



Agenda Date: 5/17/2017

Agenda Placement: 7C

Napa Sanitation District Board Agenda Letter

TO: Honorable Board of Directors

FROM: Timothy Healy - General Manager
NS-General Manager Office

REPORT BY: Jeff Tucker, Director of Administrative Services/CFO - 707-258-6000

SUBJECT: Adopt Resolution Fixing a Fair and Equitable Capacity Charge for Eligible Buildings with Existing Permitted Industrial Users

RECOMMENDATION

Adopt resolution fixing a fair and equitable capacity charge for eligible buildings with existing permitted industrial users.

EXECUTIVE SUMMARY

District Code requires payments of capacity charges when new connections are made to the sewer system, or when there is a change in use or change in strength of discharge that results in increased loading to the sewer system and treatment plant. Commercial buildings are charged based on the building square footage and the type of use (retail, office, restaurant, etc.), while industrial customers (wineries, food manufacturers, etc.) are charged based on the measured strength and flow of the wastewater.

NapaSan identified a number of facilities connected to the sewer system that housed unpermitted industrial users. Most of those previously unpermitted users have since obtained industrial user permits that give the users a special capacity entitlement that gives the user, but not the property owner, a right to discharge, without paying a capacity charge.

The owners of the properties on which the previously unpermitted industrial users operate desire to have capacity for other industrial users that may occupy their properties in the future. These property owners assert that NapaSan's capacity charge policies were unclear at the time of construction of their buildings and therefore prevented them from using the opportunity to purchase capacity for potential industrial users at the then-current rates. Therefore, the owners assert that it would be "unjust and inequitable" to apply the current capacity charge to their buildings and seek relief in the form of a program to allow temporarily similarly situated property owners to purchase capacity, up to the capacity granted in industrial user permits, at the rates in effect at the time their

buildings were constructed, plus interest.

This resolution establishes a program to address the issues identified for the specific class of building owners, through the establishment of specific criteria in the program. It is not the intention to establish a program that provides refunds to building owners who have already purchased capacity, but to provide a program that brings users and buildings into compliance with District Code and policy. It is intended that the program will be available through December 31, 2018 to allow building owners sufficient time to secure financing for any capacity charges intended to be purchased.

Any capacity charges purchased after the expiration date of this program would be subject to the regular capacity charge fee in place at that time.

Changes from Prior Version - The Resolution was reviewed by the Board at the May 3, 2017 Meeting. The Board gave direction to include a provision in the Resolution to allow for building owners to purchase the Special Capacity Charge over a five year period in an agreement to include additional terms, such as paying 4% per annum interest and imposing a 10% fee on late payments. Following is both a clean version and a redline version of the resolution to show the changes from the last consideration.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

None.

BACKGROUND AND DISCUSSION

None.

SUPPORTING DOCUMENTS

- A . Resolution - Redline Version
- B . Resolution - Clean Version

Napa Sanitation District: Approve

Reviewed By: Timothy Healy