

Environment Committee

Meeting date: January 14, 2014

For the Metropolitan Council meeting of: none

Subject: Acceptance of 2013 Sewer Availability Charge (SAC) Work Group's Final Report

District(s), Member(s): All

Policy/Legal Reference: Council Admin Policy 3-2-5; Water Resources Policy Plan; and MS 473.517 subd. 3

Staff Prepared/Presented: Jason Willett 651-602-1196

Division/Department: MCES / Leisa Thompson 651-601-8101

Proposed Action

That the Environment Committee accepts the report of the SAC Work Group, discharges the group and thanks them for their work and input.

Background

The Work Group members were appointed by the Chair and approved by Council action on February 13, 2013. The group met six times in 2013 and worked diligently reviewing materials and communicating by email between meetings. The Executive Summary is Attachment A. The full report is available to the general public on the Council's web site.

The first recommendation ("growth pays for growth") has been recommended before and accepted by the Council; it requires legislative approval which planned to be pursued in 2015. The second recommendation - to expand the SAC deferral option for cities - requires Council approval which is sought through a separate item that follows today. The third recommendation - to study basing SAC on water meter size - will be pursued by staff. The fourth recommendation does not require action but is valuable input, which is being and will be considered as part of the Thrive process. Additional input related to recommendation four has been received and is Attachment B.

Rationale

SAC is a method of raising capital funds necessary for the wastewater systems assets (now with replacement costs of likely over \$5 billion) required by statute. It is sometimes controversial, and in working with customer and stakeholder work groups and task forces, we continue to try to make the charges more acceptable and understood.

Funding

NA

Known Support / Opposition

Metro Cities and the individual city members of the Work Group unanimously supported the recommendations.

Executive Summary

The metropolitan Sewer Availability Charge (SAC) system, implemented in 1973, is based on a Minnesota statutory (MS 473.517 subd. 3) requirement that the Metropolitan Council Environmental Services (MCES) charge communities for the reserve capacity being built to serve them. The collected SAC fees, by law, are used to fund part of the acquisition, betterment, and debt service costs in the metropolitan wastewater system. The SAC program provides regional equity by imposing these costs for the regional system on cities proportionate to their new capacity demand. The regional pooling of development risk and the SAC pay-as-you-build system has largely relieved the cities of the economic risk of building major new sewer infrastructure. Background on SAC can be found on the [Council's web site](http://www.metrocouncil.org/Wastewater-Water/Funding-Finance/Rates-Charges/Sewer-Availability-Charge.aspx) (www.metrocouncil.org/Wastewater-Water/Funding-Finance/Rates-Charges/Sewer-Availability-Charge.aspx).

In 2009/10, 2011 and 2012, Metropolitan Council/ES and Metro Cities have convened various work groups of technical, financial and community development staff to make recommendations to improve SAC and reduce the acrimony around it. Those results are summarized in Appendix D.

The changes resulting from the prior groups simplified some SAC rules, made the program more flexible, included provisions that help small businesses, and aid redevelopment efforts. However, at the political level, SAC is still not well understood or accepted. The executive management of the Council aimed to take a more global view of the SAC program and determine if SAC is still the best way to pay for reserve capacity in the wastewater system. In February 2013, the Metropolitan Council appointed a work group of stakeholders to review and propose changes to SAC-related policies and procedures.

The SAC Work Group was comprised of city officials, and was co-chaired by Metropolitan Council Member Jon Commers and Patricia Nauman, Executive Director of Metro Cities. The other members were:

- Wendy Wulff, Metropolitan Council Member
- Mike Gamache, Mayor, City of Andover
- Myron Bailey, Mayor, City of Cottage Grove
- Sandy Colvin Roy, Minneapolis Council Member
- Terry Schneider, Mayor, City of Minnetonka
- Frank Boyles, City Manager, City of Prior Lake
- Dan Roe, Mayor, City of Roseville

The work group met six times from April 2013 through November 2013. Approved minutes are attached to this report as Appendix A. Presentation and Handouts are attached as Appendix C.

