CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE **12/13/05**

SUBJECT: **Ordinance No. 2005-59 Water and Sewer Development Fees**

DEPARTMENT: **Finance Department**

RECOMMENDED MOTION:

Approval of Ordinance No. 2005-59.

SUMMARY:

Since the implementation of Water and Sewer Development Fees, a variety of City Departments, have been providing administrative services in order to calculate, collect, and provide overall administration of Recreational Facility Development Fees. It has been determined that a 2% administration charge by the General Fund would fairly compensate the General Fund for staff time and cost incurred.

The attached ordinance establishes Article IV of Chapter 21 of the Land Development Code. The Planning Commission voted to approve the amendment to the Land Development Code. The City Attorney recommends that the Water and Sewer Development Fee regulations be relocated to the Land Development Code, as a result of statutory language classifying impact fees as land development regulations.

ATTACHMENTS: [X] Ordinance [ ] Resolution [ ] Budget Resolution

[ ] Other [ ] Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD	John C. Shelley, Finance Director	Date 12/2/05
FINANCE DEPARTMENT	Approved as to Budget Requirements	Date
CITY ATTORNEY	Approved as to Form and Legality	Date
CITY MANAGER	Approved Agenda Item For:	12/13/05

COUNCIL ACTION: [ ] Approved as Recommended [ ] Disapproved [ ] Tabled Indefinitely
[ ] Continued to Date Certain [ ] Approved with Modification:

Second Reading 1/17/06

ORDINANCE NO. 2005-59

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, DELETING ARTICLE IV, SECTIONS 74-136, 74-137, 74-138, 74-139 AND 74-140 FROM THE CODE OF ORDINANCES, CITY OF PORT ORANGE, FLORIDA, AND RE-ESTABLISHING REGULATIONS IN CHAPTER 21, ARTICLE IV, OF THE LAND DEVELOPMENT CODE, CITY OF PORT ORANGE, FLORIDA, RELATING TO WATER AND SEWER DEVELOPMENT FEES; PROVIDING FOR AN ADMINISTRATIVE FEE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, for purposes of this Ordinance text with underlined (underlined) type shall constitute additions to the original text and text with strike-through (~~strike-through~~) type shall constitute deletions to the original text.

WHEREAS, this Ordinance relocates the Water and Sewer Development Fee regulations to the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Article IV, Sections 74-136, 74-137, 74-138, 74-139 and 74-140 of the Code of Ordinances, City of Port Orange, Florida, are hereby deleted in their entirety.

Section 2. Article IV, Chapter 21 of the Land Development Code, City of Port Orange, Florida, is hereby created as follows:

ARTICLE IV. WATER AND SEWER DEVELOPMENT FEES

Sec. 21-401. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Irrigation meter is defined in section 74-35, Code of Ordinances, City of Port Orange, Florida, and irrigation meters are subject to the restrictions contained therein.

Local system means that system in a new subdivision installed by the developer at the developer's expense. The physical limits of each local system are the limits of the particular subdivision served. Water mains and sewers whose principal function is to serve areas other than the one they traverse are not a part of the local system.

Sec. 21-402. Applicability.

This article shall apply to development fees for the municipal water supply and wastewater treatment facilities extensions.

Sec. 21-403. Fee established.

(a) In order to facilitate the orderly expansion of the city's water supply system and wastewater treatment system, a development fee is hereby established. This development fee is defined as "a connections contribution toward its equitable share of the cost of capital improvements required to serve new users."

(b) The development fee is comprised of two separate fees: water and sewer. In areas where only one of these services is available, the applicable fee shall be that established for the service provided. The applicable fee for the other service or for both services if neither was available at the time of construction will become due when service is made available.

(c) The development fees shall be based on the city council's determination of the equitable portion of the costs of financing the expansion of the system.

(d) The development fees shall be reviewed in July of every year in order to determine if the cost of system improvements necessitates a change in the amount of the fee.

(e) Fees shall be set by resolution of the city council.

(f) Each additional equivalent living unit occasioned by changes in property usage subsequent to March 21, 1980, shall be subjected to a development fee, which shall be computed in accordance with the fee schedule set by resolution.

(g) Development fees shall be imposed on every living unit connected to the water and/or sewer system whether those units are new or existing and inside or outside the city limits.

(h) The person applying for the issuance of a certificate of occupancy shall pay the required water and sewer development (impact) fee for any portion of a structure to be occupied prior to the issuance of a certificate of occupancy and no certificate of occupancy for any activity requiring payment of a development (impact) fee pursuant to this article shall be issued unless and until the water and sewer development (impact) fee hereby required has been paid. Once paid, such fees shall not be refundable.

Sec. 21-404. Use.

The water and sewer development fees collected by the city pursuant to this article shall be used for the extension, improvement or addition to the primary water system, the primary sanitary sewer system, water treatment plants, wastewater treatment plants and for the upsizing or upgrading of a local system when such is in the best interest of the city. Such development fees may be applied and used for administrative costs, debt service on water and/or sewer revenue bonds, bond anticipation notes, promissory notes or similar financing methods used by the city for the purpose of providing funds for such extensions, additions or improvements.

Sec. 21-405. Accounting.

(a) The water and sewer development fees collected by the city pursuant to this article shall first be deposited, pledged and expended as may be provided or required by the

terms of any water and/or sewer revenue bond, bond anticipation note, promissory note or similar instrument authorized by ordinance or resolution to be paid from development fees. After complying with such requirements and application of funds, if any, the balance of development fees shall be deposited to and held in the city water and sewer revenue and replacement fund, or such designated fund as may be subsequently established for a similar purpose. The development fees held in such fund may be used only for the express authorized purposes set forth in section 21-404.

(b) No funds shall be used for periodic or routine maintenance as defined in F.S. Sections 334.03(13) and (18); however, the city may retain a maximum of two (2) percent of the funds collected from water and sewer development fees on an annual basis to offset the city's reasonable administrative costs associated with the collection and administration of said fund. The amount of the city's reasonable administrative costs in connection with the collection and administration of these funds shall be documented as part of the city's annual budget process. Any funds retained by the city to offset the city's reasonable administrative costs in connection with the collection and administration of said funds shall be placed in a separate city account which account shall be used solely for administrative expenses incurred by the city in the collection and administration of funds collected from water and sewer development fees.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 5. This Ordinance shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Kenneth W. Parker, City Manager

Passed on first reading on the day of

Passed and adopted on second and final reading on the day of

Reviewed and Approved: City Attorney

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12/02/05

The City of Port Orange
FINANCE DEPARTMENT

Memorandum

RECEIVED

OCT 14 2005

CITY OF PORT ORANGE
CITY ATTORNEY

To: Planning Commission
Donna Steinebach, Director of Community Development

From: John A. Shelley, Finance Director

Subject: **Review of Administrative Fee Charge Back Pertaining to Collection of Water and Sewer Impact Fees Ordinance at the Planning Commission meeting of October 27, 2005**

Date: October 13, 2005

During the budget workshop in July, City Staff proposed a concept that would permit a 2% administrative fee charge back to water and sewer impact fee collections. Administrative costs exist related to the actual computation of the amount due; fee collection, accounting, and reporting. This administrative fee charge back would pay for this service.

Please note, it is not proposed to change the amount of the fee only to appropriately allocate a portion of the existing fee to Administrative cost.

In order for Staff to perform this allocation, the related Ordinance must be modified to provide authorization.

Prior to any Ordinance change, Staff requests review by the Planning Commission at its October 27, 2005 meeting, prior to its presentation to Port Orange City Council. Should you have any questions pertaining to this memorandum or the attached please contact me at (386) 506-5700.

cc: Kenneth W. Parker, City Manager
Margaret Roberts, City Attorney
Roger Smith, Public Utilities Director
Stella Gurnee, Comptroller
Mike Disher, Planning & Development Manager
Drema Thames, Development Review Technician