

E Environment Committee

Meeting date: April 13, 2010

For Metropolitan Council Meeting of April 28, 2010

ADVISORY INFORMATION

Date:	April 2, 2010
Subject:	Authorization to Hold a Public Hearing on the Service Availability Charge (SAC) Transfer Amount which impacts Sewer Availability Charges and Municipal Wastewater Charges
District(s), Member(s):	All
Policy/Legal Reference:	Council Admin. Policies 3-2-5 (SAC) and 2-1 (Public Hearings); Water Resources Management Policy Plan's Policy on Rates and Charges, and Minn. Statute 473.517
Staff Presented/Prepared:	Jason Willett (651-602-1196)
Division/Department:	MCES c/o William G. Moore (651-602-1162)

Proposed Action

That the Metropolitan Council authorizes staff to schedule and hold a public hearing to gather public input on the Service Availability Charges (SAC) Transfer Amount proposed for the 2011 MCES Budget.

Background

State law requires that the Metropolitan Council charge local government units the costs of reserve capacity (unused wastewater capacity in our pipes and plants) that was and is built into the metropolitan sewer system for future use. Since 1973, the Council and its predecessor agencies have complied with this law by implementing the SAC system. The SAC fee has allowed the Council to efficiently build reserve capacity for future users into our capital projects. It has moved the cost of this reserve capacity from a direct city (lump sum) cost, as was charged prior to SAC, to a pay-as-you-build system and, as a result, transferred the development risk from cities for which the reserve capacity is built to the region. Moreover, this method has mitigated that risk because of the regional diversity in development; that is, if development was not occurring in one city it was in others.

SAC units, which until recent years were averaging about 20,000 units paid per year. In 2008, this dropped to a record low of 10,470 then dropped further to 6,675 in 2009. This caused the SAC reserve fund balance to drop from \$55.3 million at year end 2008 to \$31.6 million at year end 2009. If development and associated SAC receipts continue to remain low, there is a high risk of depleting this reserve fund.

Currently there is little new development throughout the entire region and consequently a dramatic decline in SAC revenues. Moreover, predictions are not for a quick recovery. SAC rates can not reasonably be raised enough to make the normal SAC Transfer Amount. This situation was anticipated and legislation was pursued and was recently enacted into law to allow a reduction in the SAC Transfer Amount. A reduction in the SAC Transfer Amount likely means that the municipal wastewater charges will need to be raised to cover the amount not transferred from SAC (a "shift" to the municipal wastewater charges). Without a reduction in the SAC

Transfer Amount, the SAC rates would have to be increased at a rate that might drive development out of the sewerred area and/or may inhibit the economic recovery in the Region.

Rationale

The SAC legislation was signed into law by the Governor on April 1st. This bill (attached) requires the Council, "if after appropriate study and a public hearing" to make a determination "that for the next fiscal year a reduction in the (normal) SAC Transfer Amount is necessary or desirable to insure adequate funds remain in the wastewater reserve capacity fund, based on a goal of maintaining at least the next years' estimated SAC Transfer Amount in the Wastewater Reserve Capacity Fund". Preliminary analysis indicates that a reduction in the SAC Transfer is likely needed for 2011. We expect to develop and provide details of the recommended shift and further study thereof, to the Reserve Capacity/SAC Task Force, the Environment Committee, then to our regular municipal and industrial customer forums. However, because of the long lead time expected for notice of a formal public hearing, scheduling it soon is necessary to proceed with our normal rate setting schedule.

Funding

The regional wastewater systems costs will continue to be fully funded by fee and miscellaneous wastewater related revenues.

The impact of the shift that will be proposed is a reduction in the SAC Transfer Amount for 2011, which would result in a larger portion of the expenses of incurred capital project costs (mostly debt service) being paid by current users. The legislation requires that when development picks up and the wastewater reserve capacity fund is rebuilt to twice the expected SAC Transfer Amount, the shift will reverse, restoring (roughly) the equity between current and future users.

Municipal Wastewater Charges will temporarily increase due to this shift. However, these rates are quite competitive when compared nationally or within Minnesota to cities with mechanical wastewater treatment facilities. That competitiveness is not expected to change.

