

RESOLUTION NO. 2010- 08

A RESOLUTION OF THE CITY OF ST. PETE BEACH, FLORIDA, RELATING TO THE DELIVERY AND FUNDING OF STORMWATER RELATED ESSENTIAL SERVICES AND CAPITAL EQUIPMENT WITHIN THE CITY; CONFIRMING METHODS OF APPORTIONMENT; ESTABLISHING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; IMPOSING STORMWATER RELATED ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF ST. PETE BEACH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of St. Pete Beach, Florida, has enacted Ordinance No. 2009-30 (the "Ordinance"), which authorizes the imposition of and collection of special assessments to fund the cost of capital improvements and essential services providing a special benefit to Assessed Property located within the City;

WHEREAS, the imposition of a special assessment imposed by the City Commission to fund or expedite recovery of the Capital Cost of Capital Improvements or the Service Cost of Essential Services for stormwater related services, facilities, and programs each Fiscal Year is an equitable and efficient method of allocating and apportioning stormwater related assessed costs among parcels of Assessed Property;

WHEREAS, the City Commission has determined it is reasonable and necessary to consider initiating a stormwater related assessment program within the City using the tax bill collection method for the Fiscal Year beginning on October 1, 2010;

WHEREAS, the City Commission, on January 26, 2010, adopted Resolution No. 2010-07 (the "Initial Assessment Resolution"), containing a brief and general description of the stormwater related facilities and services to be provided to Assessed Property, describing the method of apportioning the Stormwater Service Assessment to fund the Stormwater Management Service Cost, estimating a rate of assessment, and directing preparation of the Stormwater Services Assessment Roll and provision of the notice required by the Ordinance;

WHEREAS, pursuant to the provisions of the Ordinance, the City is required to confirm or repeal the Initial Assessment Resolution, with such amendments as the City Commission deems appropriate, after hearing comments and objections of all interested parties;

WHEREAS, the Stormwater Services Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance;

WHEREAS, notice of a public hearing has been published and, as required by the terms of the Ordinance, mailed to each property owner proposed to be assessed notifying such property owner of the Owner's opportunity to be heard, an affidavit regarding the form of notice mailed to each property owner 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 February 23, 2010, 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 COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA:

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to Ordinance No. 2009-30, Resolution No. 2010-07, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS AND INTERPRETATION. This Resolution constitutes the Final Assessment Resolution as defined in Ordinance No. 2009-30. All capitalized terms in this Resolution shall have the meanings defined in the Ordinance and the Initial Assessment Resolution.

SECTION 3. EXEMPTIONS. Section 3.07 of the Initial Assessment Resolution is amended, supplanted and replaced with this section:

(A) The following are Tax Parcels are Exempt Properties and not subject to this Stormwater Service Assessment.

(1) Tax Parcels assigned the Florida Department of Revenue standard land use code 71 (churches, church owned property) by the Property Appraiser;

(2) Tax Parcels assigned the Florida Department of Revenue standard land use code 72 (private schools, colleges, day care) by the Property Appraiser;

(3) Tax Parcels assigned the Florida Department of Revenue standard land use code 76 (Mortuary, cemetery) by the Property Appraiser;

(4) Tax Parcels assigned the Florida Department of Revenue standard land use code 77 (clubs, lodges) by the Property Appraiser;

(5) Tax Parcels assigned the Florida Department of Revenue standard land use code 82 (park land) by the Property Appraiser;

(6) Tax Parcels assigned the Florida Department of Revenue standard land use code 83 (public county schools) by the Property Appraiser;

(7) Tax Parcels assigned the Florida Department of Revenue standard land use code 89 (utility) by the Property Appraiser;

(8) Tax Parcels assigned the Florida Department of Revenue standard land use code 91 (right-of-way, irrigation canal) by the Property Appraiser;

(9) Tax Parcels assigned the Florida Department of Revenue standard land use code 94 (submerged land) by the Property Appraiser;

(10) Tax Parcels assigned the Florida Department of Revenue standard land use code 95 (sewage disposal, solid waste) by the Property Appraiser; and

(11) Tax Parcels assigned the Florida Department of Revenue standard land use code 97 (private park, recreation) by the Property Appraiser.

(B) The foregoing Exempt Properties either do not create a demand or burden on the Stormwater System, do not merit the expenditure of public funds to impose or collect

special assessments, and/or otherwise generally serve in some respect to promote the public health, safety, morals, general welfare, security, prosperity and contentment of the inhabitants or residents of the City. Exempt Properties do not include Tax Parcels owned by governmental entities that are leased for private use.