In addition to the customer-driven SAC improvement process (including prior groups), SAC was mentioned several times during the *Thrive MSP 2040* listening sessions; therefore, the Work Group was envisioned by executive management to be informed by, but not be part of, the Thrive process.

The process, directed by the Co-chairs, developed as the meetings were planned, included: first discussing stakeholders' interests and then considerable time was spent to determine principles by which the group would evaluate the ideas to improve the method of paying for reserve capacity in the wastewater system. These became known as the "evaluative principles." The group then asked that the Metropolitan Council provide an independent consultant's help for a comparative analysis of how other peer metro regions financed reserve capacity. A master list of ideas was developed from members' suggestions, the consultant's research, and MCES staff ideas which were refined to eleven ideas and then further defined, screened by the evaluative principles and discussed. As a result, the group developed the following four recommendations:

1) Growth should pay for growth

- a) Minnesota Statutes Section 473.517, Subdivision 3, should be amended to clearly state that “the current costs of acquisition, betterment and debt service” – to provide the subject costs of additional capacity in the regional wastewater system should be paid by the Sewer Availability Charge (SAC), and that SAC should pay all such costs. This is based on the simple principle that “growth should pay for growth” whether new development or redevelopment. This means that SAC should pay for 100% of growth-related wastewater capital project costs and 0% for other types of project costs (such as regulatory or rehabilitation required projects).
- b) If the legislative changes are approved then a group of municipal stakeholders should be brought together to review the details of the previous proposed guidelines and identify the technical changes necessary for implementation of the new structure.

These were identified as pros of this option:

- This method would be simpler to explain accurately for what SAC pays.
- This would eliminate some complexity in the methodology used to figure the annual amount of reserve capacity.
- It improves consistency with Metropolitan Council policy to set rates on a regional cost-of-service basis.

However, it was also noted that this would lead to the municipal wastewater charges being increased and does not address the fundamental complexity around how the charges are determined.

2) Expand use of deferrals

- a) The Metropolitan Council should expand the current SAC deferral option available to cities to provide middle-sized businesses (as well as small businesses for which this is already allowed) a period of years to pay SAC, thus assisting growing businesses and economic development. The current deferral limit is 10 SAC; the proposed threshold is 25 SAC. Note that this option is self-funding; interest will accrue on deferred SAC, so that other ratepayers will not be subsidizing the deferral program.
- b) In addition, MCES should provide technical assistance around this program (and other SAC rules), including training for city staff and provision of web-based materials, such as brochures, model ordinances and agreements.

These were identified as the pros of this option:

- Cities may spread out more SAC payments over time.
- A larger threshold for applicability may encourage more cities to participate in the deferral program, thus improving relations with small businesses as well.

There were no significant reasons identified as to why not to make this available to cities.

3) Study charges based on water meters

- a) MCES should conduct a detailed technical review, with stakeholder input, of charging SAC in a simpler way, based on water meter size for commercial and mixed-used projects. The recommendation does not include changing the manner of charging SAC for residential and industrial process flow capacity.
- b) The detailed findings should be shared with the Work Group.

These were identified as the pros of this option:

- The method may be simpler to explain.
- Ehlers' findings showed this method is used in other peer metropolitan areas reportedly with less acrimony.

It was noted that this may cause a loss of accuracy in determining demand on a site-by-site basis, and a possibly large SAC rate increase may be necessary since water meters are not upsized frequently.

4) Some development should not pay higher fees to support other programs.

SAC, as a utility charge, should continue to be based exclusively on technical evaluations of the costs of the required regional wastewater capacity demand. The Metropolitan Council should provide separate funding for any incentives, waivers or discounts to be applied to SAC fees for other purposes (e.g. housing, re-development, small business help, or other environmental goals) to maintain SAC program equity, simplicity and transparency. This does not imply Work Group support or opposition for any particular mechanism.

