Code of Ordinances). This Initial Assessment Resolution supersedes Resolution No. 2011-074, adopted on August 1, 2011, by modifying portions of Resolution No. 2011-074 and by restating and reaffirming all other portions of Resolution No. 2011-074. All provisions of Resolution No. 2011-074 restated herein shall remain in full effect as adopted on August 1, 2011. All modified terms from Resolution No. 2011-074 are shown in subsequent sections with deleted text indicated with ~~strikethrough~~ and new terms indicated with underlining.

**Section 3. Definitions.** All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance. Unless the context indicates otherwise, words imparting the singular number include the plural number, and vice versa. As used in this resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

**"Assessed Parcel"** means those parcels with which are specially benefitted by the availability of and provision of fire protection services, facilities and programs and which are subject to the Fire Services Assessments authorized by this Initial Resolution.

**"Building Area"** means the actual area of a Building expressed in square feet as reflected on the Tax Roll or, in the event such information is not reflected or determined not to be accurately reflected on the Tax Roll, that area as determined by the Town.

**"Commercial Property"** means collectively those Assessed Parcels with a DOR Code or Use Code number in the following list: 11 - 17, 22, 23, 26, 27, 73, and 76, including recreational vehicle parks, and not identified as vacant in the Property Appraiser's database. Commercial Property shall be assessed on a per square foot of Building Area basis. Regardless of the DOR Code number assigned to a parcel, the Town shall have the authority to impose the Commercial Property Rate on any building or buildings that are used for commercial purposes.

**"DOR Code"** means a property use code established in Rule 12D-8.008, Florida Administrative Code, assigned by the Broward County Property Appraiser to Parcels within the Town. Additionally, the Broward County Property Appraiser assigns property Use Codes to parcels and structures. DOR Codes and associated Use Code descriptions are used in the development of the Fire Protection Assessments set forth in this Resolution and in preparation of the Assessment Roll.

**"Dwelling Unit"** means (1) a building, or portion thereof, available to be used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only, or (2) the use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes or the like for residential purposes. A mobile home is an individual dwelling unit. For purposes of this Resolution and imposition of the Fire Services Assessment, a Dwelling Unit, as defined herein, may be located on parcels other than residential property under the Town's zoning and development regulations.

**"Effort Allocation"** means a measure of demand for fire protection services, facilities, or programs attributable to each Assessment Property Category determined by analyzing the historical demand and associated effort factor of fire protection incidents as reflected in the methodology described in the Report, ~~attached to this Initial Assessment Resolution as Appendix A.~~ As defined in this Resolution, Effort Allocation is used to allocate Assessment Budget Costs to Assessment Property Categories.

**"Estimated Fire Protection Assessment Rate Schedule"** means that rate schedule as specified in the Report ~~set forth in Appendix A,~~ as defined herein attached hereto and incorporated herein by reference, specifying the Fire Protection Assessed Costs and the estimated Fire Protection Assessments.

**"Fire Incident Codes"** means either the type of property or fire situation recorded in the Incident Reports as referred to and used in the Report.

**"Industrial/Warehouse Property"** means those Assessed Parcels with a DOR Code number in the following range: 48 and 91, and not identified as vacant in the Property Appraiser's database. Industrial/Warehouse Property shall be assessed on a per square foot of Building Area basis. Regardless of the DOR Code number assigned to a parcel, the

Town shall have the authority to impose the Industrial/Warehouse Property Rate on any building or buildings that are used for industrial or warehouse purposes.

**"Institutional Property"** means those Assessed Parcels with a DOR Code or Use Code number in the following range: 71 - 89 and are not designated as residential or vacant on the Property Appraiser's database. Institutional Property as defined in this Resolution includes Government Property. Institutional Property shall be assessed on a per square foot of Building Area basis. Regardless of the DOR Code number assigned to a parcel, the Town shall have the authority to impose the Institutional Property Rate on any building or buildings that are used for institutional purposes.

**"Non-residential Building"** means a structure designated by the Property Appraiser as used for commercial, industrial, warehouse or institutional purposes regardless of the DOR Code assigned to the parcel.