(C) There are relatively few Exempt Properties and the City, using legally available funds other than the proceeds of the Stormwater Service Assessments, shall contribute an amount equal to the Stormwater Service Assessments that would have been otherwise derived from such Exempt Properties.

(D) Provided, however, the Commission reserves the right and ability in the future to impose Stormwater Service Assessments against any Tax Parcel determined to be Exempt Property herein to the extent permitted by law and pursuant to the Assessment Ordinance, or otherwise in the event required or directed to do so by a court of competent jurisdiction.

SECTION 4. STORMWATER RELATED ASSESSMENTS.

(A) The parcels of Assessed Property described in the Stormwater Service Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of the stormwater related services, facilities, and programs described in the Initial Assessment Resolution, in the amount of the stormwater related Assessment set forth in the Assessment Roll, a copy of which was present or available for inspection at the above referenced public hearing and is incorporated herein by reference. 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 stormwater related services, facilities, and programs in an amount not less than the stormwater related Assessment for such parcel, computed in the manner set forth in the Initial Assessment Resolution. Adoption of this Final Assessment Resolution constitutes a legislative determination that all parcels assessed derive a special benefit and/or otherwise create a stormwater related Program Cost burden to be addressed and relieved, as set forth in the Ordinance and the Initial Assessment Resolution, which is logically related to the stormwater services, facilities, or programs to be provided and a legislative determination that the stormwater related Assessments are fairly and reasonably apportioned among the properties that receive the special benefit or present a burden as set forth in the Initial Assessment Resolution.

(B) The methods for computing stormwater related Assessments described in the Initial Assessment Resolution are hereby approved.

(C) For the Fiscal Year beginning October 1, 2010, the estimated stormwater related Stormwater Management Service Cost to be assessed annually is \$36 per Tax Parcel. The stormwater related Assessments to be assessed and apportioned among Assessed Property to generate the estimated stormwater related Stormwater Management Service Cost for the Fiscal Year commencing October 1, 2010, are hereby established and approved. Stormwater service Assessments for services, facilities, and programs in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all

parcels of Assessed Property described in the Assessment Roll.

(D) Stormwater related 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.

(E) The Assessment Roll, as herein approved together with the correction of any errors or omissions as provided for in the Ordinance, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance.

(F) Following adoption of this Final Assessment Resolution, but prior to the date on which the Assessment Roll is certified for collection, the Assessment Coordinator and City Attorney are directed and authorized to promptly institute proceedings pursuant to Chapter 75, Florida Statutes, for validation of any Obligations secured by the Assessments. Unless directed otherwise by resolution of the City Commission, the imposition and collection of Assessments as provided herein shall be contingent upon the validation of any such Obligations and the appeal period having expired without an appeal having been taken and/or any appeal having been resolved in favor of the City. Any Obligations issued by the City shall contain a covenant by the City to adopt an Annual Assessment Resolution imposing Assessments for each Fiscal Year until the Obligations have been paid in full.

SECTION 5. CONFIRMATION OF INITIAL ASSESSMENT

RESOLUTION. The Initial Assessment Resolution as amended hereby is confirmed.

SECTION 6. EFFECT OF ADOPTION OF RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit or burdens relieved, and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Stormwater Related Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Final Assessment Resolution.

SECTION 7. SEVERABILITY. If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way effecting the validity of the other provisions of this Resolution.

SECTION 8. CONFLICTS. That this Resolution or parts of resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

SECTION 9 EFFECTIVE DATE. This Final Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED 23rd day of February 2010.

CITY COMMISSION OF CITY OF ST.
PETE BEACH, FLORIDA

(SEAL)

By: Mike Finnerty
Michael Finnerty, Mayor

Attest:

By: Theresa B. McMaster
Theresa B. McMaster, City Clerk

APPENDIX A
AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS

AFFIDAVIT OF MAILING

BEFORE ME, personally appeared the undersigned affiant, who after being duly sworn depose and say:

(1) Erin Augustine Pomeroy is Project Analyst of Ennead, LLC ("Ennead").

(2) On or before February 2, 2010 and at the direction of the City Manager, Ennead mailed notices in accordance with City Resolution No. 2010-07, the Initial Assessment Resolution adopted by the City of St. Pete Beach, Ordinance No. 2009-30 of the City of St. Pete Beach, and Section 197.3632, Florida Statutes, by First Class U.S. Mail, to each owner of real property proposed for inclusion within incorporated area of the City of St. Pete Beach (as directed by Section 2.05 of the Initial Assessment Resolution), informing such owners of a public hearing to consider the imposition of special assessments for stormwater and the right to be heard at the public hearing, at the addresses then shown on the real property assessment tax roll database maintained by the Pinellas County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

(3) An exemplary form of such notice is attached hereto.

