ITEM E/2

June 9, 2021

CONDUCT PUBLIC HEARING ON SEWER SERVICE AND DELINQUENCY CHARGES AND COLLECTION SYSTEM CHARGES AND SURCHARGES; DETERMINE NO MAJORITY PROTESTS EXISTS; ADOPT ORDINANCE ESTABLISHING CHARGES; AND ADOPT RESOLUTION APPROVING WRITTEN REPORT AND DIRECTING COLLECTION OF CERTAIN SEWER SERVICE AND DELINQUENT CHARGES ON COUNTY TAX ROLL

Recommendations

1. Conduct a public hearing on Fiscal Year 2021/2022 (FY21/22) Sewer Service Charges (SSCs) and Delinquency Charges and Collection System Charges and Surcharges;
2. Receive and consider any testimony and protests received;
3. Determine that no majority protest exists within the meaning of Article XIII D, Section 6 of the California Constitution and Health and Safety Code Section 5473.2;
4. Adopt Ordinance (Attachment 1) establishing SSCs and Surcharges to be effective in FY21/22; and
5. Adopt Resolution (Attachment 2) approving Written Report and directing collection of SSCs and delinquent charges on the County Tax Roll.

Summary

The proposed SSC adjustments for FY21/22 include:

- Cost-of-Service (CoS) Study (Attachment 3) findings required adjustments to SSCs for both residential and non-residential customers to rebalance cost allocation between these customer categories. Implementation of CoS findings only (without an SSC revenue increase) in FY21/22 would result in aggregate (i.e., adjustments vary by individual communities and business classes) SSC adjustments of +1.7% and -15.8% for residential and non-residential customers, respectively.
- Applying a 6.5% SSC rate increase for Antioch (District Zone 3) and Pittsburg (District Zone 2) residential customers in FY21/22. The proposed rate increase (does not include wastewater collection services, which are provided by the respective cities) equates to an SSC increase of $26.32 per year or approximately $2.19 per month for residential customers.
- Applying a 5.9% SSC rate increase to Bay Point (District Zone 1) residential customers in FY21/22. The proposed rate increase (includes wastewater collection services provided by the District) equates to an SSC increase of $32.78 per year or approximately $2.73 per month for residential customers.
- Various adjustments to specific business classes (non-residential customers) based on updated CoS findings.

<u>No Proposed Street Sweeping Charge Increase</u>

- Annual street sweeping charges, which vary by community, are not proposed to increase.
  - Annual single-family residential: $4.58 for Bay Point, $10.26 for Pittsburg, $5.60 for Antioch
  - Annual non-residential unit: $45.80 for Bay Point, $51.35 for Pittsburg, $56.00 for Antioch

Background Information

Delta Diablo is a California special district that provides wastewater conveyance and treatment, recycled water production and distribution, renewable energy production, pollution prevention, street sweeping, and household hazardous waste (HHW) collection services to over 215,000 customers in Antioch, Pittsburg, and Bay Point. As a progressive "Utility of the Future," the District embraces innovative approaches, sustainable solutions, and community engagement in achieving its core mission of protecting public health and the environment, while maintaining reasonable rates and serving as responsible stewards of the public's resources and trust. For Bay Point, the District also provides wastewater collection services, and only Bay Point customers are charged for those additional services through a separate SSC component to recover wastewater collection system operating, maintenance, and rehabilitation costs (Bay Point Collections). SSC revenues are not used to pay for any capital costs related to growth, which is funded through the District's Capital Facilities Capacity Charges (CFCCs). The District's SSC revenue is allocated to several key funds to support ongoing operations, as well as capital investment in existing and future infrastructure, as described below.

1. Regional Treatment and Conveyance: Funds facility operation and maintenance (O&M) costs associated with regional wastewater conveyance and treatment, as well as the District's share of the Delta HHW facility expenses.
2. Capital Asset: Funds new wastewater capital projects that are not related to new growth (the District charges separate CFCCs for growth-related capital costs).
3. Capital Asset Replacement: Funds capital infrastructure renewal and replacement projects.
4. Advanced Treatment Reserve: This fund is designed to minimize significant future rate increases by providing dedicated funding to meet a future, more stringent regulatory requirement for advanced wastewater treatment (i.e., removal of nutrients from treated wastewater prior to discharge).
5. Bay Point Collections: This SSC rate component is only collected for Bay Point customers and funds operation and maintenance/rehabilitation of the Bay Point collection system.