**"Report"** or **"Town of Southwest Ranches Fire Protection Assessment Report"** means the report detailing the development of the Fire Protection Assessment Rates for Fiscal Year 2011-12 documented by the report in ~~Appendix A, attached hereto and incorporated herein, provided by Willdan Financial Services, Inc.~~ Such Report will be available in the Town Clerk's Office no later than August 23, 2011.

**"Residential Property"** means those Assessed Parcels with a DOR Code or property Use Code number in the following list: 1 - 9, 63 used as residential, 66 - 69 used as residential, 71 used as residential, or otherwise designated as residential property under the DOR Codes or property Use Code and not identified as vacant in the Property Appraiser's database. Residential Property includes single family/duplex as well as single family developed property with multiple dwelling units. Residential Property, for purposes of this Resolution and imposition of the Fire Services Assessment, shall include all parcels with one or more Dwelling Units present on the parcel regardless of the DOR Code number or Use Code assigned to the parcel. Residential Property shall be assessed on a per ~~100 square foot increment of Dwelling Unit Building Area~~ Dwelling Unit basis. Multiple Dwelling Units on a single parcel shall each be assessed the per Dwelling Unit rate. ~~Dwelling Unit Building Area shall be assessed using whole increments of 100 square feet, for example, 199 square feet will be treated as 100 assessable square feet.~~ Barns and/or accessory structures on Residential Property with existing Dwelling Unit(s) shall not be assessed separately from the Dwelling Unit(s). Regardless of the DOR Code number assigned to a parcel, the Town shall have the authority to impose the Residential Property Rate on any building or buildings that are used as Dwelling Units.

**"Vacant/Agricultural Property"** means those Assessed Parcels designated as vacant or agricultural in the Property Appraiser's Data Base. Vacant/Agricultural Property shall be assessed on a per acre basis. Vacant/Agricultural Property with structures other than Non-residential Buildings, such as private barns, shall be assessed on a per acre basis and not separately assessed for such structures. Regardless of the DOR Code number assigned to a parcel, the Town shall have the authority to impose the Vacant/Agricultural Property Rate on appropriate parcels.

**Section 4. Provision and funding of Fire Protection Services.**

A. Upon the imposition of a Fire Protection Assessment for fire protection services, facilities, or programs against Assessed Property located within the Town, the Town shall provide fire protection services to such Assessed Property. A portion of the cost to provide such fire protection services, facilities, or programs shall be funded from proceeds of the Fire Protection Assessments. The remaining costs of providing fire protection services, facilities, and programs shall be funded by lawfully available Town revenues other than Fire Protection Assessment proceeds. Any costs related to certain Institutional Property on which Fire Protection Assessments are not collected, for example due to the difficulties of collection from property owned by governmental entities or pursuant to a policy decision of the Town Council, shall be paid by the Town from lawfully available funds of the Town and shall not be paid out of Fire Assessment revenues. Costs related to the provision of Emergency Medical Services (EMS) have not been included in the Fire Protection Assessed Costs and shall be paid for by the Town from other lawfully available funds and shall not be paid out of Fire Assessment revenues.

B. It is hereby ascertained, determined, and declared that each parcel of Assessed Property located within the Town will be benefitted by the Town's provision of fire protection services, facilities, and programs in an amount not less than the Fire Protection Assessment imposed against such parcel, computed in the manner set forth in this Initial Assessment Resolution.

**Section 5. Imposition and Computation of Fire Protection Assessments.**

Fire Protection Assessments shall be imposed against all Assessed Parcels within the Assessment Property Categories. Fire Protection Assessments shall be computed in the manner set forth in this Initial Assessment Resolution, and more specifically as presented in the Report ~~attached as Appendix A~~. Where the use of a building or buildings on a parcel indicates a use different from the DOR Code assigned to the parcel, the Town has the authority to impose the appropriate rate based on the use of the building or buildings regardless of the DOR Code assigned to the parcel. Where multiple buildings on a parcel have different uses, the Town shall impose the appropriate rate based on the use of each individual building. The Fire Protection Assessment imposed on a parcel shall be the total of the Fire Protection Assessments calculated for all buildings on the parcel, excluding barns on Residential Property with an assessed Dwelling Unit(s) or non-commercial barns on Vacant/Agricultural Property.