Known Support / Opposition

None. MetroCities (aka AMM) and interested cities from the Task Force supported the necessity for the bill that authorizes the potential shift, they also negotiated some of the provisions of it. The Minnesota Public Facilities Authority (PFA) also publicly supported the bill.

Calendar

If this item is approved, the public hearing be held on June 16, 2010. The following is a tentative schedule for approval of this shift and adoption of 2011 rates and charges:

Environment Committee authorization to conduct the public hearing	April 13, 2010
Council authorization to hold a public hearing	April 28, 2010

Environment Committee review of proposed 2011 operating budget, rates, and SAC shift (information for customer forums)	June 8, 2010
Regular customer forums (municipal and industrial)	June 14-22, 2010
Formal public hearing on SAC shift	June 16, 2010
Formal public input period on SAC shift ends	June 26, 2010
Environment Committee review of public input, and recommendations for operating budget, Rates and Charges for 2011	July 13, 2010
Potential Council approval of charges and rates	July 28, 2010
Notice to cities of 2011 rates and charges	August 2010
New rates and charges becomes effective	January 2011

SAC bill HF2949/SF _____

Minnesota Session Laws

Key: (1) ~~language to be deleted~~ (2) new language

2010, Regular Session

This document represents the act as presented to the governor. The version passed by the legislature is the final engrossment. It does not represent the official 2010 session law, which will be available here summer 2010.

CHAPTER 212--H.F.No. 2949

An act

relating to metropolitan government; modifying provisions for the allocation of treatment works and interceptors reserved capacity costs; amending Minnesota Statutes 2008, section 473.517, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 473.517, subdivision 3, is amended to read:

Subd. 3. **Allocation of treatment, interceptor costs; reserved capacity.** (a)

In preparing each budget the council shall estimate the current costs of acquisition, betterment, and debt service, only, of the treatment works in the metropolitan disposal system which will not be used to total capacity during the budget year, and the percentage of such capacity which will not be used, and shall deduct the same percentage of such treatment works costs from the current costs allocated under subdivision 1. The council shall also estimate the current costs of acquisition, betterment, and debt service, only, of the interceptors in the metropolitan disposal system that will not be used to total capacity during the budget year, shall estimate the percentage of the total capacity that will not be used, and shall deduct the same percentage of interceptor costs from the current costs allocated under subdivision 1. The total amount so deducted with respect to all treatment works and interceptors in the system shall be allocated among and paid by the respective local government units in the metropolitan area ~~for which system capacity unused each year is reserved for future use, in proportion to the amounts of such capacity reserved for each of them.~~ through a metropolitan sewer availability charge for each new connection or increase in capacity demand to the metropolitan disposal system within each local government unit. Amounts collected through the metropolitan sewer availability charge (SAC) must be deposited in the council's wastewater reserve capacity fund. Each fiscal year an amount from the wastewater reserve capacity fund shall be transferred to the wastewater operating fund for the reserved capacity costs described in this paragraph. For the purposes of this subdivision, the amount transferred from the wastewater reserve capacity fund to the wastewater operating fund shall be referred to as the "SAC transfer amount."

(b) If, after appropriate study and a public hearing, the council determines for the next fiscal year that a reduction of the SAC transfer amount is necessary or desirable to ensure adequate funds remain in the wastewater reserve capacity fund, based on a goal of maintaining at least the next year's estimated SAC transfer amount in the wastewater

reserve capacity fund, the council may reduce the SAC transfer amount for that fiscal year. If the council reduces the SAC transfer amount for the next fiscal year, the council must then increase the metropolitan sewer availability charge not less than the greater of six percent or the annual percentage change in the Consumer Price Index for the metropolitan region for the previous year plus three percentage points. For the purposes of this subdivision, any reduction in the SAC transfer amount shall be referred to as the "SAC transfer deficit." The provisions of this paragraph expire at the end of calendar year 2015.

(c) The council will record on a cumulative basis the total SAC transfer deficit. In any year that the wastewater reserve capacity fund has a year-end balance of at least two years' estimated SAC transfer amount, the council shall increase the subsequent annual SAC transfer amount in excess of the amount required by paragraph (a) with the goal of eliminating the cumulative total SAC transfer deficit. The annual amount by which the council increases the SAC transfer amount shall be determined by the council after appropriate study and a public hearing.

EFFECTIVE DATE.This section is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.