

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: William W. Ackerman, CPA, Budget & Finance Director/797-1050

PREPARED BY: William W. Ackerman, CPA, Budget & Finance Director

SUBJECT: Resolution

AFFECTED DISTRICT: Townwide

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF DAVIE, FLORIDA; REIMPOSING FIRE RESCUE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF DAVIE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: This action is necessary to proceed with the Fire Rescue Assessment Program for Fiscal Year 2008-09. The Town enacted Ordinance 96-33 which authorized the imposition of an annual fire assessment. In order to reimpose the assessment for Fiscal Year 2008/2009 and use the tax bill collection method, the Ordinance requires the Town to adopt an Annual Rate Resolution which establishes the final assessment rate and approves the Assessment Roll.

PREVIOUS ACTIONS: The enacting Ordinance #96-33 was amended in September 2003 via Ordinance #2003-33.

CONCURRENCES: N/A

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost:

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Motion to approve the resolution

Attachment(s): Resolution

RESOLUTION R-2008-_____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF DAVIE, FLORIDA; REIMPOSING FIRE RESCUE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF DAVIE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of Davie, Florida (the "Town Council"), has enacted Ordinance No. 96-33 (the "Ordinance"), as it may be amended, which authorizes the imposition of Fire Rescue Assessments for fire rescue services, facilities, and programs against Assessed Property located within the Town; and

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

WHEREAS, the Town Council desires to reimpose a Fire Rescue Assessment within the Town using the procedures provided by the Ordinance, including the tax bill collection method for the Fiscal Year beginning on October 1, 2008; and

WHEREAS, the Town Council, on July 16, 2008, adopted Resolution No. R-2008-144 (the "Preliminary Rate Resolution"), containing and referencing a brief and general description of the fire rescue facilities and services to be provided to Assessed Property, describing the method of apportioning the Fire Rescue Assessed Cost to compute the Fire Rescue Assessment for fire rescue services, facilities, and programs against Assessed Property, estimating a rate of assessment, and directing the updating and preparation of the Assessment Roll, provision of published notice required by the Ordinance and mailed notice if circumstances described in Section 2.08(F) of the Ordinance so require; and

WHEREAS, in order to reimpose Fire Rescue Assessments for the Fiscal Year beginning October 1, 2008, the Ordinance requires the Town Council to adopt an Annual Rate Resolution, during its budget adoption process for each Fiscal Year, which establishes the rate of assessment and approves the Assessment Roll for the upcoming Fiscal Year, with such amendments as the Town Council deems appropriate, after hearing comments and objections of all interested parties; and

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

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 September 15, 2008, 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 TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the provisions of Ordinance No. 96-33, (the "Ordinance"), as it may be amended, Resolution No. R-96-254 (the "Initial Assessment Resolution"), Resolution No. R-96-285 (the "Final Assessment Resolution"), as supplemented and modified by Resolution No. R-97-19, the Annual Rate Resolution for Fiscal Year commencing October 1, 1997 (Resolution No. R-97-303), the Annual Rate Resolution for Fiscal Year commencing October 1, 1998 (Resolution No. R 98-284), the Annual Rate Resolution for Fiscal Year commencing October 1, 1999 (Resolution No. R-99-287), the Annual Rate Resolution for Fiscal Year commencing October 1, 2000 (Resolution No. R-2000-215), the Annual Rate Resolution for Fiscal Year commencing October 1, 2001 (Resolution No. R-2001-233), the Annual Rate Resolution for Fiscal Year commencing October 1, 2002 (Resolution No. R-2002-201), the Annual Rate Resolution for Fiscal Year commencing October 1, 2003 (Resolution No. R-2003-214),

the Annual Rate Resolution for Fiscal Year commencing October 1, 2004 (Resolution No. R 2004-220), the Annual Rate Resolution for Fiscal Year commencing October 1, 2005 (Resolution No. R-2005-254), the Annual Rate Resolution for Fiscal Year commencing October 1, 2006 (Resolution No. R-2006-249), the Preliminary Rate Resolution (Resolution No. R-2007-181), the Annual Rate Resolution for Fiscal Year commencing October 1, 2007 (Resolution No. R-2007-253) the Preliminary Rate Resolution (Resolution No. R-2008-144), 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 Annual Rate Resolution as defined in the Ordinance. All capitalized terms in this resolution shall have the meanings defined in the Ordinance, as it may be amended, the Initial Assessment Resolution, the Final Assessment Resolution, as supplemented and modified, and the Preliminary Rate Resolution.

