

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
May 20, 2026

Agenda Item:

Resolution No. 2026-07 final non-ad valorem assessment roll for Cypress Bend RV Resort package plant to central sewer system project

Motion to adopt Resolution No. 2026-07.

Background:

The Village of Estero has within its boundaries an existing residential community known as Cypress Bend RV Resort (Cypress). As an older community within Lee County, Cypress is not connected to the centralized sanitary sewage system but instead has been served by what is known as a “package plant” which treats sewage onsite and is privately operated by Cypress.

The Village has for some years been planning to address such circumstances within the Village by planning and assembling funding for a series of Utility Extension Projects (UEP) to include the Cypress project (the “Project”). The Village has determined that the Cypress package plant is failing and has contributed to discharges which are harmful to the Cypress community’s property values, its environment, water quality, and which are inconsistent with state and federal environmental regulations which the community’s package plant are subject to.

While local government often funds jurisdiction-wide projects through general (ad valorem) funds, where a project uniquely benefits certain properties, local government can use a special assessment method to pay for the projects. Special assessments are charges assessed against the property of some particular locality because that property derives some special benefit from the expenditure of the money.

To create a special assessment, the property assessed must derive a direct, special benefit from the service provided and that the assessment must be fairly and reasonably apportioned among properties that receive the special benefit and irrespective of the size of the geographic area being assessed. The test for the validity of a special assessment is not merely whether some benefit results from the assessment, but rather whether the improvement or service provides a direct, special benefit to the real property burdened.

Florida's courts have confirmed that a local government's legislative determination of a special benefit warranting a special assessment carries presumption of correctness and there is a presumption of special benefit to all property abutting on or directly served by the project, for purposes of determining whether special assessment may be made. The apportionment of assessments on real property to finance contemplated improvements, such as local sewer improvements, is a legislative function and if reasonable men may differ as to whether property assessed was benefited by improvement, determination of the city officials as to such benefits must be sustained by the courts.

In this case, the Project will result in the decommissioning and demolition of the Cypress package plant and placing the Cypress community onto the Lee County Utilities sanitary sewer system.

Prior to determining to proceed with a non-ad valorem assessment for the Project, the Village retained the services of an independent utility consulting firm which specializes in the study of community-specific utility projects and developing appropriate assessment methodology. The Village has received the consulting firm's report and recommendations with respect to the Project which contains the consultant's findings of special benefit and the proposed assessment apportionment and apportionment methodology.

The consulting firm's report and recommendations establish that the Project will convey special benefits to including:

- The enhancement of resident health by removing the risks of potential environmental contamination often associated with older or on-site treatment systems;
- Elimination of the burden of maintenance and liability for individual outdated package systems;
- Ensuring a more reliable and sanitary waste disposal method for residents as opposed to the current, less effective means of treating wastewater;
- Increase in the marketability and value of the overall property and homesites therein since a reliable connection to centralized sanitary sewer is a key selling point that can make a property more attractive to prospective buyers;
- Increase of the utility of property within the assessment area by reducing the land needed for on-site package sewage treatment facilities;
- Future development and redevelopment potential of the assessment area or parcels within the assessment area is improved, which in turn provides a greater return on investment for property owners;

There would be no need for the Village to undertake the Project but for the unique need for the community within the assessment area to decommission its existing package plant and become connected to and gain the use of the central sewer system.

Florida law provides several statutory options to create a special assessment. Florida Statutes § 197.3632(3)(a) requires that if the Village desires to use the uniform method of collecting a non-ad valorem assessment for the first time, the Village Council shall adopt a resolution at a public hearing prior to January 1, which resolution shall clearly state its intent to use the uniform method of collecting such assessment.

Staff recommends that if Cypress owners are unable to pay the construction costs for their respective units up front (with a payment date no later than August 1st 2026), pursuant to the statute, the Village should utilize the uniform method for collecting non-ad valorem capital project assessments imposed over a number of years to recoup capital construction costs of the Project for the existing residential area known as Cypress Bend RV Resort.

Cypress property owners do have the option to pay their portion of the Project cost (net of the grant and any approved Village contribution) so as to avoid the use of the special assessment process. As set forth in Exhibit "B" to the Resolution, each unit/owner would need to make a **one-time payment of \$4,339** by August 1st 2026 to avoid being assessed.

Should all such owners avail themselves of that option, then staff will simply not proceed with confirming the assessment to the Tax Collector and no special assessment would be required. Nevertheless, since it is possible that not every property owner within the Cypress community will pre-pay their share of the Project's costs, and to ensure the Village's legal option of using a special assessment for the project is preserved, adoption of the Resolution is required. For any owner who does not pre-pay, the owner would be subject to an assessment on the tax bill for the next ten years at an amount of **\$711 per year** (again as outlined in Exhibit "B" to the Resolution).

In accordance with Florida Statutes § 197.3632(3)(a), the Village Clerk published notice of the Village's intent to use the uniform method for collecting such assessment, and notice of a public hearing to consider adoption of this Resolution, one time per week in a newspaper of general circulation within Lee County for four consecutive weeks preceding the hearing to adopt this Resolution. Thereafter, on December 3rd 2025, the Village Council held a duly noticed public hearing and adopted Resolution 2025-24 confirming the Village's intent to use the uniform method of assessment.

As required by Florida Statutes § 197.3632(2), the Village has agreed with the Property Appraiser and Tax Collector in writing regarding reimbursement of the necessary administrative costs incurred by those offices related to the assessments imposed pursuant to the assessment Resolution.

Pursuant to Florida Statutes § 197.3632(4)(a), a local government must adopt a non-ad valorem assessment roll at a public hearing where the assessment levy is being set for the first time. Pursuant to Florida Statutes § 197.3632(4)(b), the Village Clerk has confirmed the Village provided notice of the public hearing in the newspaper and by first class mail as the statute requires.

At the public hearing conducted to adopt this Resolution, the Village Council must afford the opportunity for the public to submit any written objections to the assessment, or to provide testimony regarding the assessment.

Action Requested:

Motion to adopt Resolution No. 2026-07.

Process and Timeline:

If approved by Council, Village staff will proceed to work with the Cypress property owners to secure early cost payments from as many such owners as wish to avail themselves of that option. If that option is not used by all owners, staff will also work with the Tax Collector to ensure the non-ad valorem assessment adopted by this Resolution is collected on the tax bills of assessed properties.

Financial Impact:

Adoption of this Resolution does not have a financial impact on the Village.

Prepared by: Robert Eschenfelder, Village Attorney

Attachment(s):

1. Resolution No. 2026-07
2. Exhibit A Cypress Bend Utility Assessment Area
3. Exhibit B Assessment Memo