

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commissioners

DATE: July 15, 2010

FROM: City Attorney

RESOLUTION

SUBJECT: A resolution of the City of Gainesville, Florida, relating to the provision of fire services, facilities and programs in the City of Gainesville, Florida; imposing Fire Services Special Assessments against assessed properties located within the City for the fiscal year that begins October 1, 2010; providing for exemptions; approving the assessment roll; providing for the estimated fire services assessed cost; approving the rate of assessment; providing for severability; and providing an immediate effective date.

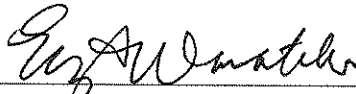
Recommendation: The City Commission: 1) receive any written objections filed; 2) hear testimony from all interested persons; 3) establish the final rate for the Fire Services Special Assessment; and 4) adopt the proposed Final Assessment Resolution.

On June 3, 2010 the City Commission adopted Resolution 091050 (the "Initial Assessment Resolution") which set the proposed fire services assessment rate and provided for notice by mail and publication of the proposed rate and public hearing to set the final rate. In adopting the Final Rate Resolution, the Commission will have to determine the Fire Services Special Assessment rate for the fiscal year beginning October 1, 2010, and insert the rate on page 4 in Section 3(c) of the Resolution.

The City Commission at its meeting on June 3 directed the City Manager to provide an assessment roll that includes all properties except for government properties (which are excluded as a matter of law) and an assessment roll that excludes government properties, properties of places of religious assembly, and properties of not-for-profits. The Resolution in Section E exempts government property because they are exempt as a matter of law. In order to exempt properties of places of religious assembly and not-for-profits the City Commission would have to revise the resolution by approving the Revisers page attached to this memo as Exhibit A.

At the meeting of June 3, 2010, several Commissioners inquired about the issue of exempting not-for profit entities and places of religious assembly from the special assessment. Based on established case law, in order for a special assessment to be valid, all properties that receive the benefit of the service, except for properties exempt as a matter of law, must be charged the assessment. In other words, if properties such as, places of religious assembly and not-for-profits, receive the benefit of fire services, they should properly be charged the special assessment. Further, any exemptions require the City to identify other available legal revenues to pay their share of the assessment. The payment of public funds to pay the validly imposed special assessments of private entities raises significant legal issues. Attached to this memorandum as Exhibit B is the City Attorney's full legal opinion on this matter.

Prepared by:


Elizabeth A. Waratuke
Litigation Attorney

Approved and
Submitted by:


Marion J. Radson
City Attorney

REVISER SHEET

SECTION 3. IMPOSITION OF FIRE SERVICES SPECIAL ASSESSMENTS

(E) No Fire Services Assessment shall be imposed upon a parcel of government property or upon a building located on a parcel of institutional property whose building use is wholly exempt from ad valorem taxation under Florida law.

EXHIBIT A



INTEROFFICE MEMORANDUM

Office of the City Attorney

TO: Mayor and City Commission

DATE: July 6, 2010

FROM: City Attorney

SUBJECT: "Exemptions" from Special Assessments

ISSUE

The City Commission has asked whether places of religious assembly and not-for-profit entities can lawfully be "exempted" from paying the fire services special assessment. Based on many years of litigating in this area, including challenging the County's imposition of the "privilege fee" and defending the City's stormwater utility fee, this Office's opinion is that all owners of property that receive a benefit from the service for which the charge is being made, unless exempt as a matter of law, are required to pay the special assessment.

In addition, the payment of the fire services special assessment for places of religious assembly with public funds would likely violate Article I, Section III of the Florida Constitution as recently held by a Florida Appellate Court.

TAXES, FEES, AND SPECIAL ASSESSMENTS

The City can raise revenue by three means: taxes, fees, and special assessments. If one places these three methods on a continuum, taxes would be on one end, fees on the far other end, and special assessments would be somewhere in the middle as special assessments share characteristics of both taxes and fees.

Taxes are levied throughout the taxing unit for the benefit of the residents and "are imposed under the theory that contribution must be made by the community at large to support the various functions of the government". Sarasota County v. Sarasota Church of Christ, Inc., 667 So.2d 180 (Fla. 1996). There is no requirement that there be a relationship between the amount paid and services used, in fact, one need not even use the services funded through taxes. For example, those without children still pay taxes to fund the school system.

