

**CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda date: July 19, 2010  
Reviewed by: BP

**SUBJECT:** Public Hearing on Proposal to increase monthly sewer service charges for purposes of environmental compliance

**FROM:** Richard Cunningham, Public Works Manager  
Randy Leptien, City Engineer

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**RECOMMENDATION**

1. Conduct Public Hearing
2. Adopt Resolution #2010-39, establishing an increase of two dollars per month in sewer service charge rates during each of the next five years (\$10 total increase per month) for environmental compliance, and continuing the annual rate adjustment based on the Consumer Price Index (CPI).

**BACKGROUND**

Sanitary Sewer Overflows (SSOs) from sewer collection systems throughout California cities and communities have caused beach closures, have polluted streams and creeks and are a threat to the public health and safety. Regulatory agencies including the Regional Water Quality Control Board (Regional Water Board), the State Water Resources Control Board (State Water Board) and the Environmental Protection Agency (EPA) are working with municipal sewer agencies in a coordinated effort to prevent SSOs from public sewer systems.

On July 7, 2005 the Regional Water Board, working in concert with the Bay Area Clean Water Agencies (BACWA) issued new requirements for public sanitary sewer collection system agencies to develop and implement a Sanitary Sewer Management Plan (SSMP) in three phases over a three-year period.

On May 2, 2006, the State Water Board adopted Statewide General Waste Discharge Requirements (WDR) for Sanitary Sewer Systems, Order No. 2006-003-DWQ. This Order required the development and implementation of a SSMP by all public sewer collection system agencies of California in several phases within 51 months of the adoption of the order.

On July 2, 2007, the Albany City Council following a duly noticed and conducted public hearing approved an increase in the sewer service charges of \$8 per year and reaffirmed a previously approved increase in rates by the Consumer Price Index (CPI). The stated purpose of this increase was to provide funding for the development of a SSMP and for implementing a scheduled maintenance plan for sewer mains. The increase did not

include funding for acceleration in the rate of replacement of the City's aging wastewater collection system, should the investigations find this to be necessary.

The City's SSMP, completed in August of 2008, provides for a programmed and proactive approach to the investigation and management of the City's wastewater collection system. SSMP activities include extensive video inspection, cleaning, root control, fats, oils and grease control, smoke testing, pipeline condition assessment and rating and capacity evaluation. The intent of the SSMP is to provide for a schedule of maintenance, investigations, rehabilitation and replacement of the City's aging wastewater collection system with the ultimate goal of eliminating SSOs from the system.

In May of 2009, the United States Environmental Protection Agency (EPA) issued an Administrative Order (AO) to EBMUD, the city of Albany and the other EBMUD satellite communities. Prior to the issuance of the AO, EBMUD and its satellites were permitted to discharge wastewater with less than secondary treatment at specified locations during rainfall events that exceeded a recurrence interval of 5 years. The AO prohibits this practice and requires EBMUD and its satellites to "tighten" up the collection system to "further" reduce rainfall infiltration and inflow as necessary to eliminate the wet weather discharges to the bay.

On July 6, 2009, following a public hearing, the Council approved the City's SSMP and on July 20, 2009 the Council approved a proposal from Bartle Wells Associates, Independent Public Finance Advisors of Berkeley, CA to prepare a Wastewater Financial Plan and Rate Review for the City of Albany.

## **DISCUSSION**

In 1987 the State Regional Water Quality Control Board (SRWQCB) issued a Cease and Desist Order (CDO) to the Cities of Albany, Berkeley, Emeryville, Oakland, Piedmont, Alameda, EBMUD and the Stege Sanitary District. Permission to continue to discharge treated wastewater to the San Francisco Bay was conditioned upon each City adopting a Sewer Compliance Plan which is administered under the National Pollution Elimination System (NPDES) Permit issued to each jurisdiction by the State. The City's NPDES permit requires the City to participate in a regionally administered Infiltration and Inflow Correction Program (I/ICP) that requires all sanitary sewer overflows for a 5 year storm or less to be eliminated and that groundwater infiltration and inflow to the EBMUD trunk sewer and treatment facilities be reduced by approximately 25%.