Each year, the District submits required information to Contra Costa County to place SSCs on the property tax roll for most customers. The wastewater sector is heavily regulated with new and emerging issues competing with aging infrastructure needs, operating budget challenges (e.g., chemical, energy, hauling costs) regulatory compliance obligations, and limited state and federal funding support. Staff endeavors to meet these challenges while ensuring the District's SSCs remain among the lowest when compared to its peer agencies in the Bay Area region.

Analysis
In order to determine annual revenue requirements to meet operating cost and capital investment needs, the District utilizes a long-term financial plan model that considers a 10-year planning horizon while focusing on balancing revenues and costs by fund over the next 5 years through application of SSC adjustments, operating cost reductions, prioritization of capital investment needs, and financing assumptions (i.e., cash funding versus debt financing). Key model inputs include the preliminary FY21/22 operating budget with estimated increases in subsequent years and the draft FY21/22-FY25/26 Capital Improvement Program (CIP), which was presented to the Board for consideration in draft form on May 12, 2021. The final FY21/22-FY25/26 CIP has been submitted for Board consideration of approval on the June 9, 2021 Board Meeting agenda. In developing the proposed FY21/22 SSCs, staff worked with an experienced financial planning consultant to refine the District's rate modeling approach to effectively support dynamic scenario planning and sensitivity analyses across a range of operating cost, capital investment, existing cash balance use, and financing assumptions, while meeting the District's fiscal policy requirements. This financial planning approach ensures the District is charging rates that are appropriate to recover costs of providing service and in compliance with California law, including Proposition 218. In addition, the proposed FY21/22 SSCs incorporate 2021 Cost-of-Service Study findings, which reapportioned certain costs from non-residential customers to residential customers to ensure SSCs accurately reflect the District's cost of providing services to difference

customer classes. Staff has determined that the proposed FY21/22 SSCs are necessary and meet the following requirements:

- Collects sufficient revenue to meet current and long-term projected costs of operations and maintenance, fund capital investment in aging infrastructure necessary to maintain effective and reliable services, and maintain overall financial stability
- Complies with state-mandated regulatory requirements
- Meets and complies with annual debt service requirements
- Avoids generating operational deficits and depleting reserves
- Complies with California Constitution Article XIII D, Section 6, which includes the following requirements:
  - An agency cannot collect revenue beyond what is necessary to provide service
  - No charge may be imposed for a service unless that service is actually used or immediately available to the owner of the property
  - Revenues derived from the charge shall not be used for any other purpose other than that for which the charge was imposed
  - The amount of the charge must be proportional to the cost of the service, and the apportionment of total costs of service amongst ratepayer classes must be reasonable (e.g., avoidance of subsidization within the rates)
- Meets District fiscal policy to maintain a minimum reserve balance of 40 percent of annual budgeted operating expenditures in the Regional Treatment and Conveyance (Wastewater O&M) Fund
- Meets commitments made in loan agreements

In June 2020, the Board adopted an FY20/21 SSC increase of 3.5% for Antioch/Pittsburg customers and 3.0% for Bay Point customers. At that time, staff projected a future FY21/22 SSC increase of 4.0% for Antioch/Pittsburg residential customers (current proposed SSC increase = 6.5%) and 3.5% for Bay Point residential customers (current proposed SSC increase = 5.9%). Key changes driving these differences from last year's 5-year SSC projection include recommended implementation of: 1) the $60 million Secondary Process Improvements Project, which has emerged as a near-term priority in Year 3-5 of the new 5-year CIP, and 2) the 2021 Cost-of-Service Study findings.

Table 1 – Example Annual Residential SSC on Property Tax Bills for FY21/22

Residential Service	Current FY20/21	Proposed FY21/22	Annual Change
6.5% SSC Increase for Customers in Antioch (Zone 3*) and Pittsburg (Zone 2*)	$403.10	$429.42	$26.32
5.9% SSC Increase for Customers in Bay Point (Zone 1*) (includes wastewater collection services)	$556.47	$589.25	$32.78

*As shown on Map of Zones 1, 2, and 3 on file with the Board Clerk.

