

RESOLUTION NO. 51-2019 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES INCLUDING FACILITIES AND PROGRAMS IN THE CITY OF LAKE WORTH BEACH, FLORIDA; RATIFYING AND COFIRMING THE INITIAL ASSESSMENT RESOLUTION INCLUDING THE DETERMINATION THAT CERTAIN REAL PROPERTY IS SPECIALLY BENEFITED BY THE STORMWATER MANAGEMENT SREVICES INCLUDING FACIITIES AND PROGRAMS AND THE METHOD OF ASSESSING ASSOCIATED STORMWATER COSTS AGAINST REAL PROPERTY SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CODITIONS OF THE ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISISONOF THE CITY OF LAKE WORTH BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This resolution of the City of Lake Worth Beach, Florida (the "City"), is adopted pursuant to City ordinance No. 2009-22 (as may be amended from time to time, and as codified in Chapter 2, Article XVIII of the City Code or Ordinances, the "Assessment Ordinance"), City Resolution No. 41-2009 (as amended and supplemented from time to time, and as particularly supplemented by Resolution No. 46-2009, the "Initial Assessment Resolution"), Sections 166.021, 166.041, and 19.3632, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This resolution constitutes both the Final Assessment Resolution and the Annual Assessment Resolution (the "Annual Assessment Resolution") as defined in the Assessment Ordinance due to the increase in the assessment amount as compared to the prior fiscal years. See *Atlantic Gulf Communities Corp. v. City of Port St. Lucie*, 764, So. 2d 14 (Fla. 4th DCA 1999) (when the assessment is increased, it is deemed to be levied for the first time under section 197.3632(4) (a), Florida Statutes). All capitalized terms in this resolution not otherwise defined herein shall have the meanings defined in the Assessment Ordinance and the Initial Assessment Resolution.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared as follows:

- (A) The findings provided in Section 1.04 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as set forth fully herein.
- (B) On August 18, 2009, the City Commission adopted the Initial Assessment Resolution which described the Stormwater Management Services, provided for the funding thereof through Stormwater Service Assessments and the method of assessing the cost of such services against the real property located

within the City that will be specifically benefited thereby, established a public hearing to consider imposition of the Assessments, directed preparation of the preliminary Stormwater Service Assessment Roll and the provision of the notices required by the Assessment Ordinance.

- (C) Pursuant to the Assessment Ordinance, the City Commission is required to repeal or confirm the Initial Assessment Resolution, with such amendments, as the City Commission deems appropriate, after hearing concerns and receiving comments or objections of interested parties.
- (D) Pursuant to Resolution 30-2019, the cost of providing Stormwater Management Services including facilities and programs has increased since adoption of the Initial Assessment Resolution in 2009. For Fiscal Year 2019-2020, the rate of Stormwater Assessments is increased to \$78.25 per ERU per year as set forth in the Assessment Roll.
- (E) Pursuant to Resolution No. 03-2019, the Stormwater Service Assessment Roll has heretofore been filed at the offices of the City Clerk, 7 North Dixie Highway, Lake Worth Beach, Florida, and made available for public inspection.
- (F) As required by the terms of the Assessment Ordinance and the Initial Assessment Resolution, notice of a public hearing has been published and mailed to each affected property owner notifying such property owner of the opportunity to be heard. The proof of publication and mailing are available for inspection at the Financial Services Department.
- (G) A public hearing has been duly held on September 12, 2019 and comments and objections of all interested persons have been heard and considered as required by law.
- (H) The imposition of Stormwater Service Assessments for Stormwater Management Services, including facilities and programs for each fiscal year is an equitable and efficient method of allocating and apportioning the Stormwater Management Service Cost among parcels of Assessed property
- (I) The Assessments contemplated hereunder will be imposed by the City Commission, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.