The City has been making steady progress under the program and since 1987 has replaced approximately 11 of the 35 miles of public sewer mains in the system. In addition, the City, since 1993 has been proactive in implementing and enforcing a private sewer lateral rehabilitation program, which has been regionally acclaimed. Overall the City has nearly achieved the I/I reduction goal imposed under the 1987 CDO. The current rate of replacement equates to approximately one half mile (or approximately two and one half blocks) of mainline and equal length of laterals per year.

In order to meet the requirements of the 2009 AO the City will need to increase the rate at which aging wastewater collection facilities are rehabilitated and/or replaced. In very rough terms, the average rate of replacement will need to increase to approximately five blocks per year. This will require an increase in the Capital Improvement Plan (CIP) sewer program expenditures. This increase was not included in the previously authorized increase in rates approved by the Council in 2007.

Bartle Wells Associates completed the City's Wastewater Financial Plan and Rate Review (the BWA Report) in May of 2007. The BWA Report, a copy of which is attached was submitted for consideration by the Council on May 17, 2010. The BWA Report:

1. finds that the current Sewer Enterprise Revenues total approximately \$2.3 million per year and that the Sewer Service Charge makes up nearly \$2.1 million of this total. In 2009/10 the City has budgeted Sewer Enterprise fund expenditures under four basic programs. These programs include (1) operations and maintenance (2) spot repairs and rehabilitation (3) SSMP activities and (4) collection system (CIP) projects. The total of the expenditures in these program areas in the 2009-2010 FY plus bond payments totaled \$2.6 million.
2. recommends that the City maintain a minimum sewer enterprise fund balance of 60% of the estimated operating expense for the next fiscal year plus a capital/emergency minimum reserve of \$1.5 million. The total minimum balance for 2010-11 would amount to \$2.8 million.
3. observes that the excess of the total program expense over the total revenue in 2009-10 is being paid from the balance in the Sewer Enterprise Fund and that Staff anticipates that in order to meet the accelerated replacement rehabilitation and replacement schedule required by the AO issued by the EPA and the findings from the SSMP investigations conducted to date, that it will be necessary to increase the commitment to pipeline spot repairs and rehabilitation and to Collection System Projects in the future.
4. identifies a rate increase that will be necessary to achieve the required rehabilitation and replacement program and to maintain the minimum recommended balance of \$2.8 million at the end of each year.
5. proposes that expenses for Collection System Projects increase by approximately 10% per year over the next five years from \$500,000 to \$1 million per year in FY 2015-16 and that the budget for spot repairs immediately increase from \$250,000 to \$500,000 per year.
6. proposes expenditures continue to be increased by the Consumer Price Index (CPI) in each year in order to keep pace with the cost of living.
7. recommends that sewer service charge rates be increased in order to maintain the minimum recommended balance and accelerate the replacement program as proposed by Staff. As proposed by Bartle Wells Associates, the rate of increase would vary from 11.7% in 2010-11 to 8.1% in 2014-15. Adjustments following 2014-15 would be made according to the CPI.
8. proposes that rates be increased by \$2.96 per month for the 2010/11 FY followed by an increase of \$3.00 per month for the next successive 4 years and thereafter by the increase in the CPI.
9. indicates that Albany is currently the second highest among the EBMUD satellite agencies included in the original 1986 CDO.

Two things should be noted when comparing the Albany sewer service charge with other EBMUD satellite sanitation agencies.