The following key considerations and assumptions were used in completing the SSC analysis:

- FY20/21 Service Area Growth: A total of 1,099 equivalent residential units (ERUs) have been added to the 5-year financial plan, which generates an additional $450,000 annual SSC revenue. Staff updates the District's 5-year financial plan each year to reflect any growth that has occurred in the service area during the current year.
- 2021 Cost-of-Service (CoS) Study: As referenced above, adjustments to SSCs are required for both residential and non-residential to rebalance cost allocation between these customer categories. Implementation of CoS findings only (without an SSC revenue increase) in FY21/22 would result in aggregate (i.e., adjustments vary by individual

communities and business classes) SSC adjustments of +1.7% and -15.8% for residential and non-residential customers, respectively. Following implementation of proposed SSC revenue adjustments, the aggregate SSC adjustment are +6.5% and -11.0% for residential and non-residential customers, respectively. Staff has also implemented the recommended changes to annual minimum charges for non-residential customers (i.e., 80 hundred cubic feet per year of potable water use multiplied by applicable SSC for specific business class) and elimination of SSC differences for the same business classes in different District zones.

- Operating Expenses. The District continues to experience progressive increases in annual operating costs over time due to escalations in chemical, energy, materials, supplies, equipment, hauling, and services costs, as well as increasingly more stringent regulatory requirements.
- Salaries and Benefits. The labor cost assumption was based on budgeted salaries and benefits based on positions included in existing labor agreements with estimated salary increases in accordance with memoranda of understanding (MOUs) for each of the District's three bargaining units and general industry cost projections for various medical and retirement benefits
- Wastewater Infrastructure Investment Costs. The District continues to plan for and implement major capital improvements to ensure the continued reliability of its wastewater conveyance, collection, and treatment infrastructure. The draft FY21/22-FY25/26 Capital Improvement Program (CIP) totals $127 million and includes approximately $113 million of prioritized wastewater conveyance and treatment system infrastructure investment needs to be funded by SSCs. The District's ongoing Resource Recovery Facility Master Plan (RRFMP) identified the Secondary Process Improvements Project ($60.0 million) in the next five years to: 1) address a significant regulatory compliance vulnerability associated with potential loss of critical infrastructure and associated treatment capacity, 2) ensure compatibility with long-term nutrient management plant upgrades, and 3) accommodate growth in the District's service area through 2040. In addition, the RRFMP identified 16 new projects totaling $10.0 million as a result of condition assessment finding. To support incorporation of new projects, staff worked to prioritize and defer implementation of previously identified projects, which resulted in deferral of approximately $10.0 million for seven projects to later years in the CIP.
- Financing Assumptions: Despite the significant increase in the magnitude of the proposed 5-year CIP ($127 million compared to $81.3 million for the current 5-year CIP), staff has worked to ensure the lowest overall cost to ratepayers by maximizing cash funding versus issuing debt. The planned funding approach for the proposed 5-year CIP includes 74% cash funding (versus 92% for the current CIP), which incorporates a 50% debt financing assumption for the new $60.0 million Secondary Process Improvements Project.
- Advanced Treatment (AT) Reserve Fund: Based on the extended timeline for implementation of nutrient removal regulatory requirements, staff is recommending that the District continue suspending collection of this SSC revenue component.
- Regulatory Requirements. Because the wastewater sector is highly regulated, the District is subject to new requirements, such as unfunded mandated programs, increasingly stringent process monitoring and reporting requirements, and/or compliance with updated testing standards.
- Economic Reserves. Maintaining sufficient economic reserves is an essential part of the District's ability to ensure reliable and cost-effective services now and in the future. As referenced above, the District has established a policy to maintain a minimum reserve balance of 40 percent of annual budgeted operating expenditures in the Regional

Treatment and Conveyance (Wastewater O&M) Fund. In addition, other fund balances are included in the 5-year financial analysis. These funds are designated to support multiple District services (beyond wastewater operations) and are constrained as to their use, applicability, and consideration as "available cash." Maintaining economic reserves supports the District's efforts to meet unanticipated operating costs, continue services during unforeseen economic events and emergencies, and address other urgent and/or unusual items.