SECTION 3. REIMPOSITION OF FIRE RESCUE ASSESSMENTS.

(A) The parcels of Assessed Property described in the Assessment Roll, as updated, which is hereby approved, are hereby found to be specially benefited by the provision of the fire rescue services, facilities, and programs described or referenced in the Preliminary Rate Resolution in the amount of the Fire Rescue Assessment set forth in the updated 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 Town will be specially benefited by the Town's provision of fire rescue services, facilities, and programs in an amount not less than the Fire Rescue Assessment for such parcel, computed in the manner set forth in the Preliminary Rate Resolution. Adoption of this Annual Rate 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, as it may be amended, the Initial Assessment Resolution, the Final Assessment Resolution, as amended, and the Preliminary Rate Resolution, from the fire rescue services,

facilities, or programs to be provided and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the Preliminary Rate Resolution.

(B) The method for computing Fire Rescue Assessments described and referenced in the Preliminary Rate Resolution, is hereby approved. The Parcel Apportionment methodology described in the Preliminary Rate Resolution is hereby approved.

(C) For the Fiscal Year beginning October 1, 2008, the estimated Fire Rescue Assessed Cost to be assessed is \$5,976,623. The Fire Rescue Assessments to be assessed and apportioned among benefited parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Fire Rescue Assessed Cost for the Fiscal Year commencing October 1,2008, are hereby established as follows:

Residential Unit	\$104.00 per Residential Unit
Commercial	\$.1739 per square foot
Warehouse/Industrial	\$.0205 per square foot
Institutional	\$.0348 per square foot
Educational	\$8.5997 per square foot

(D) The above rates of assessment are hereby approved. Fire Rescue Assessments for fire rescue services, facilities, and programs in the amounts set forth in the updated Assessment Roll, as herein approved, are hereby levied and reimposed on all parcels of Assessed Property described in such Assessment Roll for the Fiscal Year beginning October 1,2008.

(E) No Fire Rescue 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, unless that Governmental Property or Building located on a parcel of Institutional Property whose Building use is wholly exempt from ad valorem taxation is used for post-secondary Educational use.

(F) Any shortfall in the expected Fire Rescue proceeds due to any reduction or exemption from payment of the Fire Rescue Assessments required by law or authorized by the Town Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be

paid for by proceeds or funds derived from the Fire Rescue Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the Town Council is improper or otherwise adversely affects the validity of the Fire Rescue Assessment imposed for this Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Rescue Assessment upon each affected Tax Parcel in the amount of the Fire Rescue Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the Town Council.

(G) As authorized in Section 2.13 of the Ordinance, as it may be amended, interim Fire Rescue Assessments are also levied and imposed against all property for which a Building Permit is issued after adoption of this Annual Rate Resolution based upon the rates of assessment approved herein.

(H) Fire Rescue 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) 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. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

SECTION 4. CONFIRMATION OF PRELIMINARY RATE RESOLUTION. The Preliminary Rate Resolution is hereby confirmed.

SECTION 5. EFFECT OF ADOPTION OF RESOLUTION. The adoption of this Annual Rate 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 Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Annual Rate Resolution.

SECTION 6. 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 7. EFFECTIVE DATE. This Annual Rate Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 15th day of September 2008.

MAYOR/COUNCIL MEMBER

ATTEST:

TOWN CLERK

APPROVED THIS 15TH DAY OF SEPTEMBER, 2008

APPENDIX A

AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNER

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Gary Shimun, who, after being duly sworn, deposes and says:

1. Gary Shimun, as Town Administrator of the Town of Davie, Florida ("Town"), pursuant to the authority and direction received from the Town Council, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with the Fire Rescue Assessment Ordinance adopted by the Town Council on August 8, 1996 (the "Assessment Ordinance") in conformance with the Preliminary Rate Resolution adopted by the Town Council on July 16, 2008 (the "Preliminary Rate Resolution"). The Preliminary Rate Resolution directed and authorized notice by First Class Mail only to affected owners in the event circumstances described in Section 2.08(F) of the Ordinance so required.

2. In accordance with the Assessment Ordinance, Mr. Shimun timely provided all necessary information for notification of the Fire Rescue Assessment to the Property Appraiser of Broward County to be included as part of the notice of proposed property taxes under section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: 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 Town expects to collect by the assessment; a statement that failure to pay the assessment will 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.

FURTHER AFFIANT SAYETH NOT.