Fees, on the other hand, "are charged in exchange for a particular government service which benefits the party paying the fee in a manner not shared by other members of society... and they are paid by choice, in that the party paying the fee has the option of not utilizing the government service and thereby avoiding the charge". City of Gainesville v. State, Dept. of Transp., 778 So.2d 519 (Fla. 1st DCA 2001). Some reasonable relationship generally exists between the amount of the fee and the value of the service.

As noted, special assessments share characteristics of both fees and taxes. While both taxes and special assessments are alike in that they are mandatory (as opposed generally to fees), they are different in that while taxes require no benefit or use of the services by the taxpayer,

special assessments require that the land burdened by the assessment receive a special benefit from the assessment. There must also be a reasonable relationship between the amount charged and the benefit received. SMM Properties, Inc. v. City of North Lauderdale, 760 So.2d 998 (Fla. 4th DCA 2000).

The three revenue sources are also different as to whom can be charged. The State, counties and school boards are "immune" from taxation. Cities are mostly "exempt" by provisions of the Florida Constitution. As to places of religious assembly and not-for-profit entities, the Florida Constitution provides that portions of property that are used predominately for religious or charitable purposes may be exempted from taxation by general law if the legislature decides to do so. The Florida legislature has exempted places of religious assembly and not-for-profits from taxes.

Unlike taxes, at the other end of the spectrum, fees must be paid by everyone who receives the service or benefit. Special assessments, again in the middle, are enough like taxes that courts have held that government entities cannot be charged a special assessment without a statute specifically authorizing the assessment against them. See e.g., City of Gainesville v. State, 863 So. 2d 138, 143 (Fla. 2003) ("As a state agency, however, DOT [Department of Transportation] would be exempt from special assessments absent a statute specifically authorizing, either explicitly or 'by necessary implication', special assessments on state property"). There is no statute authorizing the imposition of a fire special assessment on the State. For this reason, the State (which includes the University of Florida), the County, and the School Board cannot be charged the fire special assessment. However, government entities can enter into service agreements that authorize payment in exchange for receipt of the service.

The three revenue sources are also different as far as the authority of the City to levy. The City is the most restricted in the levy of taxes as the ability to raise taxes must be constitutionally based or specifically authorized by the legislature. The City has no independent or home rule authority to levy a tax.

TEST FOR A VALID SPECIAL ASSESSMENT

Because special assessments share characteristics of taxes (and to avoid having taxes disguised as special assessments), the courts have devised a strict test to determine whether a charge is a valid special assessment as opposed to a tax. To determine whether the charge is a valid special assessment, two questions are asked. First, does the property receive a special benefit from the service provided? If the answer is no, the property cannot be assessed for the service. If the answer is yes, that the property does receive a special benefit from the service, a second question is asked whether the assessment is fairly and reasonably apportioned among the properties that receive the benefit. If the answer is yes, the assessment has met both prongs of the test and is a valid special assessment.

In applying this test to places of religious assembly and not-for-profit entities, one must ask whether their properties receive a special benefit from the service provided. The answer is yes, they receive a benefit from fire services like any other improved property in the City. If the properties are "exempted" even though they receive a benefit, the second prong for a valid special assessment has been compromised in that the assessment is not being fairly and reasonably apportioned among all the properties receiving the benefit.

**CASE LAW ON EXEMPTING PLACES OF
RELIGIOUS ASSEMBLY AND NOT-FOR-PROFITS**

There is no reported case law that specifically deals with the issues of whether places of religious assembly and not-for-profit organizations can be exempted from special assessments. The only case law is where places of religious assembly have challenged the imposition of special assessment against them and the courts have upheld the imposition of the assessment against them. For example, in a series of cases involving Sarasota County, a number of churches located within the county challenged the county's imposition of fire special assessments and stormwater special assessments against them. The trial court upheld the fire special assessment against the churches, but denied the stormwater special assessment against them for reasons not relevant here. Both the churches and the county appealed. The churches argued that the fire special assessment should not be applied to them and the county argued that the stormwater special assessment should apply to the churches as well. The court of appeal upheld the imposition of fire special assessments against the churches and again denied the imposition of stormwater assessment against the churches.

The churches gave up their argument that the fire special assessment should not apply to them. The County, however, appealed to the Florida Supreme Court, arguing that the stormwater special assessment should also apply to the churches. The Florida Supreme Court agreed and found that the churches should be assessed the stormwater assessment, stating that:

"we find that: (1) developed property, such as that owned by the Churches, receives the special benefit of the treatment of contaminated stormwater runoff caused primarily by the improvements on such property, and (2) the method of apportionment used by the County is proper because it requires the properties that create the contaminated stormwater runoff to pay for the treatment of that runoff."