These were identified as the pros of this option:

- A technical (cost of service) basis for the SAC program assures that the program and rate structure treat current and future users across the region equitably. If SAC rates are higher than needed to cover the capacity costs, reductions in regional economic development and distortions of regional economic markets may occur (as economics tells us that in a market economy, appropriate pricing signals are needed to optimally allocate resources).
- Subsidizing other Council programs or priorities through SAC undermines program transparency and stability in addition to the principle of equity listed above.

It was noted that some people believe the Metropolitan Council should use all its tools to further its goals, and other funds may not be available.

Of note, the group did not drop the additional ideas of: 1) charging SAC only on interceptor reserve capacity only (i.e. all plant capacity would be paid by current users) and 2) adjustments to the SAC criteria for businesses and multi-family development to reflect the lower exposure to inflow/infiltration risk over time. However, the group decided not to recommend pursuing those options at this time. MCES technical and financial study may continue for possible Council consideration after the recommended changes are resolved or implemented,

The work of this group was guided by seven underlying principles, which it crafted during the initial meetings. The "evaluative principles" suggested that the method to pay for Reserve Capacity in the regional wastewater system should:

- 1) Be transparent & simple to explain to anyone (i.e. in two minutes, with no surprises; and be financially grounded in cost of service)
- 2) Be equitable (i.e. fair and impartial) for all types of served communities (e.g. developed and developing) and supportive of their businesses
- 3) Be equitable between current and future users (e.g. growth pays for growth)
- 4) Support the principles & goals being developed for Thrive (i.e. collaboration, equity, stewardship, integration and accountability)
- 5) Support cities' sewer fee capabilities (i.e. would not constrain city ability to raise local fees such as the add-on to SAC)

- 6) Be administratively reasonable (i.e. does not add administrative costs for communities or MCES; implementable and enforceable without being intrusive on business owners & developers)
- 7) Consider use of SAC for any specific goals or incentives with respect to impacts on the SAC program and specifically its equity, transparency and simplicity

Note that by “equity” the Work Group meant simply reasonable fairness between groups (communities in #2 and generations in #3).

Consultant

MCES staff discussed the needed work with three financial consulting firms that were already on contract with the Council (this allowed a quick response), and took short proposals from all three. The Co-Chairs, with help from MCES staff, decided that Ehlers, Incorporated’s proposal best met the needs of the work group, and they were hired in the summer of 2013.

The scope of Ehlers’ work included: 1) a survey of ten peer metro areas as to how reserve capacity costs were paid, and 2) a high-level financial analysis looking at the appropriateness of the revenue raised by SAC with different land-use patterns. Please refer to the [SAC web page](#) for Ehlers’ full report.

Ehlers found the majority of the communities researched determine SAC units, or sewer impact fees, based on water meter size, and all based the charges on cost allocation (cost of service methodology). The idea of using water meter size as the SAC determination basis was added to the work group’s list of ideas, and eventually became part of the final recommendations.

Also, of note, the consultant noted MCES’s SAC program appears to be the fairest (i.e. most technically accurate) in the way it assigns SAC units to properties, but associated with that, it is also the most complex to administer among the communities analyzed. Furthermore, MCES has the oldest system of development.

In regard to the analysis of whether SAC was paying the cost of providing the capacity, the conclusion was roughly yes, although based on historical costs (when the capacity was built) not the current cost to build the capacity.

Refined List of Ideas

SAC options for consideration came from MCES staff, Ehlers’ findings, and members of the work group. The group quickly refined the list of ideas from 21 to 11. MCES staff then provided pros, cons and comments for each of the eleven (attached as Appendix B). Staff also indicated their view as to how well each idea met the SAC Evaluative Principles. These are the eleven ideas the group considered and discussed.

- 1) Growth Pays for Growth
- 2) Limit SAC to interceptors
- 3) Forward Looking SAC
- 4) SAC charged only to residential projects
- 5) SAC charges on aggregate metershed demand
- 6) SAC charges based on water meters
- 7) SAC charges based on building code categories
- 8) Status Quo Plus – Inflow & Infiltration (I/I) adjustments to criteria
- 9) Status Quo Plus – Increase eligibility for SAC deferrals
- 10) Status Quo Plus – Eliminate SAC for small commercial projects

11) Status Quo Plus – Separate funding for any incentives, waivers and discount

Next Steps

At the time of this publication, the recommendations and report are expected to be taken to the Metropolitan Council's Environment Committee in January to accept the report and discharge the SAC Work Group. The Committee will be briefed on the process and recommendations of this work group.

Specific to the recommendations:

- 1) The “growth pays for growth” idea requires a Minnesota statutory change. This has been approved by the Council previously and in fall of 2013 was discussed with the Governor's office, and is tentatively included in the Council's legislative agenda for 2014.
- 2) The increase in the SAC deferral threshold requires action to adopt from the Environment Committee and then the full Council. If the recommendation for the SAC deferral program's expansion is adopted by the Metropolitan Council, communities will be notified of the change and given the opportunity for training and assistance by MCES staff in implementing this option. In addition, the current SAC Procedure Manual will be revised and posted on the [SAC web page](#).
- 3) MCES staff will also ask the Environment Committee to approve continuing to research a water meter-based charging system in January. If the Committee approves proceeding, MCES staff will conduct a detailed technical review of the water meter option in 2014. This includes gathering information from a metro-wide survey of communities and giving all communities the opportunity to weigh in on the proposed methodology change. If the water meter idea appears viable, MCES staff will develop SAC assignment criteria based on water meter ranges. Later in 2014, there would also be a financial analysis of the impact on the SAC rate with this option. Research findings will be put on the Council's web site when finalized. If pursued in the latter half of 2014, there will be notification to all SAC-paying communities followed by a public meeting and public comment period, and potential implementation on January 1, 2015.
- 4) The recommendation pertaining to not using SAC funds for other purposes of the Metropolitan Council was discussed in November with the Land Use Advisory Committee (LUAC), and in December with the Council Members' internal Thrive working group.

This final report will be available to members and the general public in hard copy by request, and at the Council's [Publications web page](#). Work Group members were thanked by staff for their assistance and engagement in this process, and invited to check with staff at any time for future developments.

Barnebey, Kelly

From: Willett, Jason
Sent: Monday, November 25, 2013 2:27 PM
To: 'Chip Halbach'
Cc: Jon Commers (commers@donjek.com); Barnebey, Kelly
Subject: RE: followup on SAC

Hi Chip,

As always, we appreciate input. Whenever the business item gets discussed at the Council's Environment Committee (and from there the full Council), I'll make sure that your input is included.

Just FYI - a couple things I don't think I expressed well in the rush at the end of LUAC:

- 1) the recommendation does not suggest that the Council shouldn't support affordable housing through the SAC, but that if it does the subsidy should not come from the wastewater payees. Of course, it's hard to know where else it would come from...
- 2) The recommendations are advisory from that particular Work Group, and are not binding on the Council in any way.

Again, thanks for the input.

From: Chip Halbach [<mailto:chalbach@mhponline.org>]
Sent: Monday, November 25, 2013 1:02 PM
To: Willett, Jason
Cc: Jon Commers (commers@donjek.com)
Subject: follow up on SAC

Jason, as I mentioned at LUAC. It's important that the Met Council maintain its commitment to affordable housing in its SAC fee structure. There should be a waiver for housing that meets the Council's affordability goals. In its Housing Performance Scores the Council is encouraging communities to support affordable housing by waiving fees for parks etc. (areas that do not relate directly to housing). The Council should act in a manner that is consistent with what it is asking local governments to do.

The SAC working group principle that SAC fees only be based on technical assessment related to sewer demand is also inconsistent with the integration principal of the Thrive MSP 2040 plan.

Finally, I believe with the relatively little amount of affordable housing developed in the Twin Cities this waiver will have minimal consequence for the SAC fund. I've requested address information from Minnesota Housing on affordable housing closings. I hope to get this to you so you can identify the fee payment at stake with affordable housing.



Chip Halbach | Executive Director
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