**Section 6. Legislative Determination of Special Benefit and Fair Apportionment.** It is hereby ascertained, determined, and declared that the fire protection services to be funded by the Fire Protection Assessments provide special benefit to the Assessed Property based upon the following legislative determinations.

A. Upon the adoption of this Initial Assessment Resolution determining the Fire Protection Assessed Costs and identifying the Assessed Property to be included in the Assessment Roll, the legislative determinations of special benefit

ascertained and declared in Sections 12-20 and 12-21 of the Code are hereby ratified and confirmed.

B. In accordance with Town of North Lauderdale v. SMM Properties, Inc., 825 So.2d 343 (Fla., 2002), no costs related to the provision of emergency medical services (EMS) are included in the Fire Assessment Budget used in determining the proposed Fire Protection Assessment Rates in this Resolution. The Town of Southwest Ranches provides, by contract with another local government, fire suppression, education and inspection services as well as first responder medical services. The Southwest Ranches also provides, by contract with another local government, emergency medical services (EMS), and costs related to those services have been excluded from the Fire Protection Assessments as discussed in the Report.

C. It is fair and reasonable to use the DOR Codes, property use codes, Dwelling Unit data, Building Area data, and parcel data maintained by the Broward County Property Appraiser in the apportionment methodology because: (1) the Tax Roll database employing the use of such property use codes is the most comprehensive, accurate, and reliable information readily available to determine the property use, Dwelling Units and Building Area for improved property, and acreage for Vacant/Agricultural Property within the Town, and (2) the Tax Roll database employing the use of such property use codes is maintained by the Property Appraiser and is thus consistent with parcel designations on the Tax Roll. This compatibility permits the development of an Assessment Roll in conformity with the requirements of the Uniform Method of Collection.

D. Where data available from the Property Appraiser was insufficient, the Town has verified and/or supplemented such data for use in the determination of the Cost Apportionment and the Parcel Apportionment. It is fair and reasonable to use such additional data provided by the Town because such data provides a more accurate and complete record of property use and the structures on property.

E. Apportioning Fire Protection Assessed Costs among classifications of property based upon historical demand for fire protection services and the effort expended related to those incidents, as measured by the call duration and number of personnel and apparatus dispatched, is fair and reasonable and proportional to the special benefit received.

F. The Fire Incident Reports are the most reliable data available to determine the potential demand for fire protection services from property use and to determine the benefit to property use resulting from the availability of fire protection services to protect and serve Assessed Property. The Effort Allocation determined for each Assessment Property Category by an examination of such Incident Reports is consistent with the experience of the Town. Therefore, the use of Effort Allocation determined by an examination of Incident Reports as

described in the Report is a fair and reasonable method to apportion the Fire Protection Assessed Costs among the Assessment Property Categories.

G. The level of services required to meet anticipated demand for fire protection services and the corresponding annual fire protection budget required to fund fire protection services provided to non-specific property uses would be required notwithstanding the occurrence of any incidents from such non-specific property uses. Therefore, it is fair and reasonable to omit from the Effort Allocation those Incident Reports documenting fire protection services provided to non-specific property uses.