Sarasota County v. Sarasota Church of Christ, Inc., 667 So.2d 180, 184 (Fla. 1996). The Court went on to say:

"Notably, under the County's special assessment, the Churches and other owners of developed property are now required to contribute to the costs of the stormwater management facility based on their relative contribution of polluted stormwater runoff. Previously, the costs of stormwater services in the County were funded through a flat tax. Owners of both developed and undeveloped property paid for stormwater services without regard to the property's relative contribution of polluted runoff. Moreover, given that the Churches are exempt from taxation, they paid no money whatsoever towards the cost of the specific benefits received by these services. Although we do not find that the previous funding of stormwater services through taxation was inappropriate, we do find that the stormwater funding through the special assessment at issue

complies with the dictates of chapter 403 and is a more appropriate funding mechanism under the intent of that statute."

REMEDY IF THE SPECIAL ASSESSMENT IS FOUND INVALID

If the special assessment does not meet both prongs of the test, it will be found invalid. If invalid, the courts have generally ordered a refund of amounts paid, under the theory that the charge was an illegal tax. See Nelson v. Wakulla County, 905 So.2d 936 (Fla. 1st DCA 2005) ("A taxpayer is normally entitled to a refund of taxes paid pursuant to an unlawful assessment.") This is the situation that happened to a number of communities who included EMS charges in their fire assessments (which was found to not provide a special benefit to the property, but instead to the person). The City of Miami, for example, faced a 24 million dollar exposure after a class action successfully invalidated its fire assessment ordinance because of the inclusion of charges for emergency medical services in the assessment.

CASE LAW ON USING PUBLIC FUNDS TO AID PLACES OF RELIGIOUS ASSEMBLY

A recent case has come out of the First District Court of Appeal regarding the interpretation of the Religious Freedom article of the Florida Constitution. Council for Secular Humanism, Inc., et. al. v. Walter A. McNeil, in his official capacity as Secretary of Corrections of Florida, Prisoners of Christ, Inc., et. al., WL 1658788 (Fla. 1st DCA, 2010). Article I, Section 3 of the Florida Constitution provides

Religious freedom. - There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution

At issue in the case was the language of the third sentence "No revenue of the State or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination...." The Department of Corrections entered into paid contracts with faith based entities to provide faith based substance abuse post release transitional housing programs. Plaintiffs sought to have the court prohibit the payment of State money to support these faith based programs. The Court noted that Florida's no-aid provision was not a per se ban to pay government funds to a religious entity to provide social services, but that the overriding purpose was to prohibit the use of state funds to promote religious or sectarian activities. The court stated

In determining whether such programs violate the no-aid provision, the inquiry necessarily will be case-by-case and will consider such matters as whether the government-funded program is used to promote the religion of the provider, is significantly

sectarian in nature, involves religious indoctrination, requires participation in religious ritual, or encourages the preference of one religion over another

ALACHUA COUNTY'S POSITION

At the meeting of June 3, 2010, several Commissioners inquired about the County's legal ability to exempt places of religious assembly from the special assessment.


The consultant to Alachua County advised the County that an exemption "could be based on a finding that such properties provide facilities and uses to their ownership, occupants or membership, as well as the public in general, that otherwise might be required to be provided by the County." The County Attorney did not render this opinion and in fact, advised the County Commission that the safest course was to not exempt the places of religious assembly and not-for-profits and that the basis for an exemption had not been tested in the courts. He advised that a safer alternative would be to reimburse places of religious assembly and not-for-profits for the services they provided to the county similar to the grant program established by the City.


CONCLUSION

The City has the authority to levy a fire service special assessment. Based on established case law, in order for a special assessment to be valid, all properties that receive the benefit of the service, except for properties exempted by law, must be charged the assessment. In other words, if properties of the places of religious assembly and not-for-profits receive the benefit of fire services, they should properly be charged the assessment. No property owner or class of owners may be exempt from the assessment without compromising the validity of the assessment.

Further, to exempt the properties of places of religious assembly and not-for-profits would require the City to identify other available legal revenues to pay their share of the assessment. The payment of public funds raises significant legal issues. In a recent case, the Court questioned payments made by the State to faith based organizations, finding the payments

may have been made in violation of the Florida Constitution's no aid provision. The State has requested that the Florida Supreme Court address the issue.

