

RESOLUTION 2009-34

ORIGINAL

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON, CREATING A  
STORM WATER RATE SETTING CITIZENS ADVISORY 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 Storm water Rate Setting Citizens Advisory Committee is hereby established pursuant to the project charter document attached as exhibit A.

**SECTION 2.** This Resolution shall be effective upon passage and signatures hereon in accordance with law.

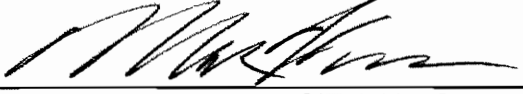
PASSED this 13<sup>th</sup> day of April, 2009.

  
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PABLO GARCIA, MAYOR

ATTEST:

  
DEBROAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:

  
MARK A. KUNKLER, CITY ATTORNEY

## EXHIBIT "A"

### **Storm water Rate Setting Citizens Advisory Committee 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 agricultural property owner
  - Council representation

#### **Stormwater Budget**

- The City Council with input from City Manager & Staff will make a decision as to the minimum expenditure level needed to comply with the NPDES requirements in 2010 and beyond.
- The final expenditure level will then be provided to the Citizens Advisory Committee for use in establishing the methodology and formulae to determine stormwater fee rate for 2010 and beyond.

#### **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 Open Public Meetings 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 Committee shall be responsible for recommending to Council the following:
  - The methodology and formulae used to determine 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.
  - Must comply with the principles for decision-making listed above.
- Time is critical. A written report is due to Council within 90 days of the Committee's first meeting.

### **Appointment Process**

- The committee members should be appointed by the Mayor with input from council

### **Term**

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