- 1) In 1993, Albany became one of the first communities in Northern California and the nation to commit to maintaining the lower lateral, i.e. the portion of the house sewer that is located in the public street or right of way. This policy which also requires the homeowner to systematically replace the upper portion of the lateral, i.e. from the curb to the house, upon sale or remodel of the home and to install a standard two way cleanout which permits the City with access to the lower portion of the lateral. The commitment to maintenance of the lower lateral essentially doubles the length of sewers that the City maintains. Therefore the effective Albany rate, when compared with other agencies is approximately one half the amount indicated. This analysis makes the Albany rate very competitive with the other satellite agencies.
- 2) Several of the satellite agencies are also proposing increases in response to the AO issued by the EPA.

On May 17, 2010, Staff recommended, that rates be increased by \$2.00 per month plus the previously authorized increase in the CPI for the next five years and thereafter by the increase in the CPI. The total amount of the proposed increase at the end of five years, not including the CPI will be \$120.

Also on May 17, 2010, Council inquired as to whether it would be possible to provide a reduced rate for Senior Citizens. Article XIII D of the State Constitution requires that the amount of a property related fee or charge must not exceed the proportional cost of the service attributable to the parcel. It is staffs opinion that this provision effectively prohibits preferential rates such as life line or senior citizen rates in the absence of a study making such a finding. Staff searched on line and determined that the City of Fresno discounts rates 10% for seniors, but is unclear as to the research and reporting that may have been made in support of this policy decision. It is therefore recommended that residential rates be uniform. It is to be noted that the State of California provides a property tax deferral program for qualifying (low income) property owners which provides for the deferral of any charge collected with property taxes.

## **PROCEEDINGS**

The City's Sewer Service Charge, was established in 1994, and is authorized under Chapter XV Article 15-1.7 of the Albany Municipal Code. Service charges are collected annually with County taxes. Prior to 1994, charges for sewer service were collected on the EBMUD utility bills.

On May 17, 2010 the Council adopted Resolution#2010-23 declaring intention to increase sewer service charges annually and setting a public hearing and directing the mailing of notices. Notices of the proposed public hearing were mailed 45 days in advance of the hearing date to all property owners with sewer service as required by Section 6 of Article XIII D of California Constitution, and Section 53750 of the

Government Code. A certificate of mailing is attached. In addition, notice of the hearing was published in the newspaper.

The mailed notice indicated a procedure for submitting written protests and indicated that written protests from a majority of property owners will prevent imposition of the proposed increase in the sewer service charge.

At the time that this report was prepared Staff had received just three telephone calls concerning the proposed increase. No written or oral protests have been received.

On July 19, 2010 Council may receive an update on protests filed prior to the public hearing. Following this the hearing must be opened and any interested person allowed to speak. Upon conclusion of public comment, the hearing should be closed and the matter brought back to the Council for decision. Staff should be called upon to indicate that a majority protest to the proposed increase does not exist. Following this, Council may consider adopting the resolution providing for the increase as recommended or in any amount less than the amount provided in the mailed notice.

### **SUSTAINABILITY IMPACT**

Reduction of SSOs will reduce the associated vehicle and pumping costs associated the response to SSOs. The reduction of infiltration and inflow to the sanitary sewer system reduces the energy consumption associated with the EBMUD pump stations at wet weather facilities and at the wastewater treatment plant. The systematic elimination of SSOs will improve the quality of the Bay and the creeks tributary to the Bay and the overall quality of life in Albany.

### **FINANCIAL IMPACT**

The 2009-10 monthly rate for sewer service is \$25.29. The recommended increase would bring it to \$27.29, plus the change in the CPI. This rate increase is projected to generate an additional \$180,000 per year for each of the next five years, bringing the total increase annual revenue increase to \$900,000 at the end of the five-year period.

If the proposed increase is not implemented the proposed sewer spot repair and capital replacement programs will have to be reduced to meet the funds available. This will increase the probabilities that SSOs will occur and expose the City to unknown costs relating to the response, cleanup and administrative penalties related thereto.

### **Attachments:**

Wastewater Financial Plan and Rate Review dated May 2010 by Bartle Wells Associates  
Certificate of Mailing  
Resolution #2010 -39