H. The value of Assessed Property does not determine the scope of the required fire protection response nor the staff and equipment needed to make such fire protection response available. The potential demand for fire protection services to Residential Parcels relates to the presence of structures on the parcel and the anticipated occupants of those structures. ~~fire flow demand of structures which is primarily determined by the size of the Dwelling Unit(s) on Residential Property and the structure or structures on other benefitted property types. To minimize administrative burdens and costs related to imposing Fire Services Assessments on Residential Property and recognizing the relatively uniform initial fire protection response to Dwelling Units, the number of Dwelling Units on a Residential Parcel is a reasonable method of relating fire protection costs to the benefit to Residential Parcels. The demand for fire protection services by non-residential structures can be reasonably determined by the fire flow demand of such structures. The fire flow demand of nonresidential structures is primarily determined by the size of the structure or structures, and the size or Building Area of non-residential structures is a reasonable method of relating fire protection costs to the benefit to Non-residential Property. There is a logical relationship between the presence of dwelling units on a parcel, the presence and size of non-residential structures, the fire flow required to suppress a fire in structures, the staff and equipment needed to provide the necessary fire flow, the Fire Services Assessed Costs required for the necessary staff and equipment for fire protection services, the special benefit to Assessed Properties from the provision of fire protection services, and the proposed Fire Protection Assessments calculated in the attached Report.~~

I. Apportioning the Fire Protection Assessed Costs for fire protection services attributable to Residential Property on a ~~per 100 square foot increment of Dwelling Unit Building Area~~ basis is a fair and reasonable method of Parcel Apportionment based upon historical call data and the relationship between the demands on fire protection services and the presence of dwelling units and their occupants on a parcel size.

J. Apportioning the Fire Protection Assessed Cost among Non-residential Properties, including Commercial, Industrial/Warehouse and Institutional Property, using historical demand for Fire Protection Services and further allocating by building square footage is fair and reasonable for the purpose of

Parcel Apportionment because the relative demand for Fire Protection Service is determined and measured by the square footage of structures and improvements within benefitted ~~p~~-Nonresidential Parcels. Section 166.223, Florida Statutes (Chapter 2002-241, Laws of Florida), mandates that the Town treat recreational vehicle park property as Commercial Property for non-ad valorem special assessments levied by the Town. Thus, it is fair and reasonable to treat each space within recreational vehicle park property as a Building of Commercial Property and assign the minimum available square footage of 1,200 square feet that is mandated by the Department of Health under Chapter 64E-15.002(3), Florida Administrative Code for Recreational Vehicle Park spaces and a square footage of 500 square feet for tent spaces on recreational vehicle park property, also as mandated by Chapter 64E-15.002(3), Florida Administrative Code.

K. Apportioning the assessed costs for fire protection services attributable to the Vacant/Agricultural Property Category on a per acre basis is a fair and reasonable method of parcel apportionment based on historical call data.

**Section 7. Determination of Fire Protection Assessment costs; Establishment of Initial Fire Protection Assessment Rates.**

A. The Fire Protection Assessed Costs to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment and the Parcel Apportionment for Fiscal Year 2011-2012 commencing October 1, 2011, is the amount determined in the Estimated Fire Protection Assessment Rate Schedule presented below and as described in the Report, ~~attached as Appendix A~~. The approval of the Estimated Fire Protection Assessment Rate Schedules by the adoption of this Initial Assessment Resolution determines the amount of the Fire Protection Assessed Costs. The remainder, if any, of such Fiscal Year budget for fire protection services, facilities, and programs shall be funded from available Town revenue other than Fire Protection Assessment proceeds.

**Maximum Fire Assessment Rates for Fiscal Year 2011-2012**

<u>Property Category</u>	<u>Maximum Rate Per Unit Indicated</u>	
<u>Residential</u>	<u>Rate per Dwelling Unit</u>	\$473.71
<u>Nonresidential</u>		
<u>Commercial</u>	<u>Rate per Square Foot Building Area</u>	\$ 0.85
<u>Industrial/Warehouse</u>	<u>Rate per Square Foot Building Area</u>	\$ 1.40
<u>Institutional</u>	<u>Rate per Square Foot Building Area</u>	\$ 0.22
<u>Vacant/Agricultural</u>	<u>Rate per Acre</u>	\$ 53.87

B. The estimated Fire Protection Assessments specified in the Estimated Fire Protection Assessment Rate Schedules as shown above and as described in the Report are hereby established to fund the specified Fire Protection Assessed Costs



determined to be assessed in Fiscal Year 2011-2012 commencing on October 1, 2011.

