

**MINUTES OF THE SPECIAL MEETING
OF THE LADY LAKE TOWN COMMISSION
LADY LAKE, FLORIDA
March 25, 2009 6:00 P.M.**

The Special Meeting of the Lady Lake Town Commission was held in the Town Hall Commission Chambers, 409 Fennell Blvd., Lady Lake, Florida, with Mayor James Richards presiding. The meeting convened at 6:00 p.m.

CALL TO ORDER: Mayor/Commissioner James Richards

- 1. ROLL CALL:** Tony Holden, Commissioner, Ward 2
Ty Miller, Commissioner, Ward 3
Ruth Kussard, Commissioner, Ward 1
James Richards, Mayor/Commissioner, Ward 5

ABSENT: Paul Hannan, Commissioner, Ward 4

STAFF MEMBERS PRESENT: C.T. Eagle, Public Works Director; and Kristen Kollgaard, Town Clerk

2. Ordinance No. 2009-04 – Second/Final Reading – Revising the Rate of Water and Sewer Impact Fees and Establishing a Reuse Impact Fee (C.T. Eagle)

C.T. Eagle, Public Works Director, stated that the rates have been adjusted per the Commission's direction to the recommended partial-cost recovery with water impact fees being \$1,499 per ERU, sewer impact fees being \$3,172 per ERU and reclaimed water impact fees being \$292 per ERU. He stated that, at the First Reading, he did not get clarification from the Commission on considering the automatic annual adjustment of fees in accordance with the E & R Construction Cost Index.

Mayor Richards asked if this cost index is tied to the CPI.

Mr. Eagle stated that it is similar to the CPI. He also stated that Michael Burton with Burton & Associates was present to answer any questions.

Town Clerk Kristen Kollgaard confirmed with Mr. Eagle that the "automatic annual adjustment" was not included in this ordinance. She stated that the language of the ordinance can be changed with the approval of the First Reading but it cannot be added now and included in the Second/Final Reading. Mr. Eagle stated that Staff does not have a preference. Ms. Kollgaard stated that the Commission could go ahead and vote on the Second/Final Reading and, if approved, then Staff can come back to the Commission at another time and amend the ordinance to include the "automatic annual adjustment."

Commissioner Miller asked if the Town is entitled to cost plus future growth on this.

Mr. Eagle stated that this is partial-cost recovery.

Mr. Burton stated that the impact fees represent the unit cost of a unit of capacity that is necessary to serve growth and it can only be used for expansion of the plant or the system – it can't be used for renewal or replacement.

- Joe Zagame stated that he was present with his dad, Joe Zagame, Sr. and his associate Lance Samardge. He stated that they own a parcel of property on Lake Ella Road consisting of 68 acres and it has been in the development process in Lady Lake for over 3 years. They were unaware that the Town was considering an increase in the impact fees until they read about it recently in the Lake Sentinel. They had 6 questions that they wanted to ask the Commission and also had some comments to offer.

Mr. Zagame stated that first they would like to understand the basis of the impact fee increase – did the Commission use an advisory committee, is there a technical report and is this part of a capital improvement plan?

Mayor Richards commented that, in the study, the costs of the construction were factored into the rates.

- Mr. Zagame asked if it was a projected cost base and stated that the Town is asking for an 18% increase in water impact fees and a 51% increase in sewer impact fees.

Question #2 – when are each of these fees payable to the Town? Mr. Zagame stated that it was his understanding that the Town is collecting at least some of these fees long before the impact is generated and that concerns them because the timing of prepayment drives up the costs of these fees considerably. Why wouldn't the city consider financing these impact fees or providing some alternative payment methods versus lump-sum upfront payment?

Question #3 – how do the proposed impact fee increases apply to projects in the Lady Lake development pipeline? Mr. Zagame stated that Presco has an approved pre-plat and asked what the impact of these increases would be on their project. Would the fees paid to this city be used in the specific area that services their specific project?

Question #4 – why raise these fees now? Mr. Zagame stated that many municipalities across Central Florida are rolling back fees in light of the severe economic downturn. Mr. Samardge mentioned that some localities that have passed or approved the waiver, the suspension, the reduction, rollback or moratorium on all or part of their impact fees include Bradenton, Brevard County, Collier County, Santa Rosa, Bonita Springs, Citrus County and Charlotte County.

Question #5 – is affordable housing still a priority in this Town? Mr. Zagame stated that it was when they started their project 3 years ago and also when their pre-plat was approved a year ago. Are there allowances for affordable housing in the impact fees? Many other municipalities make allowances for affordable housing. Does the Town's proposed impact fee increase make an allowance for

affordable housing? If not, why not. He stated that the total impact fees will comprise between 12% and 15% of the total cost of a home in their development, Nine Oaks Subdivision, depending on the size of the house and added that is on the level of a “sin tax.” Presently, these impact fees are functioning as a regressive tax – the low income people are being hit with essentially the same impact fee rates as the high income people and that is not fair.

Question #6 – has the Commission considered the economic impact of these impact fees on growth and development in this town?

Mr. Zagame stated that, according to the 2008 Duncan Associates National Impact Fee Study, the average total cost of impact fees across 280 municipalities in the United States in 2008 was \$12,000 – impact fees in Lady Lake are approaching double the national average. Furthermore, they are regressive because they tax the affordable homeowner as much as the wealthy homeowner. They are unfair and costly because they tax long before the impact is created. Increasing these impact fees will jeopardize Nine Oaks, their workforce housing project that has been on the Town’s books for 3 years. The incremental increase alone will increase the cost of their project by \$1.2 million – they didn’t plan on that when they started the project 3 years ago or when they received the pre-plat approval one year ago. He asked the Commission to take a little time and get this right and stated let’s make an allowance for workforce housing and not make this regressive; consider those projects that are currently in the development process for some kind of consideration.

Mr. Burton stated that some of these questions are policy issues. He stated that, in regards to Question #1, the report has not been issued yet; it will be issued in the next couple of days. He had interactive work sessions with the Staff and made several presentations to the Commission to explain the methodology which is a standard methodology that looks at replacement cost new list depreciation on existing major backbone assets (the plant and the lines). It also looks at the capital improvement program for the next 5 years and brings it back to current dollars and looks at the capacity of the major system components once the capital improvement program dollars would be completed. The Equivalent Residential Unit (ERU) used was 250,000 gallons per day. The total cost is divided by the Equivalent Residential Unit to get a cost of capacity per unit and a credit was also deducted which represented the net present value of the debt service that a new connector would pay once they come on the system. He added that there was no citizen advisory committee.

Mayor Richards stated that there were several presentations to the Commission leading up to this. Mr. Burton added that there was a workshop, a First Reading and this Second/Final Reading. Ms. Kollgaard also added that the ordinance was advertised.

Mr. Burton stated that he wasn’t sure when the impact fee was due. Ms. Kollgaard thought it was at the time the building permit is issued. Mr. Burton stated that if the impact fee is collected at building permit, the impact is there right then and that is a fairly good matching. He also stated that there are concurrency requirements in Florida that require that the capacity be there prior to the impact. There has to be a source to fund it

and it has to be there before the impact gets there. A great deal of the cost of the capacity that is there to serve new development in fact still falls on the shoulders of the existing rate payers no matter what is done in terms of the impact fees – they have to have a plant and have capacity which means they have to issue debt service and the debt service has to go into the user fee so the impact fees are coming somewhat after the fact.

- Joe Zagame, Sr., CEO and President of Presco, asked that questions and comments regarding each point be addressed before going on to the next point.

Mayor Richards stated that, technically, some of the questions that were presented on whether there was an advisory committee or what the Town's intent is on affordable housing or how expenses are recovered, are questions in regard to Commission and Staff procedures. Mr. Burton was just answering how the report was done and how the calculations were made.

- Mr. Zagame stated that what he heard was that the report was not finished yet.

Mr. Burton stated that the report is in draft form on his desk to do the final review and it will be delivered to the city within the next couple of days.

- Mr. Zagame asked if that was a proper procedure, not having the report completed before the final vote.

Mr. Burton stated that everything that is in the report has been explained to the Commission in open session and in interactive work sessions; there is nothing in the report that hasn't been explained in the workshop that was presented to the Commission.

- Mr. Zagame commented on the cost situation. He stated that he is in the construction business and has been and that costs are way down rather than up; he asked how these costs were arrived at and what methodology was used. He added that there are a lot of contractors out there with no work right now.

Mayor Richards stated that over \$7 million has been spent on a new treatment plant and the Town is also paying interest on that; the plant is operating – the reclaimed water plant is done, the sewer plant is done – and impacts fees have not been increased since 1999. He stated that we have to have water and sewer and it is a very expensive commodity. This is about our capacity and for those who want to access it, this is the cost of doing business. That is why the Town had a specialist look at what it was going to take to cover the expenses and to see what was fair.

- Mr. Zagame stated that there was not a citizen advisory committee in this process and he thinks that is a shortcoming. He also added that the way the Town has it set up is that the Town is collecting the impact fees far before the impact and doing that because the Town doesn't want to carry the expense of its sewer plant so that means that the Town is putting it back on the developer. He feels that the Town gets the good deal here.

- Mr. Samardge commented that the developer actually carries the fee for so long but in the end, it's actually the homebuilder and the sale price of the home that goes up and this will also put homes out of the affordable range.
- Mr. Zagame asked why now? Why not wait until after this recession because housing is such an important part of this economy.

Mr. Eagle stated that the purpose of this study started out to be the implementation of a new reclaimed water impact fee. In doing the study, water and sewer have to be taken into account in order to actually justify the reclaimed water fee. The Town has a new reclaimed water system and Staff felt it was important to try to recoup money or have some forward direction on the reclaimed system so that is why the water and sewer were also adjusted in the process.

- Mr. Zagame stated that what he was hearing is that what was driving the sewer and water is the fact that the Town was considering a new reuse fee.

Mr. Burton stated that he doesn't know if that is fair to characterize that as what is driving the water and sewer. The water and sewer fees, even if Staff was not looking at reclaimed water, would have needed to be increased. Since reclaimed water is now viewed as a commodity and it benefits the water system by extending the potable water supply and it benefits the sewer system because it acts as disposal, it made sense to do it all at one time.

- Mr. Zagame stated that the Town should forget reclaimed water right now especially under these times. Whether Presco can build a project or not depends on these fees. He also felt that the fees should not have to be paid so far in advance.

Mayor Richards stated that the payment of fees to the Town has been done in this way for at least 10 – 12 years.

Mr. Burton stated that this is the way it is done in many communities and clarified that many cities have developer's agreements where the developer is reserving capacity with pre-paid impact fees. The municipality then maintains that capacity on the developer's behalf in a state of readiness so there is a cost to the Town associated with that because that capacity is not available to anyone else.

- Mr. Zagame asked that this matter be tabled and that the Town consider affordable housing and work it into the impact fee program, consider fairness and consider possibly including some financing program for these fees. Don't pass something that is unfair and not right. He stated that they would be happy to provide the Town with their statistics and to participate in this process.

There were no further questions or comments from the Commission.

Upon a motion by Commissioner Holden and seconded by Commissioner Miller, the Commission approved Ordinance No. 2009-04 – Second/Final Reading – Revising the

Rate of Water and Sewer Impact Fees and Establishing a Reuse Impact Fee, by the following roll call vote:

<i>HOLDEN</i>	<i>AYE</i>
<i>MILLER</i>	<i>AYE</i>
<i>KUSSARD</i>	<i>AYE</i>
<i>RICHARDS</i>	<i>AYE</i>

There being no further discussion, the meeting was adjourned.

Kristen Kollgaard, Town Clerk

James Richards, Mayor

Minutes transcribed by Jayne York, Staff Assistant to Town Clerk