# SWEETWATER SPRINGS WATER DISTRICT

**TO:** Board of Directors **AGENDA NO. V-B**

**FROM:** Steve Mack, General Manager

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**Meeting Date: September 3, 2009**

**SUBJECT: ADOPTION OF ORDINANCE NO. 40 REVISING DISTRICT CAPACITY CHARGE**

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**RECOMMENDED ACTION:** Adopt, by reading of title only, Ordinance No. 40, An Ordinance of Sweetwater Springs Water District Adding Policy Numbers 3020.142 through 3020.148 to the District's Policy and Procedures, Capacity Charge.

**FISCAL IMPACT:** Adoption of Ordinance No. 40 would have the financial impact of adding the principal and interest costs of existing and future loans to capacity charges for new connections. The amount of new revenue is not expected to be substantial.

**DISCUSSION:**

Ordinance No. 40 revising the District's Capacity Charge was introduced at the August 6, 2009 Board meeting. The explanation of the capacity charge, the need for revision, and analysis that went into the revised charges were presented at that meeting, and are copied from that report below. Since that meeting, staff have received no comments on the Ordinance or the proposed revisions to the capacity charge. Upon adoption at this meeting, the revised capacity charge would come into effect on projects being accepted by the District after October 3, 2009.

**Capacity Charge Explanation:**

Capacity charges are the charge for a new connection to buy into the District's infrastructure. Government Code §66013 defines capacity charge as "a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. A "capacity charge" does not include a commodity charge."

The District's current capacity charge, is based on repayment of the original bonds that were issued to purchase the Citizen's Utilities facilities and provide some level of upgrades. The current capacity charge is $3,665 and increases by $245 per year. The District has a one size fits all capacity charge – large commercial or multifamily

projects get charged the same as a single family residence. Staff, in reviewing the current capacity charge noticed an inequity to the one size all fits all approach - larger projects are benefiting to the detriment of smaller projects and that the historic loans have the same benefit – funding capital infrastructure - to new projects as the bond payments do. As such, staff have investigated possible capacity charge approaches, have done an investigation of possible changes, and recommends the revisions included in Ordinance No. 40. Exhibit A, Sweetwater Springs Water District Capacity Charge (Buy-in Fee) Investigation and Recommendations, July 2009, presents the results of the investigation. Ordinance No. 40 implements the recommendations of the investigation.

Ordinance 40 keeps the general approach of using the bond payments, but also adds historical loan payments to the capacity charge. It also adds a meter multiplier to the base capacity charge to reflect the larger capacity needs of projects that need larger meters.

With the adoption of Ordinance 40, capacity charge for FY 2010 will increase from $3,465 to $3,763.20 for a project requiring a 5/8" meter. For projects requiring larger meters, the base charge would be multiplied by the meter multipliers used for District commercial water rates.

Other important features of the Ordinance include:

- Each year the capacity charge will increase $245 plus the annual Capital Debt Reduction Charges for the Fiscal Year (which is $58.20 in FY 10).
- Capacity charges for meters larger than 5/8 inch will be increased by the American Water Works Association (AWWA) capacity multiplier – 2.5 for one inch, 5 for 1.5 inch and 8 for 2 inch.
- New connections will get credit for capacity charges already made. For example, a project requiring a 2 inch meter going onto a property that already has a 1 inch meter would pay the difference between charges for the two meters.
- Multiple meters associated with a new project will have the capacity charges for the meters added together.
- Fire protection capacity does not pay a capacity charge. For example, all new single family homes require a one inch meter for fire protection purposes. Those projects will pay the base capacity charge, because the larger meter size is for capacity for a fire suppression system.

This change will not result in substantial new revenues to the District. In a normal economy the District receives approximately 10 requests for new meters or meter upgrades per year. There are two large projects under consideration – the Guernewood Park Resort and Fife Commons Housing – that would be affected by the meter multiplier, but their eventual construction is not certain. The change will result in more equity for all District customers as new connections will be paying a fairer share for existing infrastructure.