Prepared by: 
Elizabeth A. Waratuke
Litigation Attorney

Submitted by: 
Marion J. Radson
City Attorney

EAW/klm

cc: Brent Godshalk, City Auditor
Russ Blackburn, City Manager
Kurt M. Lannon, Clerk of the Commission
Cecil Howard, Equal Opportunity
Robert Hunzinger, General Manager - Utilities

RESOLUTION NO. 100137

CITY OF GAINESVILLE, FLORIDA

A RESOLUTION OF THE CITY OF GAINESVILLE, FLORIDA, RELATING TO THE PROVISION OF FIRE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF GAINESVILLE, FLORIDA; IMPOSING FIRE SERVICES SPECIAL ASSESSMENTS AGAINST ASSESSED PROPERTIES LOCATED WITHIN THE CITY FOR THE FISCAL YEAR THAT BEGINS OCTOBER 1, 2010; PROVIDING FOR EXEMPTIONS; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR THE ESTIMATED FIRE SERVICES ASSESSED COST; APPROVING THE RATE OF ASSESSMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City Commission of Gainesville, Florida (the "City Commission"), has enacted Ordinance No. 070623, codified in Chapter 11 of the Code of Ordinances, (the "Ordinance"), which authorizes the imposition of Fire Services Special Assessments for fire services, facilities, and programs against Assessed Property located within the City;

WHEREAS, the imposition of a Fire Services Special Assessment for fire services, facilities, and programs each fiscal year is an equitable and efficient method of allocating and apportioning the Fire Services Assessed Cost among parcels of Assessed Property;

WHEREAS, the City Commission desires to implement a fire services special assessment program in the City using the procedures provided by the Ordinance for the Fiscal Year beginning on October 1, 2010;

WHEREAS, the City Commission, on June 3, 2010, adopted Resolution No. 091050 (the "Initial Assessment Resolution");

WHEREAS, the Initial Assessment Resolution contains and references a brief and general description of the fire services, facilities and programs to be provided to Assessed Property; describes the method of apportioning the Fire Services Assessed

Cost to compute the Fire Services Special Assessment for fire services, facilities, and programs against Assessed Property; estimates the rate of assessment; and directs the updating and preparation of the Assessment Roll and provision of the notice required by the Ordinance;

WHEREAS, in order to impose Fire Services Special Assessments for the Fiscal Year that begins October 1, 2010, the Ordinance requires the City Commission to adopt a Final Assessment Resolution which establishes the rate of assessment and approves the Assessment Roll for the upcoming Fiscal Year, with such amendments as the City Commission deems appropriate, after hearing comments and objections of all interested parties;

WHEREAS, the 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 mailed, as required by the terms of the Ordinance, which provides notice to all interested persons of an opportunity to be heard; an affidavit regarding the form of notice mailed 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 July 15, 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 GAINESVILLE, FLORIDA:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the Ordinance, Resolution No. 090150, Article VIII, Section 2, Florida Constitution, 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 the Ordinance. All capitalized terms in this resolution shall have the meanings defined in the Ordinance and the Initial Assessment Resolution.

SECTION 3. IMPOSITION OF FIRE SERVICES SPECIAL ASSESSMENTS.

(A) The parcels of Assessed Property described in the Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of the fire services, facilities, and programs described or referenced in the Initial Assessment Resolution, in the amount of the Fire Services Special 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 specially benefited by the City's provision of fire services, facilities, and programs in an amount not less than the Fire Services Special 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 in a manner consistent with the legislative declarations, determinations and findings as set forth in the Ordinance, the Initial Assessment Resolution, and this Final Assessment Resolution from the fire services, facilities, or programs to be provided and a legislative determination that the Fire Services Special Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the Initial Assessment Resolution.

(B) The method for computing Fire Services Special Assessments described and referenced in the Initial Assessment Resolution is hereby approved. The Parcel

Apportionment methodology described in Section 6 of the Initial Assessment Resolution is hereby approved.

(C) For the Fiscal Year beginning October 1, 2010, the estimated Fire Services Assessed Cost to be assessed is \$_____. The Fire Services Assessment to be assessed and apportioned among benefited parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Fire Services Assessed Cost for the Fiscal Year that begins October 1, 2010, is hereby established as follows:

_____ per Factored Fire Protection Unit

(D) The above rate of assessment is hereby approved. Fire Services Assessments for fire 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 such Assessment Roll for the Fiscal Year that begins on October 1, 2010.

