

TAB 3

**Stormwater Ordinance
Workshop November 2, 2009**

POINT PAPER

Problem: A change is needed to the stormwater ordinance to clarify who is responsible for payment of the stormwater fee.

Background: Section 29-207 currently reads “**A fee is hereby charged to all owners of developed property in the City which contribute any stormwater runoff to and/or which benefit from the City’s stormwater management system.**” The stormwater fee is billed to the “customer” along with all other utility fees on the month utility bill. Our utility ordinance defines “customer” as owner, lessee, or tenant. The intent of this language was needed because some utility customers are owners, while others are tenants of the owner.

Staff is proposing to change the language to read as follows: “**A fee is hereby charged to all customers, as defined in section 29-1, utilizing developed property in the City which contribute any stormwater runoff to and/or which benefit from the City’s stormwater management system.**” By changing this language, we will eliminate any confusion as to who is responsible for the fee and it will also provide consistency with other sections of the ordinance (i.e., section 29-1).

Staff is asking that this item be moved for to the 7:00pm agenda for advertising approval and scheduling of a public hearing.

Alternatives:

1. Motion to approve Ordinance 09-1001 for advertising and schedule a public hearing for November 16, 2009.
2. Do not approve Ordinance 09-1001

Recommendation: Alternative #1

Budget Impact: None Identified

ORDINANCE NO. 09-1001

AN ORDINANCE OF THE CITY OF PALMETTO AMENDING CHAPTER 29, ARTICLE VII, SECTION 29-207 OF THE CITY CODE OF ORDINANCES, PERTAINING TO THE CITY STORMWATER MANAGEMENT SYSTEM; PROVIDING CLARIFICATION OF FEE FOR STORMWATER MANAGEMENT SERVICE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

WHEREAS, pursuant to the referenced provision of the Florida Constitution, the City may exercise any power for municipal purposes except as otherwise provided by law; and,

WHEREAS, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

WHEREAS, Section 166.201, Florida Statutes, specifically, authorizes the City to raise by user charges or fees, the amounts of money necessary for the conduct of municipal government; and,

WHEREAS, Section 403.0893(1), Florida Statutes, authorizes the creation and funding of a stormwater utility; and,

WHEREAS, the City of Palmetto, hereinafter referred to as the "City," is responsible for the ownership, maintenance, and improvement of a stormwater management conveyance and impoundment system; and,

WHEREAS, after consideration of a rate study performed by the City's consulting engineer, the City enacted Ordinance No. 06-908 on December 18, 2006, implementing a stormwater rate structure for residential and non-residential properties within the City's boundaries; and was further amended by Ordinance 07-950 on October 15, 2007; and

WHEREAS, City staff finds it necessary to clarify the party responsible for the fee associated with stormwater management service; and

WHEREAS, the City Commission has considered the recommendations of City staff; and

WHEREAS, the City Commission has determined that said revisions and amendments to the party responsible for the fee associated with stormwater management service are in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:

Section 1. Findings of Fact. The above "WHEREAS" clauses are adopted herein as findings of fact.

Section 2. Revision Language. The City of Palmetto Code of Ordinances is hereby amended by revising Chapter 29, Article VII, Section 29-207, by changing the party responsible for the fee for stormwater management service to read in its entirety as follows:

A fee is hereby charged to all customers, as defined in Section 29-1, utilizing developed property in the City which contribute any stormwater runoff to and/or which benefit from the City's stormwater management system.

Section 3. Repeal of Inconsistent Ordinances. This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

Section 4. Severability. If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

FIRST READING	November 2, 2009
PUBLICATION DATE	November 6, 2009
SECOND READING	November 16, 2009

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this 2nd day of November, 2009.

**CITY OF PALMETTO, FLORIDA, BY
AND THROUGH THE CITY COMMISSION
OF THE CITY OF PALMETTO**

By: _____
Shirley Groover Bryant, Mayor

ATTEST:

By: _____
James R. Freeman, City Clerk