Gary Shimun, affiant

STATE OF FLORIDA

COUNTY OF BROWARD COUNTY

The foregoing Affidavit of Mailing was sworn to and subscribed before me this _____ day of September 2008, by Gary Shimun, Town Administrator, Town of Davie, Florida. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____

Notary Public, State of Florida At Large

My Commission Expires: _____

Commission No.: _____

APPENDIX B
PROOF OF PUBLICATION

SUN-SENTINEL

Published Daily

Fort Lauderdale, Broward County, Florida

Boca Raton, Palm Beach County, Florida

Miami, Miami-Dade County, Florida

STATE OF FLORIDA

COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared James H. Croteau who on oath says that he/she is a duly authorized representative of the Classified Department of the Sun-Sentinel, daily newspaper published in Broward/Palm Beach/Miami-Dade County, Florida, that the attached copy of advertisement, being, a Notice of Public Hearing in the matter of To Levy and Provide for the Collection and Enforcement of Non-Ad Valorem Special Assessments in the paper August 24 and September 3, 2008 Affiant further says that the said Sun-Sentinel is a newspaper published in said Broward/Palm Beach/ Miami-Dade County, Florida, and that the said newspaper has heretofore been continuously published in said Broward/Palm Beach/Miami-Dade County, Florida, each day, and has entered as second class matter at the post office in Fort Lauderdale, in said Broward County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant 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 said newspaper. AD# 13660957 & 13660958

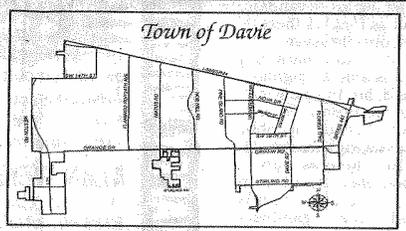
James H. Croteau (Signature of Affiant)

Sworn to and subscribed before me on September 3, 2008

NOTARY PUBLIC-STATE OF FLORIDA Noreen Rubin Commission #DB365661 Expires: OCT 24, 2008 (Signature of Notary Public)

(Name of Notary typed, printed or stamped) Personally

Known or Produced Identification



NOTICE OF PUBLIC HEARING TO LEVY AND PROVIDE FOR THE COLLECTION AND ENFORCEMENT OF NON-AD VALOREM SPECIAL ASSESSMENTS

Notice is hereby given, that the Town Council of the Town of Davie (the "Town") located in Broward County, Florida, will conduct a public hearing to levy special assessments against certain properties within the boundaries of the entire Town which are being situated in Broward County in the State of Florida. Generally, the affected properties are bounded on the north by I-595, the south by Sheridan Street, the east by U.S. 441, and the west by I-75, excepting that certain portions of the Town are outside those general boundaries and that some lands within those general boundaries are not included within the Town, but, in any event, the actual locations are as shown on the plans and specifications referred to below.

The purpose of the special assessments is to fund the cost of planning, establishing, acquiring, constructing or reconstructing, equipping, operating and/or maintaining the Fire Services to certain properties within and throughout the area described above. The maximum amount of the special assessment per parcel shall not exceed the amounts shown below each year. Such Fire Services include, but are not limited to, all costs related to the provision of fire services to benefited properties within the Town, all as described more particularly in the Assessment Report on file in the Town Clerk's office. A public hearing to receive comments from affected property owners as to the propriety, advisability of providing such Fire Services, as to the cost thereof as to the manner of payment thereof; and as to the amount thereof to be assessed against each parcel will be held at 12:00 p.m., on September 15, 2008, at Davie Town Hall, 6591 Orange Drive, Davie, Florida. All affected property owners have a right to appear at the hearing and to file written comments or objections with the Town Council at this public hearing, or as the hearing may be continued, in adopting a final assessment resolution that shall be the final adjudication of the subject presented, including the levy of the non ad valorem special assessments, the ascertainment and declaration of special benefits peculiar to the property, the fairness and reasonableness of the duty to pay, and the rate of assessment, unless proper steps are initiated in a court of competent jurisdiction within ten (10) working days of the date of Town Council action at the hearing.

If any person decides to appeal any decision made with respect to any matter considered at this Public Hearing, such persons will need a record of the proceedings and for such purpose said person may need to ensure that a verbatim record of the proceedings is made at their own expense and which record includes the testimony, and evidence on which the appeal is based.

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at 797-1023 at least five business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD)

TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA

SUN-SENTINEL
 Published Daily
 Fort Lauderdale, Broward County, Florida
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STATE OF FLORIDA
 COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

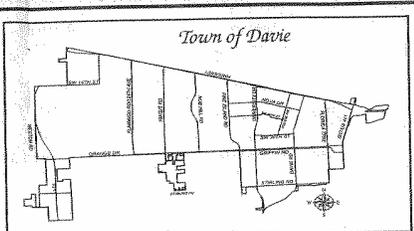
Before the undersigned authority personally appeared James H. Croteau who on oath says that he/she is a duly authorized representative of the Classified Department of the Sun-Sentinel, daily newspaper published in Broward/Palm Beach/Miami-Dade County, Florida, that the attached copy of advertisement, being, a Notice of Public Hearing in the matter of To Levy and Provide for the Collection and Enforcement of Non-Ad-Valorem Special Assessments in the paper August 24, 2008 Affiant further says that the said Sun-Sentinel is a newspaper published in said Broward/Palm Beach/ Miami-Dade County, Florida, and that the said newspaper has heretofore been continuously published in said Broward/Palm Beach/Miami-Dade County, Florida, each day, and has entered as second class matter at the post office in Fort Lauderdale, in said Broward County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant 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 said newspaper.

James H. Croteau
 (Signature of Affiant) August 25, 2008

NOTARY PUBLIC-STATE OF FLORIDA
 Noreen Rubin
 Commission # DD365661
 Expires: OCT. 24, 2008
 Bonded Thru Atlantic Bonding Co., Inc.

Noreen Rubin
 (Signature of Notary Public)

(Name of Notary typed, printed or stamped) _____ Personally
 Known _____ or Produced Identification _____



**NOTICE OF PUBLIC HEARING TO
 LEVY AND PROVIDE FOR THE
 COLLECTION AND
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 NON-AD VALOREM
 SPECIAL ASSESSMENTS**

Notice is hereby given, that the Town Council of the Town of Davie (the "Town") located in Broward County, Florida, will conduct a public hearing to levy special assessments against certain properties within the boundaries of the entire Town which are being situated in Broward County in the State of Florida. Generally, the affected properties are bounded on the north by I-95, the south by Sheridan Street, the east by U.S. 441, and the west by I-75, excepting that certain portions of the Town are outside those general boundaries and that some lands within those general boundaries are not included within the Town, but, in any event, the actual locations are as shown on the plans and specifications referred to below.

The purpose of the special assessments is to fund the cost of planning, establishing, acquiring, constructing or reconstructing, equipping, operating and/or maintaining the Fire Services to certain properties within and throughout the area described above. The maximum amount of the special assessment per parcel shall not exceed the amounts shown below each year. Such Fire Services include, but are not limited to, all costs related to the provision of fire services to benefited properties within the Town, all as described more particularly in the Assessment Report on file in the Town Clerk's office. A public hearing to receive comments from affected property owners as to the propriety advisability of providing such Fire Services, as to the cost thereof as to the manner of payment thereof; and as to the amount thereof to be assessed against each parcel will be held at 12:00 p.m., on September 15, 2008, at Davie Town Hall, 6591 Orange Drive, Davie, Florida. All affected property owners have a right to appear at the hearing and to file written comments or objections with the Town Council at this public hearing, or as the hearing may be continued, in adopting a final assessment resolution that shall be the final adjudication of the subject presented, including the levy of the non ad valorem special assessments, the ascertainment and declaration of special benefits peculiar to the property, the fairness and reasonableness of the duty to pay, and the rate of assessment, unless proper steps are initiated in a court of competent jurisdiction within ten (10) working days of the date of Town Council action at the hearing.

If any person decides to appeal any decision made with respect to any matter considered at this Public Hearing, such persons will need a record of the proceedings and for such purpose said person may need to ensure that a verbatim record of the proceedings is made at their own expense and which record includes the testimony, and evidence on which the appeal is based.

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at 954-797-1023 at least five business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD)

**TOWN COUNCIL OF
 THE TOWN OF DAVIE, FLORIDA**

CERTIFICATE TO NON-AD VALOREM ASSESSMENT ROLL

I HEREBY CERTIFY that, I am the Mayor of the Town Council of the Town of Davie, Florida (the "Town"); 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 Town 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 Broward County Department of Finance and Administrative Services by September 15, 2008.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Broward County Department of Finance and Administrative Services and made part of the above-described Non-Ad Valorem Assessment Roll this 15th day of September 2008.

TOWN OF DAVIE, FLORIDA

By: _____
Mayor