(E) No Fire Services Assessment shall be imposed on a parcel of government property whose building use is wholly exempt from ad valorem taxation as provided by Florida law.

(F) Any shortfall in the estimated Fire Services Assessed Cost caused by or attributed to any reduction or exemption from payment of the Fire Services Assessments required by law and this Resolution shall be made whole from any legally available funds, and shall not be paid for by proceeds or funds derived from the Fire Services Assessments. To this extent, the City Commission expects to budget and appropriate during the fiscal year beginning October 1, 2010, from any legally available revenues an amount sufficient to cover the anticipated cost of providing fire services,

facilities, and programs to any lawfully exempted properties, and any reduction in the Fire Services Assessed Cost.

(G) As authorized in Section 11-43 of the Ordinance, interim Fire Services Assessments are also levied and imposed against all property for which a Certificate of Occupancy is issued after adoption of this Final Assessment Resolution based upon the rates of assessment approved herein.

(H) Fire Services 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.

(I) On or before September 15 of each fiscal year the Fire Services Special Assessment is imposed, the Mayor or Mayor Pro Tem is authorized to certify the non-ad valorem assessment roll on compatible electronic medium to the tax collector.

(J) The Assessment Roll, as herein approved, together with the correction of any errors or omissions as provided for in the Ordinance, shall be billed, collected and enforced pursuant to the method of collection described in Section 11-61 of the Ordinance and Section 12 of the Initial Assessment Resolution. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantively the form attached hereto as Appendix C.

SECTION 4. CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION. The Initial Assessment Resolution, as amended and supplemented herein, is hereby confirmed.

SECTION 5. 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 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 Fire Services 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 6. SEVERABILITY. If any word, phrase, clause, paragraph, section or provision of this resolution or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the resolution which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this resolution are declared severable.

SECTION 7. EFFECTIVE DATE. This Final Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED this ___ day of _____, 2010.

CRAIG LOWE
MAYOR

ATTEST:

Approved as to form and legality:

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

APPENDIX A

AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Russ Blackburn, Sandi Melgarejo, Charity Moore, and Kathlene S. Driggers, who, after being duly sworn, depose and say:

1. Russ Blackburn, as City Manager of the City of Gainesville, Florida ("City"), pursuant to a Fire Services Assessment Program Proposal between Government Services Group, Inc. ("GSG") and the City and the authority and direction received from the City Commission, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with the Fire Services Assessment Ordinance adopted by the City Commission on June 9th, 2008 (the "Assessment Ordinance") and in conformance with the Initial Assessment Resolution adopted by the City Commission on June 3, 2010 (the "Initial Assessment Resolution").

2. Sandi Melgarejo is a Project Coordinator for GSG. GSG has caused the notices required by the Assessment Ordinance to be prepared in conformance with the Initial Assessment Resolution. An exemplary form of such notice is attached hereto. GSG has caused such individual notices for each affected property owner to be prepared and 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 could result in foreclosure proceedings against the property as well as the initiation of proceedings to compel payment by any means authorized by law, including the collection of any delinquent amounts on a subsequent years' tax bill, which, if not paid, would 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 June 24, 2010, GSG delivered and directed the mailing of the above-referenced notices by Modern Mailers, Inc. ("Modern Mailers"), in accordance with Section 2.05 of the Assessment Ordinance and the Initial Assessment 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 Alachua County Property Appraiser for the purpose of the collection of ad valorem taxes. Notices to property owners receiving multiple individual notices were mailed, or caused to be mailed by GSG on or before June 24, 2010.

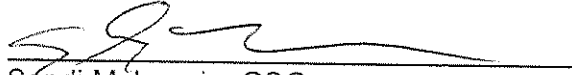
4. Charity Moore is Production Manager of Modern Mailers. As directed above, Modern Mailers, mailed or caused to be mailed on or before June 24, 2010, the above-referenced notices delivered to Modern Mailers by GSG.

5. Kathlene S. Driggers is the Senior Executive Assistant to the Office of the Fire Chief. As to approximately 83 parcels listed as confidential by the Property Appraiser, she mailed or caused to be mailed on June 24, 2010 the above-referenced notices to these parcels.

FURTHER AFFIANTS SAYETH NOT.




Russ Blackburn, City Manager



Sandi Melgarejo, GSG



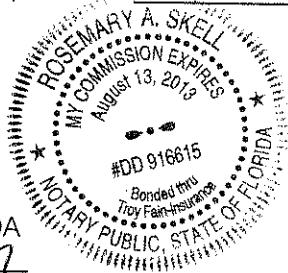
Charity Moore, Modern Mailers



Kathlene S. Driggers, Senior Executive
Assistant to the Office of the Fire Chief

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 15th day of July, 2010 by Russ Blackburn, City Manager, City of Gainesville, Florida. He is personally known to me or has produced _____ as identification and did take an oath.



Printed Name: Rosemary A Skell
Notary Public, State of Florida At Large
My Commission Expires: _____
Commission No.: _____

STATE OF FLORIDA
COUNTY OF Leon

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 30 day of June 2010 by Sandi Melgarejo, Project Coordinator, Government Services Group, Inc., a Florida corporation. She is personally known to me or has produced _____ as identification and did take an oath.



Printed Name: Tammy Peters
Notary Public, State of Florida At Large
My Commission Expires: August 31, 2013
Commission No.: DD 921344

STATE OF FLORIDA
COUNTY OF Leon

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 29 day of June, 2010 by Charity Moore, Production Manager, Modern Mailers, Inc., a Florida corporation. She is personally known to me or has produced _____ as identification and did take an oath.



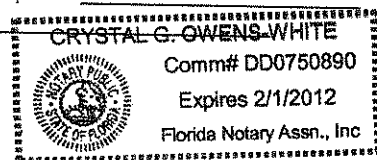
Printed Name: Leah Filsinger Leah Filsinger
Notary Public, State of Florida At Large
My Commission Expires: May 13, 2011
Commission No.: DD 673191

STATE OF FLORIDA
COUNTY OF _____

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 14th day of July 2010 by Kathlene S. Driggers, Senior Executive Assistant to the Office of Fire Chief, City of Gainesville. She is personally known to me or has produced _____ as identification and did take an oath.

FDL# 862051759959-0

Printed Name: Crystal G. Owens-White
Notary Public, State of Florida At Large
My Commission Expires: _____
Commission No.: _____



CITY OF GAINESVILLE
1025 NE 13th STREET
GAINESVILLE, FL 32601

CITY OF GAINESVILLE, FLORIDA
NOTICE OF PUBLIC HEARING
TO IMPOSE AND PROVIDE FOR COLLECTION OF
FIRE SERVICES NON-AD VALOREM ASSESSMENTS

NOTICE DATE: JUNE 24, 2010

OLSEN LISA ELLEN
4619 NW 40TH ST
GAINESVILLE FL 32606-4448

Parcel Tax ID: 06071-020-036
Sequence #: CGF-014006
Legal: NORTHWOOD WEST UNIT NO 2 PB
H-66 LOT 36 OR 3900/10

***** NOTICE TO PROPERTY OWNER *****

As required by Section 197.3632, Florida Statutes, and Chapter 11 of the Code of Ordinances of the City of Gainesville notice is given by the City of Gainesville that an annual assessment for fire services using the tax bill collection method, may be levied on your property for the fiscal year beginning on October 1, 2010 through September 30, 2011 and future fiscal years. The purpose of this assessment is to fund fire services benefiting improved property located within the City of Gainesville. The total annual fire assessment revenue to be collected within the City of Gainesville is estimated to be \$7,166,675.00. The annual fire assessment is based on the hazard classification of each parcel of property and number of factored fire protection units contained therein.

Hazard Classification and Number of Factored Fire Protection Units	Fiscal Year 2010-11 Assessment
1 Hazard Class 7 building at 2,000-3,099 square feet at 1.9802 Factored Fire Protection Units	\$205.94
Total Assessment:	\$205.94

The City Commission on June 3, 2010 adopted an Initial Assessment Resolution setting the proposed fire services assessment for the above parcel for Fiscal Year 2010-11 and all future fiscal years, unless otherwise changed as provided by law, as \$205.94.

A public hearing will be held on Thursday, July 15, 2010 at 6:30 p.m. or as soon thereafter as may be heard, in the City Commission Chambers, City Hall, 200 E. University Avenue, Gainesville, Florida for the purpose of receiving public comment on the proposed assessments. You and all other affected property owners have a right to appear at the hearing and to file written objections with the City Commission within 20 days of this notice. Please direct your objections to: Mayor and City Commissioners, P.O. Box 490, Station 19, Gainesville, Florida 32602.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Equal Opportunity Office at (352) 334-5051, at least two days prior to the date of the hearing.

Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Commission action at the above hearing (including the method of apportionment, the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Fire Assessment Ordinance as codified in Chapter 11 of the Code of Ordinances, the Initial Assessment Resolution, the preliminary assessment roll and the proposed Final Assessment Resolution are available for inspection at the City Manager's Office, located at City Hall, 200 E. University Avenue, Gainesville, Florida.

Both the fire services non-ad valorem assessment amount shown on this notice and the ad valorem taxes for the above parcel will be collected by the tax collector on the ad valorem tax bill mailed in November. Failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title.

If there is a mistake on this notice, please contact us so it can be corrected. If you have any questions regarding your fire services assessment, please contact the Gainesville Fire Services Assessment Information Line at (352) 334-5088, Monday through Thursday between 7:30 a.m. and 5:30 p.m.

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.

***** THIS IS NOT A BILL *****

APPENDIX B
PROOF OF PUBLICATION

AD # GF06301036
Acct # 200905
Gville Clerk/Commission
THE GAINESVILLE SUN

Published Daily and Sunday
GAINESVILLE, FLORIDA
STATE OF FLORIDA

Before the undersigned authority appeared: Melissa Levin,
Who on oath says that she is Retail Advertising Executive of THE GAINESVILLE SUN,
a daily newspaper published at Gainesville in Alachua County, Florida, that the attached
copy of advertisement, being

Notice of Hearing

In the matter of Notice of Hearing was published in said newspaper in the issues of
June 20, 2010.

Affidavit further says that the said THE GAINESVILLE SUN is a newspaper published
at Gainesville, in said Alachua County, Florida, and that the said newspaper has
heretofore been continuously published in said Alachua County, each day, and has been
entered as second class mail matter at the post office in Gainesville, in Said Alachua
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 for publication in the said
newspaper.

Sworn to and subscribed before me this

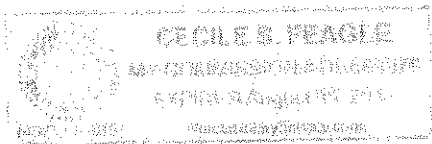
30 day of June A.D., 2010

Melissa Levin

Cecile S. Feagle

(seal)

Notary Public



www.gainesville.com

Microbes a possible solution to oil spill

Single-minded microbes would gobble up hydrocarbons from the oily waters.

By Nancy MacQueen

MIAMI — One scientist compares them to the yellow blimpers in the Fox-Man video game — hungry, single-minded little microbes fueled by the same fertilizer farmers use on crops, gobbling hydrocarbons from the oily waters, marines and storms of the Gulf of Mexico.

Can the naturally occurring microbes help clean up the oil spill? Yes, experts say. At least in part, with some risk. Officials are making noise. Florida Gov. Charlie Crist on Thursday visited a Sarasota company that sells microbes that eat oil. BP says it's open to using them. And the federal government is considering its pre-approved list of more than a dozen companies to see how quickly they can ramp up production.

Scientists call the process bioremediation. "You take natural oil-eating microbes in the water and give them fertilizer to make them multiply and degrade the oil faster. Oil is a natural product. It's inherently biodegradable," said Terry Hazen, microbial ecologist in the Earth Sciences Division of the Lawrence Berkeley National Lab in California. Oil-eating microbes are some of the smallest living things on earth, but they can have a powerful impact. They occur naturally in water and when they come in contact with oil, they eat it, producing the hydrocarbons on their surface and water. When fertilized with nitrogen and phosphorus, they grow in size and multiply and their appetite becomes prodigious.

Still, scientists caution that bioremediation is only a partial solution. It's been used on sandy beaches and in salt marshes after the fastest oil has been removed by booms and skimmers. It's a slower process before a deep trench or open ocean. And it runs some risk of damaging the very species it's meant to rescue. Some scientists say it may be better at times to let nature take its course.

Jay Crivates, a microbiologist at the University of Southern Mississippi, is one of the pioneers. "It could help a lot. It was used in the Alaska oil spill from the Exxon Valdez in 1989. It worked very well on the rocky shores."

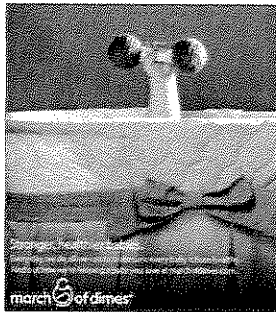
Bioremediation can't do the whole job, said Chris Reddy, marine chemist at Woods Hole Oceanographic Institution in Massachusetts.

"The idea that microbes can come in and clean house from A to Z is not likely," he said. "What they can do — on their own case — is eat some compounds and play an important role in the cleanup."

BP says it's looking into bioremediation. "Potentially we could do it, but we would need approval from the EPA," spokeswoman Trazan Vanhagens said last week.

"Typically it's not done until the oil has stopped flowing."

The federal government is working on possible bioremediation efforts. The EPA has created a National Contingency Plan Product Schedule listing more than 20 biological agents approved for use in encouraging microbes to attack oil spills.



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NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF FIRE SERVICES SPECIAL ASSESSMENTS

Notice is hereby given that the City Commission of the City of Gainesville, Florida, will conduct a public hearing to consider the imposition of annual fire special assessments for the provision of fire services within the unincorporated boundaries of the City of Gainesville and collection of those assessments pursuant to the fire bill collection method.

The hearing will be held on **Thursday, July 15, 2010**, at 6:00 p.m. or to such other date as may be heard, in the Commission Chamber of City Hall, 300 E. University Avenue, Gainesville, Florida, for the purpose of public testimony on the proposed assessments. All affected property owners have a right to appear at the hearing and file written objections with the City Commission within 30 days of this notice. Please attend on or before **Monday, July 19, 2010**, at City Commission, P.O. Box 400, Station 19, Gainesville, FL 32602.

The assessment for each parcel of property will be based upon each parcel's assessed value and the total number of fire services provided to that parcel.

The City Commission on June 1, 2010 approved a final assessment plan for setting the proposed fire service assessments to be assessed for the fiscal year beginning October 2010 and thereafter as follows:

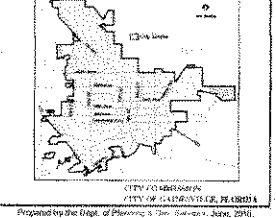
\$10.00 per Square Foot Property Tax

Subject to the Fire Service Assessment Ordinance, the final Assessment Plan, the preliminary Assessment Roll, and the proposed Final Assessment Roll. Business available for operations in the City Manager's Office, City Hall, located at 300 E. University Avenue, Gainesville, Florida.

The fire services special assessments will be collected by the tax collector and placed on the roll of values to bill to the resident in November 2010 and each year that the assessments are imposed. Failure to pay the assessments will result in tax liens to be placed against the property, which may result in loss of title.

If you have any questions, please contact the Gainesville Fire Assessment for Residents (phone 352) 334-9933, Monday through Thursday between 9:00 a.m. and 5:00 p.m.

If a person desires to request late fee waiver for the City of Gainesville, the person must appear at the hearing, such person will attend a record of the proceedings and may need to consent that a resolution record is made, including the testimony and evidence upon which the proposed fire service. In accordance with the Americans with Disabilities Act, persons needing special accommodations or assistance to participate in this proceeding should contact the Equal Opportunity Office at (352) 334-9931, at least two days prior to the date of the hearing.



The Sun Your source ... for your community!

Chords of Color

Lunch and Learn 3: 'The Sun and Your Skin'

The Chords of Color Sustainable Land and Learn Series is designed to promote the awareness of cancer treatment and research through several speaking engagements with performers, special experts and cancer survivors. Each concert will consist of Chords of Color performances being held throughout the series.

Thursday, June 24, Noon - 1PM
 The Phillips Center • 515 Hull Road, Gainesville
 Lunch will be provided

Guest Speakers:
 Chelsey Mitchell, MD, Assistant Professor, UF Division of Dermatology
 Gordon Goodwin, Film and Television Jazz Musician

UNIVERSITY OF FLORIDA
 UF & Shands
 The University of Florida Health System

Words of Color for a Cause™ is being made possible through funding from the University of Florida President's Office and the University Endowment Foundation.

Please RSVP to 352-265-1943 for more information about Chords of Color performances or the Lunch and Learn Series. Please visit www.chordsofcolor.org or Shands.org.

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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 of Gainesville, or authorized agent of the City of Gainesville, Florida (the "City"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for fire rescue 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 Alachua County Tax Collector by September 15, 2010.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Alachua County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this _____ day of July, 2010.

CITY OF GAINESVILLE, FLORIDA

By: _____
CRAIG LOWE, Mayor

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