



BOARD/COMMISSION RECOMMENDATION (DRAFT)

Water and Wastewater Commission

Recommendation Number: (YYYYMMDD-XXX) (XXX is the agenda item number): Water and Wastewater
Capital Recovery Fee Waivers Related to Affordable Housing

WHEREAS, Austin Water Utility (AWU) underrecovered its costs by at least \$100M over the period of 2010-2015, despite Council's support of AWU's requests for significant rate increases; and

WHEREAS, AWU's customers have made great sacrifices both in terms of water conservation and in terms of rising bills related to the drought and cost increases, with average residential bills almost tripling between 2006 and 2015; and

WHEREAS, AWU Staff cut their budget by approximately \$30M to avoid even higher bills for their customers, resulting in more work for AWU Staff with lesser resources; and

WHEREAS, examination of AWU fee structures revealed that approximately 80% of the costs of growth were being included in customer monthly user charges rather than in development fees to be paid by new growth; and

WHEREAS, despite all the efforts by AWU Staff and the sacrifices by AWU customers, rating agencies have expressed considerable concern about the soundness of AWU finances to the extent that there may be a downgrade if AWU again does not achieve its benchmarks; and

WHEREAS, rating agencies may view the City's apparent willingness to divert funds that would have gone to pay utility capital costs to other purposes as a lack of City commitment to sound financial practices for AWU; and

WHEREAS, the Water and Wastewater Commission has supported the various recommendations of the Joint Committee on AWU Financial Plan (2011-2014), including increasing all growth-related fees to recover the full costs of growth; and

WHEREAS, the Capital Recovery Fee Advisory Committee has previously also recommended full-cost capital recovery fees (also known as "impact fees"); and

WHEREAS, the City Council has previously adopted full-cost capital recovery fees in order to reduce the customer monthly cost burden, reduce utility indebtedness, and improve financial metrics; and

WHEREAS, the recently-adopted impact fee program, when phased in, is expected to recover \$30M more per year than the earlier program (\$10M/year), thus relieving AWU customers from much of the financial burden of growth and providing additional bonding capacity for critical water-supply and other needs for the future; and

WHEREAS, losses from the affordable housing waivers, at 1500 LUEs per year, will reduce that cost recovery by approximately \$11.4M/year (up from approximately \$2.25 million per year with earlier low fees); and

WHEREAS, fee waivers will result in the loss of the ability of AWU to defease \$11.4M in debt annually, which would have otherwise eliminated not only debt principal but also the associated interest on debt; and

WHEREAS, AWU is approaching the 1500 LUEs/year cap for fee waivers; and

WHEREAS, Staff has not developed a process for fee waivers once the 1500 LUE cap has been reached (see Staff answers to Tovo and Pool questions for March 3, 2016 Council meeting); and

WHEREAS, there is a history of increasing the cap on fee waivers whenever the cap is reached (the 500 LUE cap was increased to 1,000 LUEs in 2000, and then increased to 1,500 LUEs in 2007); and

WHEREAS, affordability applies to monthly utility bills, as well as to home purchases; and

WHEREAS, among the customers who will see bill increases as a result of diverting AWU funds to both affordable and market-rate housing will be renters who cannot themselves qualify for even affordable housing; and

WHEREAS, Chapter 395.016(g) of the Texas Local Government Code states that: "Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed"; and

WHEREAS, City Code § 25-9-347 - EXEMPTION FOR CERTAIN AFFORDABLE HOUSING, (C)(3) states that "To be eligible for an exemption under this section, affordable housing must ... be a newly constructed single family home or multifamily housing unit located within the corporate limits of the City [emphasis added]"; and

WHEREAS, City Code § 25-1-704 - FEE WAIVERS, (A) (contained in ARTICLE 15. - S.M.A.R.T. HOUSING) does not list capital recovery fees among those fees which may be waived for a SMART housing development; and

WHEREAS, current and proposed programs for affordable and SMART housing impact fee waivers and various development agreements are inconsistent; result in AWU customers subsidizing outside-City housing that will not, by the nature of its location, reduce in-City gentrification; and result in AWU

customers subsidizing market-rate housing amounting to as much as 90-95% of housing in a SMART Housing development; and

WHEREAS, most capital recovery fee waivers related to affordable housing are approved administratively (by the City's Neighborhood Housing and Community Development Director, § 25-1-704, or by the City's Community Development Officer, § 25-9-347(A)) with no public process;

NOW, THEREFORE, BE IT RESOLVED that the Water and Wastewater Commission respectfully encourages the Austin City Council to:

- Continue to support necessary improvements in AWU financial metrics to secure financial integrity within the Austin Water Utility, as set forth in recommendations to the City Council by this Commission, the Joint Committee on AWU Financial Plan, the Capital Recovery Fee Advisory Committee, and as embodied by adoption of a full cost recovery program for capital recovery [impact] fees and other AWU fees and rates;
- Direct the Law Department to ensure consistency regarding capital recovery fee waivers related to affordable and SMART housing within City ordinances and policies;
- Provide for fee waivers only for affordable housing units (and not for market-rate housing);
- Provide for fee waivers for affordable housing units only within the corporate limits;
- Keep the current cap of 1500 LUEs of fee waivers per year without increase in the cap;
- Provide for a public, rather than administrative process, for capital recovery fee waivers related to affordable and SMART housing; and
- Instruct the City Manager to provide a Fiscal Note on each Request for Council Action (RCA) which results in a waiver of water and wastewater capital recovery fees or other development fees.

Date of Approval: May 11, 2016

Record of the vote:

Attest: