

RESOLUTION 2009-22

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, CREATING A
STORMWATER RATE SETTING BLUE RIBBMON COMMITTEE AND
ESTABLISHING A PROJECT CHARTER FOR THE COMMITTEE.**

WHEREAS, the United States Congress amended the Clean Water Act in 1987 to address municipal storm water using a permitting system known as the National Pollutant Discharge Elimination System (NPDES) to be implemented by the US Environmental Protection Agency, and

WHEREAS, the Washington State Department of Ecology voluntarily assumed the regulatory authority from the US Environmental Protection Agency for matters pertaining to the implementation of the NPDES program, and,

WHEREAS, the Washington State Department of Ecology issued Phase II NPDES permits for 98 cities and 12 counties in the State, including separate permits for Eastern and Western Washington, and,

WHEREAS, the City of Sunnyside is named as one of the cities that must comply and develop an ongoing program to implement and effect compliance to the permit using public education and outreach, adoption of ordinances to control runoff from new development, redevelopment and construction sites, illicit discharge detection, and operation and maintenance program to reduce pollutant runoff and,

WHEREAS, the City engaged the consulting firm of HDR Engineering to prepare a rate study for implementation of the storm water utility in 2007, and,

WHEREAS, HDR recommended a storm water utility rate based on an Equivalent Residential Model (ERU) model (with 0.23 acres or 10,090 square feet of

surface areas being one ERU) and a rate of \$3.75 per ERU. This equates to an annual per acre charge of \$195.65 per acre per year, and,

WHEREAS, the City of Sunnyside adopted Ordinance 2186 on January 14, 2008, which adopted the rates as recommended by HDR's study to meet the unfunded mandates required by the Clean Water Act, and

WHEREAS, the City of Sunnyside lacked the ability to bill on a per parcel basis without considerable additional costs, the City adopted Ordinance 2191 on April 28, 2008 to establish an interim rate related to storm water that collected a per utility account charge for each monthly billing, and

WHEREAS, the City of Sunnyside adopted an ordinance in December 2008 that sought to address a number of concerns of the previous ordinance and attempted to simplify the process of calculating storm water fees, and

WHEREAS, the City has experienced unintended consequences relating to the most recent rates – namely creating an equitable solution that addresses the ongoing need to comply with our ability to cost effectively collect fees, and

WHEREAS, due to the wide disparity among property types in the community, ongoing interests and the complex equity questions raised by any rate setting process, the City Council hereby resolves:

Section 1: A Blue Ribbon Storm Water Rate Setting Committee is hereby established pursuant to the project charter document attached as exhibit A.

Exhibit A

Storm water Rate Setting Blue Ribbon Committee Project Charter

Composition

- The committee will be comprised of representatives representing the broad variety of interests affected by decisions related to the rate formulation.
 - One small residential property owner (less than .5 acre)
 - One medium residential property owner (between .5 and 1 acre in size)
 - One large residential property owner (1 acre or greater)
 - One downtown commercial property owner
 - One Yakima Valley Highway property owner
 - One large industrial/commercial property owner (10+ acres)
 - One non-profit/religious/fraternal property owner
 - One representative from the Port of Sunnyside as determined by the Port Board
 - One agricultural property owner

Principles for Decision making

- Rates should be cost-based and set at a level such that they meet the full revenue requirements of the utility.
- Rates should be easy to understand and administer.
- Fees and the process of allocating costs should conform to “generally accepted” fee setting techniques.
- Rates should be stable, in their ability to provide adequate revenues to meet the utility’s financial, operational and regulatory requirements.
- Rate levels should be relatively stable from year to year from the customer’s perception.
- Rates should be fair and equitable to customers.
- Rates should be legally defensible.

Ground Rules

- Must appoint a Chair, Vice-Chair and Secretary from committee members
- All meetings, discussions, communications of all sorts must conform to the Public Records Act – any interpretation questions on what this means will be raised in advance to the City Attorney for a final decision as to the legalities involved.
- All meetings will be recorded using Granicus audio and made available on-line.
- Action minutes will be taken by the Secretary and approved by the Committee and recorded with the City Clerk. Any questions about the applicability, legality and/or procedure to comply with this will be raised in advance to the City Clerk for a final decision as to the appropriate course of action.
- Each meeting will have an agenda and a discussion that is intended to last no longer than 1 ½ hours in length.
- All meetings will be open to the public.

- All committee members are expected to attend all the meetings and be prepared for discussion for each meeting.

Committee Process

- The City Council will make a decision as to the minimum expenditure level to create a constant for analysis – setting the cost basis for the rates. Because of the timing of this process and the lack of certainty about a number of variables (i.e. personnel costs, our share of regional stormwater group costs, equipment rental fees, overhead rates, etc.) will be assumed for the purpose of expediency. The actual 2010 budget and rates will be adopted as part of the normal budget process. The Committee shall be responsible for recommending to Council the following:
 - The basis for stormwater fees for 2010
 - The methodology to be used to determine stormwater fees for 2010
 - The formulae to be used to calculate stormwater fees for 2010
- All recommendations must accommodate best practices, including:
 - Using automation to the greatest extent practicable, if any of the methods, data, collection methods, formulae have an impact on staffing, resources or service levels– the City Manager shall provide the committee with any added costs needed to accommodate such practices – which will be added to the minimum expenditure level established by Council and collected through the rate structure.
 - Must be legal and not unduly or unacceptably expose the City to litigation risk – The City Attorney and City Manager will determine what constitutes undue or unacceptable legal risk for the Committee.
 - Result in compliance with the City's NPDES stormwater permit and permit requirements.
 - All models, costs, analysis will be prepared by staff in consultation with the committee for a decision.
- Time is critical. A written report is due to Council within 90 days of the Committee's first meeting.

Appointment Process

- Persons interested can submit an application, responses to questions.
- Council will appoint persons interested.

Term

The committee will conclude upon acceptance of a final report from Council – but no later than October 1, 2009