C. The estimated Fire Protection Assessments established in this Initial Assessment Resolution for Fiscal Year 2011-2012 shall be the proposed assessment rates applied by the Town Administrator in the preparation of the preliminary Assessment Roll for the Fiscal Year commencing October 1, 2011, as provided in Section 87 of this Initial Assessment Resolution.

**Section 8. Preliminary Assessment Roll.**

A. The Town Administrator is hereby directed to prepare, or cause to be prepared, a preliminary Assessment Roll for the Fiscal Year commencing October 1, 2011, in the manner provided in the Code. The Assessment Roll shall include all Assessed Parcels within the Property Use Categories. The Town Administrator shall apportion the estimated Fire Protection Assessed Cost to be recovered through Fire Protection Assessments in the manner set forth in this Initial Assessment Resolution and the Report.

B. A copy of this Initial Assessment Resolution, the Report, documentation related to the estimated amount of the Fire Protection Assessed Cost to be recovered through the imposition of Fire Protection 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 be in printed form if the amount of the Fire Protection Assessment for each parcel of property can be determined by the use of a computer terminal available to Town staff.

C. It is hereby ascertained, determined, and declared that the method of determining the Fire Protection Assessments for fire protection services as set forth in this Initial Assessment Resolution and the Report ~~attached as Appendix A~~ is a fair and reasonable method of apportioning the Fire Protection Assessed Cost among parcels of Assessed Property located within the Town.

**Section 9. Authorization of Public Hearing.** There is hereby established a public hearing to be held at 7:00 p.m. on September 12, 2011 in the Council Chambers in Southwest Ranches Town Hall, 6591 SW 160 Ave., Southwest Ranches, Florida, at which time the Town Council will receive and consider any comments on the Fire Protection Assessments from the public and affected property owners and consider imposing Fire Protection Assessments and collecting such assessments on the same bill as ad valorem taxes.

**Section 10. Notice by Publication.** The Town Administrator shall publish a notice of the public hearing authorized by Section ~~910~~ hereof in the manner and time



provided in Section 12-53 of the Code. The notice shall be published no later than August 23, 2011.

**Section 11. Notice by Mail.** The Town Administrator shall also provide notice by first class mail to the owner of each Assessed Parcel, as required by Section 12-54 of the Code. Such notices shall be mailed no later than August 23, 2011. The Town Administrator may direct that such notice be combined with the TRIM notices prepared and mailed by the Property Appraiser. The Town Administrator is also authorized to direct the mailing of corrected notices to those parcels with a proposed Fire Services Assessment that is modified by the amendments to Resolution No. 2011-074 as adopted by this Initial Resolution. Such corrected notices shall supersede the TRIM notice for such parcels.

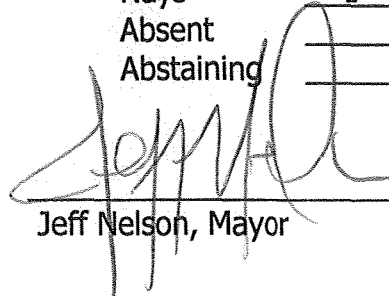
**Section 12. Application of Assessment Proceeds.** Proceeds derived by the Town from the Fire Protection Assessments shall be deposited into the Fire Protection Assessment Fund and used for the provision of fire protection services, facilities, and programs. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund fire protection services, facilities, and programs.

**Section 13.** This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 11<sup>th</sup> day of August, 2011, on a motion by Vice Mayor Fisikelli and seconded by Councilman Breitkreuz.

Nelson	<u>Y</u>
Fisikelli	<u>Y</u>
Breitkreuz	<u>Y</u>
Jablonski	<u>Y</u>
McKay	<u>N</u>


Ayes	<u>4</u>
Nays	<u>1</u>
Absent	<u>    </u>
Abstaining	<u>    </u>




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Jeff Nelson, Mayor

ATTEST:



Erika Gonzalez - Santamaria, CMC, Town Clerk

Approved as to Form and Correctness:




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Keith Poliakoff, Town Attorney  
ACTIVE: 3438284\_1