



REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: March 4, 2008

SUBJECT: Correction of the Schedule of Services for Water and Sewer Usage

Report in Brief

On June 7th 2005 Council formally adopted Resolution 4655, which included a Schedule of Services establishing a phased increase in water and sewer rates. Those rates, along with an annual inflation adjustment process, were initially approved by Council action on April 19, 2005. The June 7th action was taken when it was recognized that utility rates needed to be adopted by Resolution per City Code. Due to an administrative oversight, the Schedule of Services adopted by Resolution in June failed to include the annual inflation adjustment process that was approved in the April 19th action. Additionally, the April 19th action incorrectly listed the Construction Cost Index as the annual inflation adjustment index, where it should have been the Consumer Price Index as formally noticed to the rate payers during the Proposition 218 process. The action proposed herein will correct those administrative oversights.

Staff recommends that the City Council adopt Resolution ____ which will add the indexing factor based on the Consumer Price Index, and commencing one year after the end of each of the respective, phased-in rate increases, use the previous year's CPI change to adjust the rates for inflation.

Background

As noted in the Legislative History (page 1 of attachment 2) and the April 19th 2005 Council Communication (page 2 of attachment 2), Council adopted new, phased rate increases for water and sewer services, including a 'indexing' factor to adjust rates annually for inflation after the initial phase in period. The noticing to the public stated the rates will be adjusted annually by the change in the Consumer Price Index (CPI) after the initial phased rate increases take place. However the April 19th Council action incorrectly listed the Engineering News Record Construction Cost Index (CCI) as the index (see item 2 and 3 of Recommended Action on page 2 of attachment 2). The recommended action should have referred to the Consumer Price Index (CPI) instead of the CCI, as the CPI was the index noticed to the rate payers (see bottom of pages 7, 8, 17, and 18 of attachment 2).

It was subsequently realized that per City Code section 23C-7-4, utility rates need to be adopted by resolution. Accordingly, the June 7th 2005 Council Communication adopted by Resolution 4655 the phased in rates that were approved April 19th, but failed to include the annual adjustment by an index factor.

The revenue stream used to analyze the Performa for the sewer enterprise fund, which included projected debt payments on the 30 year 2005 Wastewater Revenue Bonds, was based on inclusion of the adopted rate increase and use of an annual inflation index.

Discussion

The proposed action adopts the Consumer Price Index (CPI) as the annual inflator by Resolution.

The April 19th Council action included “(2) set the indexing factor based on the ENR Construction Cost Index, and (3) commencing 1 year after the end of each of the respective, phased in rate increase, use the previous year’s Construction Cost Index change to adjust the rates for inflation.” The Council action on April 19th complied with all Proposition 218 requirements, except that it referenced the CCI instead of the CPI. The required Notice to the Property Owners (on page 15 of attachment 2) specified that rates “would be phased in ... with an annual cost escalator thereafter”. The rate tables included with that notice to Property Owners included a footnote (pages 17 and 18) stating “...rates will be adjusted annually by the change in the Consumer Price Index.”

The failure to include the annual inflation adjuster in the subsequent June 7th Resolution, and including it at this point, does not trigger additional Proposition 218 procedural requirements. The first annual inflation adjustment will not be effective until July 2008 for water rates and July 2009 for sewer rates.

Fiscal Impact

Failure to adopt the annual inflation adjustment could jeopardize compliance repayment obligations of the sewer enterprise fund to properly fund operations and maintenance and make debt payments on outstanding bond obligations.

Public Contact

The proposed inflation adjuster was within the Proposition 218 notices and reviewed in association with the hearings that preceded Council’s adoption of the fees and inflation adjuster on April 19, 2005. Therefore, the proposed action does not require Proposition 218 public notification actions.

Council Committee Recommendation

The City Council Infrastructure Committee has reviewed this proposed action and recommends adoption by Council.

Recommendation for Action

Staff recommends the City Council adopt Resolution ____ which will add the indexing factor based on the Consumer Price Index, and commencing one year after the end of each of the respective, phased-in rate increases, use the previous year's CPI change to adjust the rates for inflation.

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Attachments:

1. Resolution
 2. Reference Material
- Page: 1 Legislative History
2 Council Communication of April 19, 2005
13 Utility Rate Analysis-Legal Notice of Public Hearing (March 1, 2005)
19 Council Communication of June 7, 2005