FURTHER AFFIANT SAYETH NAUGHT.

Erin Augustine Pomeroy
Erin Augustine Pomeroy, Affiant

STATE OF FLORIDA
COUNTY OF LEON

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 3rd day of February 2010, by Erin Augustine Pomeroy. She is personally known to me or has produced Driver's License as identification and did take an oath.

(SEAL)

Lisa J Morgan
Printed/Typed Name: LISA J MORGAN
Notary Public-State of Florida
Commission Expires: 02 9 2011



[seq]
Public Services Department
City of St. Pete Beach
155 Corey Avenue
St. Pete Beach, FL 33706



NOTICE OF HEARING TO IMPOSE AND TO
PROVIDE FOR COLLECTION OF
STORMWATER RELATED NON-AD VALOREM
SPECIAL ASSESSMENTS IN THE
CITY OF ST. PETE BEACH

[owner1]
[owner2]
[add1]
[add2]
[add3], [add4] [add5]

February 2, 2010

Property Number: [PIN]
Property Address, if available: [situs]

Dear Property Owner:

The City of St. Pete Beach (the "City") is in the process of establishing a dedicated funding source for the City's stormwater management system. Provision of stormwater related services, facilities, and improvements will be funded in part by special assessments against property located within the City limits. The special assessments for each parcel of property are based on the benefits or burdens attributable to each parcel. Initially, the special assessment will only address fixed costs associated with assembling data and developing a means to share program costs equally among all tax parcels. Those program costs will then underwrite the costs associated with the future method to share allocation of variable operational and capital costs of stormwater services on an impervious area basis. A more specific description of the assessment program is set forth in the Stormwater Initial Assessment Resolution adopted by the City Commission on January 26, 2010.

A copy of the Initial Assessment Resolution, anticipated or frequently asked questions, and the preliminary stormwater assessment roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 155 Corey Avenue, St. Pete Beach, Florida or on the internet at:

<http://quicksearch.enned-data.com/spbswu>

Information regarding the assessment for your specific property is included on the reverse side of this notice. The annual assessment will include your share of the collection costs of the assessments.

The City expects to collect approximately \$280,476.00 in the first year for the fixed program cost associated purposes described in this notice. The assessment is an annual assessment which will continue from year to year. Florida law requires that the City must inform you that failure to pay your assessment may result in foreclosure or the issuance of a tax sale certificate in the future. The City has the right to foreclose and collect delinquent assessments in any manner provided by law.

* * * * * DO NOT SEND PAYMENT - THIS IS NOT A BILL * * * * *



This is not a bill. Payment is anticipated to be due and collected on the same bill as taxes to be mailed around November 1, 2010. Until paid, the stormwater assessment will 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. Assessments shall become delinquent in the same manner for unpaid taxes.

The City is also considering the approval of a future approach to share variable costs based upon the impervious area of each tax parcel and intends to budget and direct the development of a working data base calculating or identifying impervious areas, a mitigation credit regime, and a means to consider reduction in future stormwater assessments to property owners with certain private stormwater mitigation facilities.

Your property is considered one (1) tax parcel. For the City's fiscal year 2010-2011 the initial assessment will be used for program development, necessary studies and capital equipment representing only fixed program costs and will be shared equally by all non-exempt tax parcels at an annual rate of \$36.00 per tax parcel.

The City Commission will hold a public hearing at 6:30 PM on February 23, 2010, in the City Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, Florida, for the purpose of receiving comments on the proposed assessments. You are invited to attend and participate in the hearing. You may also file written objections with the City Commission prior to or during the hearing. If you decide to appeal any decision made by the City Commission with respect to any matter considered at the hearing, you 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.

If you have any questions, please contact the Public Services Department at (727) 363-9243.

CITY OF ST. PETE BEACH, FLORIDA

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT (727) 363-9220.

* * * * * DO NOT SEND PAYMENT - THIS IS NOT A BILL * * * * *

APPENDIX B
PROOF OF PUBLICATION

St. Petersburg Times

Published Daily

St. Petersburg, Pinellas County, Florida

STATE OF FLORIDA } S.S.
COUNTIES OF Pinellas

Before the undersigned authority personally appeared B. Harr who on oath says that he/she is Legal Clerk of the *St. Petersburg Times* a daily newspaper published at St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter RE: NON AD VALOREM SPECIAL ASSESSMENTS was published in said newspaper in the issues of *Neighborhoods Times*, 1/31/2010.

Affiant further says the said *St. Petersburg Times* is a newspaper published at St. Petersburg, in said Pinellas County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas County, Florida, each day and has been entered as second class mail matter at the post office in St. Petersburg, in said Pinellas 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/she 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.