# ORDINANCE NO. 40

## AN ORDINANCE OF SWEETWATER SPRINGS WATER DISTRICT ADDING POLICY NUMBERS 3020.142 THROUGH 3020.148 TO THE DISTRICT'S POLICY AND PROCEDURES, CAPACITY CHARGE

**WHEREAS,** the capacity charge allows customers who establish a new connection or upgrade an existing connection to "buy in" or purchase capacity in the existing water production, treatment and distribution system, and thereby obtain benefits from the Sweetwater Springs Water District's ("District") water system; and

**WHEREAS,** the current District capacity charge approach does not account for new connections' differing capacity needs and does not include all historical capital costs; and

**WHEREAS,** the District has a capacity charge for new connections to the District system which is currently based on the partial cost of providing water service through those new connections, which includes repayment of historic bond costs, but does not include repayment of historic loan costs; and

**WHEREAS,** the capacity charge should also include historic and future loan costs; and

**WHEREAS,** the meter multiplier, based on American Water Works Association standards, used for the bimonthly Commercial Base Charge appropriately provides a basis for determining a new project's need for, and proportional impact upon, District facilities and infrastructure; and

**WHEREAS,** District staff have investigated the capacity charge approach and have developed a cost derivation methodology, which includes repayment of historic bond and loan costs, both shown in Exhibit A, and found the following;

- New connections should be credited for existing capacity that exists at the location of the new connection; and

- Fire protection capacity typically is not assessed for a capacity charge; and

- The capacity charge amount should be increased each year to reflect additional bond and loan repayment costs; and

**WHEREAS,** the policy below is designed to ensure that a new water connection is charged a cost that is proportional to the benefits received by the

project(s) being charged with respect to its share of the District facilities and infrastructure; and

**WHEREAS,** based on all the evidence presented, the District Board finds:

1. The purpose of the water capacity charge is to assist in financing the replacement and renewal of existing water facilities, to upgrade and construct new water facilities and to reduce debt incurred by the District to accomplish same.

2. The capacity charges collected pursuant to this Ordinance shall be used to finance the water facilities and infrastructure projects described in the District's Capital Improvement Plan and to reduce debt incurred by the District in constructing, improving and replacing said facilities and infrastructure.

3. In adopting the capacity charges set forth herein, the District is exercising its powers under County Water District Law (Cal, Water Code §30000 et seq.)

4. The record of proceedings establishes:

(a) That there is a reasonable relationship between the use of the capacity charge set forth in this Ordinance and the type of projects and property on which such charge will be imposed in that all development in the District—both residential and non-residential—generates or contributes to the need for water facilities and infrastructure listed in the District's Capital Improvement Plan; and

(b) That there is a reasonable relationship between the need for the facilities and infrastructure listed in the Capital Improvement Plan and the type of projects and property on which the capacity charge will be imposed in that new development in the District—both residential and non-residential—will contribute to the need for the facilities and infrastructure listed in the Capital Improvement Plan.

5. The method of allocation of the capacity charges set forth in this Ordinance bears a fair relationship, and is roughly proportional, to the anticipated burden on, and benefit from, the water facilities and infrastructure to be funded by such charge, in that the charge is calculated based on the meter size required to provide the required level of water service.

6**.** All notices and publications have been given in accordance with Government Code § 66016 and information relating to the increased charges was made available to the public ten days prior to the meeting pursuant to Government Code § 66016(a).

**NOW THEREFORE BE IT ORDAINED** by the Board of Directors of the Sweetwater Springs Water District, County of Sonoma, as follows:

**Section 1.** Policy Numbers 3020.142 through 3020.148 of the Sweetwater Springs Water District Policy & Procedures, are hereby added as follows.

3020.142. Payment of District Capacity Charge as a Condition of Connecting to the District's Water System.

(a) After the effective date of this ordinance, no person or entity will make any new connection to the District's water system without first paying the capacity charge established herein, unless the District otherwise waives or defers this requirement pursuant to a written agreement between the District and the applicant, approved by the District Board of Directors.

(b) This capacity charge shall be in addition to all other fees and charges related to connection to and use of the District's water system, including but not limited to, any applicable charges for physical connection to the District's water system.

(c) The capacity charge shall be nonrefundable.

(d) The District reserves the right, at its sole discretion and under terms and in an amount determined by the District, to provide a credit against the capacity charge to, or enter into a reimbursement agreement with, any person or entity who constructs or installs facilities which are the subject of the capacity charge established herein.

3020.144. Payment of Capacity Charge.

(a) The entire capacity charge is to be paid within 30 days after the District approves an applicant's improvement plan for water service unless the District otherwise defers, waives, or modifies this requirement pursuant to a written agreement between the District and the applicant, approved by the Board of Directors.

3020.146. Calculation of District Capacity Charge.

(a) Base Capacity Charge. The minimum water capacity charge for residential, commercial, and other development is $3,763.20 for a connection requiring service with a capacity of a 5/8 inch meter. This amount is based on the sum of historical bond and loan payments through Fiscal Year 2010.

(b) Annual Increase. Beginning July 1, 2010, and continuing annually thereafter on that same month and day, the base capacity charge per 5/8 inch meter will be automatically increased $245 plus the total annual amount of the ensuing fiscal year Capital Debt Reduction Charge which reflects revenues needed to repay outstanding District loans.

(c) Large Meter Capacity Charges. The base capacity charge shall be increased for capacity needing meters larger than 5/8 inch.

- A new connection requiring capacity for one inch meter shall be charged 2.5 times the base capacity charge.
- A new connection requiring capacity for 1.5 inch meter shall be charged 5 times the base capacity charge.
- A new connection requiring capacity for 2 inch meter shall be charged 8 times the base capacity charge.
- A new connection requiring capacity for a meter larger than a 2 inch meter shall be charged the meter multiplier established by American Water Works Association Standards for that larger meter times the base capacity charge.

(d) Fire Protection Capacity. The capacity charge shall not be applied to meter capacity required for fire protection.

(e) Upgrade in Existing Capacity. If the District finds that a new project or improvement to an existing structure or structures at an existing connection will result in a capacity change that requires a larger meter, the customer will be charged for the new capacity in accordance with this section. The customer will receive credit for the capacity already purchased.

(f) Multiple Meters. If a project requires multiple meters, the capacity charge will be the sum of capacity charges for each individual meter as established by this policy.

3020.148. Capacity Charge Revenues Placed into the Capital Improvement Reserve Fund.

(a) In accordance with Government Code section 66013, any charges collected pursuant to this Ordinance shall be placed in the Capital Improvement Reserve Fund.

(b) Revenues from the capacity charge shall only be used for funding capital improvement projects or repayment of debt from bonds and loans that are used for capital improvement projects.

**Section 2**. Severance Clause. If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

**Section 3.** California Environmental Quality Act Compliance.

The District Board finds and determines that the adoption of the capacity charge by this Ordinance constitutes the establishment of charges to obtain funds for capital projects necessary to provide and maintain the water service to those properties and/or projects that

need new or expanded water service that are currently within the District's service boundaries. Thus, pursuant to California Public Resources Code section 21080(b)(8), the District's adoption of a capacity charge is not subject to the requirements of the California Environmental Quality Act.

**Section 4.** Effective Date.
This ordinance shall become effective thirty (30) days after the date of its adoption by the Board of Directors.

This Ordinance was adopted this 3rd day of September, 2009, on roll call by the following vote:

Jim Quigley _____
Gaylord Schaap: _____
Victoria Wikle: _____
Wanda Smith: _____
Sukey Robb-Wilder:_____

_____
Victoria Wikle
President of the Board

ATTEST:

_____
Julie A. Kenny
Clerk of the Board