- Ad Valorem Taxes: Based on the assumption that District Ordinance No. 120 will be adopted by the Board on April 14, 2021 to eliminate Capital Facilities Capacity Charge (CFCC) reductions for certain development types and support the District's financial needs, staff has increased the annual Ad Valorem Tax revenue assumption from $2.0 million to $3.0 million (i.e., $1.0 million had previously been set aside to offset CFCC reductions to restore lost CFCC revenue in the Wastewater Expansion Fund).
- Debt Service Coverage. The District is obligated to meet debt service coverage requirements related to long-term debt as part of various loan agreements. On November 13, 2019, the Board adopted a Debt Management and Continuing Disclosure Policy, which included a minimum debt service coverage ratio (ratio of net revenues to debt service) of 1.80, which helps maintaining the District's good credit rating, reduce future borrowing costs, and ensure long-term financial sustainability.
- Inter-fund Loans: The 5-year financial plan includes: 1) repayment of the FY20/21 Board-approved $3.0 million loan from the AT Fund to the WW Capital Asset Replacement (WW CAR) Fund in FY21/22; 2) a $9.6 million loan from the WW CAR Fund to the WW Expansion Fund in FY24/25 with a subsequent annual $1.0 million payment until the loan is repaid.

In FY21/22, the District will utilize existing Wastewater O&M Fund equity in combination with directing approximately 55% of SSC revenue to the WW CAR Fund to support cash funding (versus debt financing) of critical wastewater infrastructure projects. This approach provides the highest overall value to District ratepayers and preserves future debt management capacity for long-term treatment process upgrade and expansion improvements.

Street Sweeping Services
Street sweeping service charges are not proposed to increase next year, as they are sufficient to cover the costs of providing these services.

Public Communication and Outreach
Pursuant to Proposition 218, a California law since 1996, notices on proposed rate adjustments were sent to all utility customer accounts by April 23, 2021 (meets minimum of 45 days prior to the June 9, 2021 Public Hearing) (Attachment 5). Proposition 218 provides the opportunity for District customers to protest proposed rate adjustments. In the event protests are received representing more than 50% of parcel owners, adjustments could not be implemented. To date, ten written protests have been received and are provided in Attachment 4. Protests may be received until the closing of the public hearing by the Board of Directors.

In accordance with the Governor's Executive Order N-29-20, in lieu of a public gathering, the Board of Directors Meeting and public hearing on June 9, 2021 will be held via Zoom. A public notice announcing the date and time of this public hearing was published on May 24, 2021 and June 1, 2021 in the East County Times newspaper, in accordance with state law. Members of the public may participate in the public hearing using the Zoom meeting access information provided on the agenda for the June 9, 2021 Board Meeting, which was posted to the District's website on

Friday, June 4, 2021. At the close of the public hearing, the Secretary to the Board will announce the total number of protests received.

In addition to distributing Proposition 218 Notices, the District also prepared two fact sheets—"Proposed Sewer Service Charge Increases" (Attachment 6) and "Investing in Critical Wastewater Infrastructure" (Attachment 7)—as well as a "Frequently Asked Questions" (Attachment 8) document to enhance public communications regarding the proposed SSC increases.

Fiscal Impact

If the Board approves the proposed SSC increases after the June 9, 2021 public hearing, Pittsburg and Antioch residential customers would see an estimated increase of $26.32 per year or approximately $2.19 per month, an approximate increase of 6.5%. Bay Point residential customers would see an estimated annual increase of $32.78 or approximately $2.73 per month, an approximate increase of 5.9%. Non-residential customer rates would be adjusted according to the table provided in the attached Prop. 218 Notice. The proposed SSC adjustments for Pittsburg, Antioch, and Bay Point customers in FY21/22 would result in additional annual SSC revenue of approximately $1.6 million to recover costs of providing wastewater service.

Following implementation of the proposed SSC adjustments, the District's cost for providing wastewater conveyance and treatment services would remain among the lowest when compared to peer agencies in the San Francisco Bay Area region. A comparison of total rates for wastewater collection and treatment services, including District SSCs and wastewater collection rates for Antioch and Pittsburg, to regional peer agencies will be included in the Board presentation.

Attachments

1) Proposed Ordinance
2) Proposed Resolution
3) FY21/22 Wastewater Rate Study (2021 Cost-of-Service Analysis)
4) Written Protests Received
5) Proposition 218 Notice – Proposed FY21/22 SSC Increases
6) "Proposed Sewer Service Charge Increases" Fact Sheet (posted on District website)
7) "Investing in Critical Wastewater Infrastructure" Fact Sheet (posted on District website)
8) "FY21/22 Proposed Sewer Service Charge Increases Frequently Asked Questions" (posted on District website)

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cc: District File No. BRD.01-ACTS-XXX