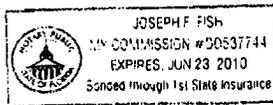
B. Harr

Signature of Affiant

Sworn to and subscribed before me
this 2nd day of February A.D.2010

Joseph F. Fish
Signature of Notary Public

Personally known or produced identification _____
Type of identification produced _____



**CITY OF ST. PETE BEACH
NOTICE OF HEARING
TO IMPOSE AND PROVIDE FOR COLLECTION
OF NON-AD VALOREM SPECIAL ASSESSMENTS**

Notice is hereby given that the City Commission of St. Pete Beach, Florida, will conduct a public hearing to consider adoption of a final assessment resolution related to the City of St. Pete Beach (the "City") and its stormwater system. The stormwater final assessment resolution will provide for the imposition of special assessments, sometimes characterized as non-ad valorem assessments, against property located within City limits and collection of the assessments by the uniform collection method described in Section 3.01 of City Ordinance No. 2009-30. The hearing will be held at 6:30 PM on February 23, 2010 at City Commission Chambers, City Hall, 155 Corey Avenue, St. Pete Beach, Florida. All affected property owners have a right to appear at the hearing and to file written objections with the City Commission within twenty (20) days of this notice.

The assessments have been proposed to fund stormwater related essential services throughout the City. The assessment for each tax parcel within the City will be based upon sharing certain fixed costs necessary to establish and develop a fundamental service cost to provide stormwater related essential services, including capital equipment, to each parcel as of the date the assessments are imposed. A more detailed description of the stormwater related essential services and the method of computing the assessment for each tax parcel of property are set forth in the Initial Assessment Resolution adopted by the City Commission on January 26, 2010. Copies of the Initial Assessment Resolution and preliminary Stormwater Service Assessment Roll are available for inspection at the office of the City Clerk, located at City Hall, 155 Corey Avenue, St. Pete Beach, Florida or on the internet at <http://quicksearch@stpetebeachdata.com/spbswu>.

The City is also considering the approval of a future approach to share variable costs based upon the impervious area of each tax parcel. The City intends to budget and direct the development of a working model for calculating or identifying impervious areas; a mitigation strategy; and means to consider reduction in future stormwater assessments for property owners with certain private stormwater mitigation facilities.

The Initial Assessments will be for program development, engineering studies and capital equipment representing only fixed program costs. The costs will be shared equally by all non-exempt tax parcels at an annual rate that will not to exceed \$36 per tax parcel.

If you have any questions, please contact the Public Services Department at (727) 363-9243.

ANY PERSON WISHING TO ENSURE THAT AN ADEQUATE RECORD OF THE PROCEEDINGS IS MAINTAINED FOR APPELLATE PURPOSES IS ADVISED TO MAKE THE NECESSARY ARRANGEMENTS FOR RECORDING AT HIS OR HER OWN EXPENSE.

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT (727) 363-9220.



Mark Lawson

From: Lou Plasencia [lplasencia@tpghotels.com]
Sent: Monday, February 08, 2010 11:45 AM
To: David M. Mechanik
Cc: Mark Lawson
Subject: Re: FW: Lawson, Mark---Daytona Beach

Thank you, David. We'll reach out to him later today.

Lou Plasencia
Chairman & CEO
The Plasencia Group, Inc.
O: 813.932.1234
M: 813.789.8990
WWW.TPGHOTELS.COM

-----Original Message-----

From: "David M. Mechanik" <dmm@floridalandlaw.com>
Subj: FW: Lawson, Mark---Daytona Beach
Date: Mon Feb 8, 2010 9:23 am
Size: 2K
To: "Lou Plasencia" <lplasencia@tpghotels.com>
cc: <mlawson@bmlaw.com>

FW: Lawson, Mark---Daytona Beach

Lou, here is the v card of the BMO attorney who represents Daytona. He is expecting your call. Hopefully, something can come out of this.

David M. Mechanik, Esq., AICP
Mechanik Nuccio Hearne & Wester, P.A.
305 S. Boulevard
Tampa, Florida 33606-2150
Telephone No.: (813) 276-1920
Facsimile No.: (813) 276-1560
E-mail: dmm@floridalandlaw.com

Statement Required by U.S. Treasury Department: To the extent this message contains tax advice, the U.S. Treasury Department requires us to inform you that any advice in this email is not intended or written by our firm to be used, and cannot be used by any taxpayer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code. Advice from our firm relating

to Federal tax matters may not be used in promoting, marketing or recommending any entity, investment plan or arrangement to any taxpayer.

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<<Lawson Mark.vcf>>