- (J) The benefits derived from the Stormwater Management Services including facilities and programs exceed the amount of the Assessments levied and imposed hereunder. The Assessment for any Tax Parcel subject thereto does not exceed the proportional benefits that such Tax Parcel will receive compared to any other tax Parcel.
- (K) The Stormwater Management Services provided for in the Initial Assessment Resolution and contemplated herein are Essential Services which possess a logical relationship to the use and enjoyment of, and relieve a burden created by and provide a special benefit to the Assessment Property by properly, safely and cost effectively disposing of stormwater generated on the property.
- (L) Each parcel of Assessed Property within the City will be specially benefited by the City's provision of Stormwater Management Services, facilities, and programs in an amount not less than the Stormwater Service Assessment for such parcel, computed in the manner set forth in the Initial Assessment Resolution.
- (M) Adoption of this Annual Assessment Resolution constitutes a legislative determination that all parcels assessed derive a special benefit in a manner consistent with the legislative declarations, determinations and findings as set forth in the Assessment Ordinance, the Initial Assessment Resolution and this Annual Assessment Resolution from the Stormwater Management Services, facilities and programs to be provided and a legislative determination that the Stormwater Service Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.
- (N) The City Commission hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Stormwater Management Services including facilities and programs by fairly and reasonably allocating the Stormwater Management Service cost among specially benefited properly.

SECTION 4. RATIFICATION AND CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION AND PREVIOUSLY IMPOSED ASSESSMENTS.

- (A) The Initial Assessment Resolution is hereby ratified and confirmed.
- (B) Any and all prior actions of the City Commission associated with the imposition of Stormwater Service Assessments or similar fees and charges of every nature whatsoever for previous Fiscal Years, including the fees, charges and non-ad valorem assessments imposed and collected for Fiscal Year 2018-19, are hereby approved, ratified and confirmed in their entirety.

SECTION 5. APPROVAL OF ASSESSMENT ROLL. The Stormwater Service Assessment Roll, which is on file with the City Clerk and incorporated herein by reference, is hereby approved. The Solid waste Assessment Roll shall be certified to the Tax Collector by September 15, 2019, pursuant to Section 197.3632(), Florida Statutes.

SECTION 6. STORMWATER SERVICE ASSESSMENTS.

(A) The Tax Parcels described in the Stormwater Service Assessment Roll are hereby found to be specially benefited by the provision of Stormwater Management Services. The apportionment methodology for the Stormwater Service Assessments, as set forth in Section 3.03 of the Initial Assessment Resolution, is hereby approved. Accordingly, a Stormwater Service Assessment in the amount of \$78.25 per ERU is hereby levied and imposed against each Tax Parcel described in the Stormwater Service Assessment Roll.

(B) The Stormwater Service Assessment shall constitute a lien against Assessed Property 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. The lien shall be deemed perfected upon adoption of this Resolution and shall attach to the property included on the Stormwater Service Assessment Roll as of January 1, 2020, the lien date for ad valorem taxes.

SECTION 7. COLLECTION OF ASSESSMENTS. The Stormwater Service Assessments imposed hereunder shall be collected pursuant to the provisions of the Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption hereof and of the Annual Assessment Resolution for subsequent Fiscal Years, the City Manager shall cause the certification and delivery of the Stormwater Service Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

SECTION 8. EFFECT OF ANNUAL ASSESSMENT RESOLUTION. The adoption of this Annual Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, the method by which the Assessments are computed and apportioned, the Stormwater Service Assessment Roll, the rate of Assessment and the imposition or ratification of Assessments and any and all prior actions of the City Commission associated with the imposition of Assessments or similar fees and charges of every nature for previous years, including fees, charges and non-ad valorem assessments imposed and collected for Fiscal Year 2018-19), unless proper steps are initiated in a court of

competent jurisdiction to secure relief within twenty (20) days from the date of the City Commission's adoption of this Annual Assessment Resolution.

SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS. Any resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 10. EFFECTIVE DATE. This Annual Assessment Resolution shall take effect immediately upon its adoption.

The passage of this resolution was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

- Mayor Pam Triolo
- Vice Mayor Andy Amoroso
- Commissioner Scott Maxwell
- Commissioner Omari Hardy
- Commissioner Herman Robinson

The Mayor thereupon declared this Resolution duly passed and adopted on the 12th day of September 2019.

LAKE WORTH BEACH CITY COMISSION

By: _____
Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk