



To: Walter Foeman and Billy Urquia

From: Craig E. Leen, City Attorney for the City of Coral Gables

RE: Legal Opinion Regarding Correcting Resolution 2016-148

Date: July 15, 2016

In the circumstances described, it is a scrivener's error that can and should be corrected by the City Attorney under section 2-201(e)(9) of the City Code. The material point is that this particular sanitary sewer charge is increasing by 6.81% (along with the other sanitary sewer charges that are also increasing by 6.81%), and that this was understood by the Commission based on the handout provided to them with the item that states the charges are increasing by 6.81%. It was clearly the Commission's will to increase these charges by 6.81%, which this correction accomplishes for this particular fee.

In addition, it is clear this is a scrivener's error. Resolution No. 2015-196 indicates that the fee at issue was at \$2.7879 prior to enactment of Resolution No. 2016-148, which is the number that the 6.81% increase should be measured from. It would be incorrect to measure the increase from the prior, lower number (which was no longer the number under Resolution No. 2015-195). Indeed, the correct number to measure the increase from was established in Resolution No. 2015-195 at \$2.7879. This is a matter of public record. In such circumstances, the scrivener's error should be corrected to accurately reflect the starting value of the rate (\$2.7879) being increased by 6.81%, and the correct rate that is now being charged (\$2.9779) following the 6.81% increase.

This opinion is issued pursuant to sections 2-201(e)(1), (8), and (9) of the City Code. The resolution should be corrected to reflect the accurate figures and 6.81% increase.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Subject:** FW: Correction to resolution  
**Date:** Thursday, July 14, 2016 7:05:25 PM  
**Attachments:** [Agenda Resolution - Amend Sanitary Sewer Fees.docx](#)  
[Agenda cover - amend Sanitary Sewer Fees.pdf](#)  
[Reso 2015-196.pdf](#)  
[image002.png](#)  
[FY17 Utility Fee Increase Options - Pass Thrus & Coll Events - Draft.pdf](#)  
[image001.png](#)  
**Importance:** High

Please publish.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
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**From:** Leen, Craig  
**Sent:** Thursday, July 14, 2016 7:00 PM  
**To:** Foeman, Walter; Urquia, Billy  
**Cc:** Ramos, Miriam; Gomez, Diana; Kleiman, Keith  
**Subject:** FW: Correction to resolution  
**Importance:** High

City Attorney Opinion

In the circumstances described, it is a scrivener's error that can and should be corrected by the City Attorney under section 2-201(e)(9) of the City Code. The material point is that this particular sanitary sewer charge is increasing by 6.81% (along with the other sanitary sewer charges that are also increasing by 6.81%), and that this was understood by the Commission based on the handout provided to them with the item that states the charges are increasing by 6.81%. It was clearly the

Commission's will to increase these charges by 6.81%, which this correction accomplishes for this particular fee.

In addition, it is clear this is a scrivener's error. Resolution No. 2015-196 indicates that the fee at issue was at \$2.7879 prior to enactment of Resolution No. 2016-148, which is the number that the 6.81% increase should be measured from. It would be incorrect to measure the increase from the prior, lower number (which was no longer the number under Resolution No. 2015-195). Indeed, the correct number to measure the increase from was established in Resolution No. 2015-195 at \$2.7879. This is a matter of public record. In such circumstances, the scrivener's error should be corrected to accurately reflect the starting value of the rate (\$2.7879) being increased by 6.81%, and the correct rate that is now being charged (\$2.9779) following the 6.81% increase.

This opinion is issued pursuant to sections 2-201(e)(1), (8), and (9) of the City Code. The resolution should be corrected to reflect the accurate figures and 6.81% increase.

**Craig E. Leen, City Attorney**

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**From:** Gomez, Diana  
**Sent:** Wednesday, July 13, 2016 9:22 AM  
**To:** Leen, Craig  
**Cc:** Ramos, Miriam; Kleiman, Keith; Diaz, Yvette  
**Subject:** Correction to resolution  
**Importance:** High

Hi Craig,

As previously mentioned, there was an error on Resolution # 2016-148 on the June 14, 2016 City Commission meeting related to changing the fees for Sanitary Sewer.

The Resolution in the fourth Whereas Clause and in Section 2 reads:

Sanitary Sewer Charges will increase from \$1.3838 to \$1.4781 per CCF for less than 1 CCF to 5 CCFs, from \$5.3271 to \$5.6901 per CCF for greater than 5 CCFs to 9 CCFs, from \$5.4168 to \$5.7860 per CCF for greater than 9 CCFs, from \$3.25/month to \$3.4715/month for 5/8" meters and from \$10.94 to \$11.6856 for 1" meters; and

It should have read **from \$2.7879 to \$2.9779 per CCF for less than 1 CCF to 5 CCFs** (which represents a 6.81% increase). The \$2.7879 is the correct starting point per the prior year resolution #2015-196 (also attached), however it wasn't correct on the agenda item (taken from a previous version). The handout that we provided the Commission that day picked up the incorrect starting rate (see attached highlighted yellow section), however the percent increase of 6.81% was correctly listed on the document and applied. All other factors are being increased by 6.81% and were correctly written on the agenda item.

Please review and let me know if this could be corrected as a scrivener's error, or if we need to take this item back to the City Commission for correction. We will need a corrected resolution to send to the County as they do the billing for the Sanitary Sewer charges on our behalf.

Attached is the cover memo and resolution for reference. Let me know how we should handle.

Thanks.

Diana M. Gomez  
*Finance Director*  
City of Coral Gables  
[dgomez@coralgables.com](mailto:dgomez@coralgables.com)  
PH: 305.460.5275  
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**CITY OF CORAL GABLES, FLORIDA**

**DRAFT RESOLUTION NO. 2016-\_\_\_\_**

A RESOLUTION AMENDING ORDINANCE 2015-17, AS AMENDED, TO ADJUST THE STORM WATER FEE, SANITARY SEWER CHARGES, AND SOLID WASTE COLLECTION FEES, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

**WHEREAS**, Ordinance 2015-17 passed and adopted by the City Commission on June 16, 2015 and subsequently amended by Resolution 2016-75, as permitted by the Ordinance, established fees for various licenses, permits, services and penalties by the City of Coral Gables; and

**WHEREAS**, the City Commission has determined that it is necessary to recover the City's costs of providing these services; and

**WHEREAS**, the Storm Water Fee will increase from \$8.80 to \$11.89 per Equivalent Residential Unit (ERU) per month; and

**WHEREAS**, Sanitary Sewer Charges will increase from \$1.3838 to \$1.4781 per CCF for less than 1 CCF to 5 CCFs, from \$5.3271 to \$5.6901 per CCF for greater than 5 CCFs to 9 CCFs, from \$5.4168 to \$5.7860 per CCF for greater than 9 CCFs, from \$3.25/month to \$3.4715/month for 5/8" meters and from \$10.94 to \$11.6856 for 1" meters; and

**WHEREAS**, Solid Waste Collection Fees will increase for residential customers as follows: General Residential Property– discounted annual fee (if paid on or before August 15, 2016) from \$729 to \$743 and from \$812 to \$869 for payments made as part of the tax bill; Auxiliary Living Units– discounted annual fee (if paid on or before August 15, 2016) from \$364 to \$371 and from \$408 to \$435 for payments made as part of the tax bill.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** The City Commission revises the Fee Schedule as follows:

<b>Stormwater Management Utility Fee Schedule. City Code Section 78-162</b>	
Stormwater services – residential service	<del>\$8.80</del> <u>11.89</u> per dwelling unit per month.
Stormwater services – non-residential service	<del>\$8.80</del> <u>11.89</u> per ERU (Equivalent Residential Unit of 2,346 sq. ft.) per month.

<b>Sewer Service Charges. City Code Section 78-100</b>	
Residences, duplexes, apartments, hotels, motels, and all other buildings and structures, except as provided below, or each unit thereof having a separate water meter per month per CCF (1CCF =748 Gallons):	
0 to 5 CCF	<del>\$1.38</del> <u>381.4781</u> per CCF
6 to 9 CCF	<del>\$5.32</del> <u>715.6901</u> per CCF
10 CCF and over	<del>\$5.41</del> <u>685.7860</u> per CCF
<u>5/8” meters</u>	<u>\$3.4715/month</u>
<u>1” meters</u>	<u>\$11.6856/month</u>
Hospitals, universities and similar type institutions, such reasonable rates by contract as may be deemed equitable, taking into consideration volume of sewage, delivery of sewage directly to the city’s main pressure sewers, and any other relevant factors.	

<b>Solid Waste Collection Fee Schedule. City Code Section 54-187</b>		
<del>Residential, Residences, auxiliary living unit, duplexes, multi-family, condominium, and</del> apartments of six units or less:		
A. Garbage and trash (maximum volume based on structure):	<del>Quarterly</del> <del>Discounted</del> <del>Annual Rate</del>	Annual <u>Rate</u>
<del>Residences- General Residential Property</del> (max. two 30-gallon cans, one cubic yard of trash per week)	<del>\$203.00</del> <u>743.00</u>	<del>\$729.00</del> <u>869.00</u>

One auxiliary living unit (each unit max. one 30-gallon can and one-half ( 1/2) cubic yard of trash per week)	<del>\$102.00</del> <u>371.00</u>	<del>\$364.00</del> <u>435.00</u>
<del>Duplexes (max. two 30-gallon cans for each unit, two cubic yards of trash per week total for both units)</del>	<del>\$407.00</del>	<del>\$1,459.00</del>
<del>Apartments (each unit max. one 30-gallon can per unit, one-half cubic yard of trash each unit, based on total units for each building)</del>	<del>\$102.00</del>	<del>\$364.00</del>
B. Large bulky item pickup fee:		
For special pickup of large household or other bulky items (e.g. furniture, appliances, fixtures, large tree stumps, etc.)	\$50.00 each piece	
C. Code violation trash removal dispatch fee:		
For dispatching a special trash removal operation associated with a code violation	\$50.00 each occurrence plus \$10.00 per cubic yard of trash	
D. Excess trash removal fee:		
For removal of excess trash in quantities greater than maximum allowed yardage per type of structure	\$10.00 per cubic yard	
E. Special solid waste collection service fees:		
Trash – Fee for deployment of trash collection crew on an unscheduled day	\$150.00 per incident plus \$10.00 per cubic yard collected	

**SECTION 3.** Future amendments to the Zoning Code that change the numbering of the code sections for which fees are charged in this document shall not affect the particular fees or fines. Future amendments to the City Code that change the numbering of the code sections for which fees are charged in this document shall not affect the particular fees or fines.

**SECTION 4.** If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

**SECTION 5.** This resolution shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS FOURTEENTH DAY OF JUNE, A.D., 2016.

(Moved:

APPROVED:

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JIM CASON  
MAYOR

ATTEST:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

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WALTER J. FOEMAN  
CITY CLERK

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CRAIG E. LEEN  
CITY ATTORNEY





**City of Coral Gables**  
**CITY COMMISSION MEETING**  
**June 14, 2016**

**ITEM TITLE:**

**A Resolution amending Ordinance 2015-17, as amended, to adjust the Storm Water Fee, Sanitary Sewer Charges, and Solid Waste Collection Fees, providing for severability, and an effective date.**

**DEPARTMENT HEAD RECOMMENDATION:**

Approval.

**BRIEF HISTORY:**

**This Resolution adjusts the Storm Water Fee, Sanitary Sewer Charges and the Solid Waste Collection Fees as follows:**

**Storm Water Fee** - The funds from this increase will be segregated specifically for capital infrastructure improvements in anticipation of the Sea Level Rise Assessment currently underway. To cover the cost of these improvements the Storm Water Fee needs to be adjusted from \$8.80 to \$11.89 per Equivalent Residential Unit (ERU) per month.

**Sanitary Sewer Charges** – The City is anticipating a ten percent increase in Miami-Dade County wastewater treatment and disposal charges that will take effect during Fiscal Year 2016-2017. In addition, The current Consent Decree that the County signed with the FDEP, USEPA and the US Department of Justice requires the County and its municipalities to make changes to their sanitary sewer operating practices in order to insure compliance with State and Federal codes for the operation of sanitary sewer collection systems. The Consent Decree mandates that the City maintain a Sanitary Sewer staff level based on the size of our Sanitary Sewer System. In order to comply, the City must hire an additional full time Maintenance Repair Worker. To cover the cost of the wastewater fee increase and the additional Maintenance Repair Worker this resolution adjusts the City's Sanitary Sewer Charges from \$1.3838 to \$1.4781 per CCF for less than 1 CCF to 5 CCFs, from \$5.3271 to \$5.6901 per CCF for greater than 5 CCFs to 9 CCFs, from \$5.4168 to \$5.7860 per CCF for greater than 9 CCFs, from \$3.25/month to \$3.4715/month for 5/8" meters and from \$10.94 to \$11.6856 for 1" meters.

**Solid Waste Collection Fees** - Miami-Dade County Department of Solid Waste Management is scheduled to increase the Solid Waste Disposal Fee that is charged to the City for solid waste and trash taken to the County's waste disposal site. This Resolution will pass through the Miami-Dade disposal fee increase and cover other operating costs by adjusting the Solid Waste Collection Fees charged to Coral Gables residential customers by 2% for those who choose to pay the discounted fee as provided for in City Code Sec. 54-185 on or before August 15, 2016, and 7% for those who will pay their solid waste bills as part of the Miami Dade County Tax Bill as provided for in City Code Sec. 54-192.

The fee changes are as follows:

- **General Residential Property** – discounted annual fee (if paid on or before August 15, 2016) from \$729 to \$743 and from \$812 to \$869 for payments made as part of the tax bill;
- **Auxiliary Living Units**– discounted annual fee (if paid on or before August 15, 2016) from \$364 to \$371 and from \$408 to \$435 for payments made as part of the tax bill;

Please note that similar to property tax rules, those customers who pay their total tax bill in November

**AGENDA ITEM NO.**

(which will include the solid waste special assessment if not paid directly to the City on or before August 15, 2016) will receive a 4% discount on their solid waste bill, in December a 3% discount, in January a 2% discount and in February a 1% discount.

**LEGISLATIVE ACTION:**

Date:	Resolution/Ordinance No.	Comments
6/16/15	Ordinance 2015-17	Fee Ordinance
3/15/16	Resolution No. 2016-75	Amended fee resolution

**APPROVED BY:**

Department Director	City Attorney	City Manager
		 FOR

**ATTACHMENT(S):**

- 1. Proposed Resolution

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2015-196 (AS AMENDED)**

**A RESOLUTION AMENDING ORDINANCE NO. 2015-17 TO REVISE THE SANITARY SEWER FEE SCHEDULE, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City charges a flat fee of \$35.26 per month for sanitary sewer usage up to and including 7 CCFs (1 CCF = 748 Gallons) plus \$5.04 per month for each CCF over the first 7 CCFs included in the flat fee. This structure is fairly costly for some users who consume less than 7 CCFs by charging them \$35.26/month whether they use 7 CCFs or not. A fee structure that charges actual usage by a per-CCF fee would be a more equitable solution for lower volume users; and

**WHEREAS**, the current fee structure does not address the ongoing need to conserve water. As stated above, the cost for each CCF above the initial flat fee is \$5.04 per month. That per-CCF cost remains the same no matter how much water is used. Introducing per-CCF fees that increase with increased usage will help incentivize consumers to reduce their water usage; and

**WHEREAS**, staff recommends a fee structure that charges users \$2.7879 per CCF for 0 to 5 CCFs, \$5.3271 per CCF for 6 to 9 CCFs, and \$5.4168 per CCF for 10 CCFs and higher; and

**WHEREAS**, the Miami-Dade County Board of Commissioners will be meeting subsequent to the signing of this resolution to approve the final County pass-through Waste Water Treatment rates and staff recommends adjusting the first tier rate of \$2.7879 per CCF to match the first tier rate approved by the County;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution upon adoption hereof.

**SECTION 2.** That the City Commission hereby revises the sanitary sewer fees to \$2.7879 per CCF for 0 to 5 CCFs, \$5.3271 per CCF for 6 to 9 CCFs, and \$5.4168 per CCF for 10 CCFs and higher.

**SECTION 3.** That the City Commission authorizes adjusting the aforementioned first tier rate of \$2.7879 per CCF to match the final County pass-through rate if updated by the Miami-Dade County Board of Commissioners subsequent to the signing of this resolution.

**SECTION 4.** That this resolution shall become effective October 1, 2015.

PASSED AND ADOPTED THIS TWENTY-FIFTH DAY OF AUGUST, A.D., 2015.  
(Moved: Lago / Seconded: Slesnick)  
(Yeas: Quesada, Slesnick, Keon, Lago, Cason)  
(Unanimous: 5-0 Vote)  
(Agenda Item: H-3)

APPROVED:



JIM CASON  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



CRAIG E. LEEN  
CITY ATTORNEY

**CITY OF CORAL GABLES  
FY17 UTILITY FEE INCREASE OPTIONS**

**FY17 SANITARY SEWER - Fee Increase**

	AMOUNT NEEDED	CURRENT REVENUE	% OF REVENUE	CURRENT FEES	PROPOSED INCREASE	PROPOSED FEES
Additional Staff required by County consent decree	60,000	9,203,279	6.81%	0 to 5 CCFs	\$ 1.3838	\$ 0.0943
County increase (est'd) in Waste Water Disposal Fee	500,000			>5 to 9 CCFs	5.3271	0.3630
				>9 and up	5.4168	0.3692
				5/8" Meter	3.2500	0.2215
				1" Meter	10.9400	0.7456
						11.6856

**FY17 STORMWATER FEE INCREASE - Capital Improvements**

	AMOUNT NEEDED	CURRENT REVENUE	% OF REVENUE	CURRENT ERU	PROPOSED INCREASE	PROPOSED ERU
Storm Water Capital Improvements *	1,000,000	3,130,000	35.14%	\$ 8.80	\$ 3.09	\$ 11.89

\*Infrastructure Improvements in anticipation of Sea Level Rise Assessment

**FY17 SOLID WASTE FEE INCREASE - Pass Through of County Disposal Fees & Other Expenses**

	CURRENT RATES		% INCREASE	REVISED RATES		REVENUE		AMOUNT GENERATED
	PRE-TAX BILL	ON TAX BILL		PRE-TAX BILL	ON TAX BILL	CURRENT	REVISED	
<b>NEW NEEDS CHARGED TO ALL USERS</b>								
Single Fam.	729	812	2.00%	744	828	8,560,000	8,731,200	171,200
Aux. Units	364	408		371	416			
Duplexes	1,459	1,628		1,488	1,661			
<b>TAX BILL FEE AND ADMIN FEE (Charged only to those users paying on the tax bill)</b>								
Single Fam.		828	5.00%		870	8,731,200	9,022,240	291,040
Aux. Units		416			437			
Duplexes		1,661			1,744			
Increase of recycling tonnage fee from \$0/ton to \$25/ton							57,500	
Implement 2 hazardous waste collection events							70,000	
Increase in tipping fee							34,305	
Cost of Tax Bill payment and related admin fee @ 4% +1% X 2/3 of accounts						8,721,805	290,727	