



CITY OF BEND

CITY COUNCIL ISSUE SUMMARY

MEETING DATE: December 5, 2018

SUBJECT: Amending the Chapter 15.10 of the Sewer Code, Section 15.005, Definitions, and Section 15.10.010, Use of Public Sewers Required, and Creating a Citywide Septic to Sewer Conversion Program, and Repealing Interim Policy, Resolution No. 3093

STAFF MEMBER: Mary A. Winters, City Attorney
Susanna Julber, Snr. Project and Policy Analyst

DEPARTMENT: City Attorney's Office/ City Manager's Office

ACTION REQUIRED:

- Motion
- Public Hearing Date: Dec. 5**
- Ordinance 1st Reading Date: Dec. 5**
- Ordinance 2nd Reading Date: Dec. 19**
- Resolution
- Information/Direction
- Consent Agenda (*adopted by motion*)

ADVISORY BOARD/COMMISSION RECOMMENDATION:

- Approval
- Denial
- None Forwarded
- Not applicable

Comments: The Septic to Sewer Advisory Committee recommended a program to Council in July 2018 that contained some of the components of the proposed Septic to Sewer Conversion Program.

RECOMMENDED MOTION - 1ST READING:

I move for a first reading of an Ordinance amending Section 15.005, Definitions, and Section 15.10.010, Use of Public Sewers Required, of Chapter 15.10, General Sewer Regulations of the Bend Municipal Code, and Creating a Citywide Septic to Sewer Conversion Program, and Repealing the Interim Policy, Resolution No. 3093.

RECOMMENDED MOTION - 2ND READING:

I move for a second reading and adoption of the Ordinance amending Section 15.005, Definitions, and Section 15.10.010, Use of Public Sewers Required, of Chapter 15.10, General Sewer Regulations of the Bend Municipal Code, and Creating a Citywide Septic to Sewer Conversion Program, and Repealing the Interim Policy, Resolution No 3093.

ISSUE / COUNCIL DECISION & DISCUSSION POINTS: Approximately 2,800 households citywide rely on septic systems for wastewater disposal. The conversion of onsite sewer septic systems to public sewer has been an ongoing need within the City as it

urbanizes. A program to convert properties to public sewer, over time, ultimately serves public health, proactively protects water quality, and allows for economic development and urban development opportunities for properties or areas limited by septic system capacity. City sewer provides property owners with reliable waste management that has minimal potential for negative environmental impacts.

Following an 18-month sewer design and financial feasibility analysis for provision of sewer to a 503-lot area in southeast Bend, City Council found the estimated \$30 million cost to be a substantial financial burden on area property owners without subsidy from the City funded by substantial rate increases from citywide sewer rate payers.

The City has instead developed a long-term plan and program that will address the citywide needs over time, through a more limited increase in citywide sewer rates, and revision of the State's "300 foot rule" to define legal availability through this program (described in more detail in the Background section below). Proposed code amendments will revise connection requirements, the timing of connection, connection fees and SDCs, and program funding. The amendments create a program to include the voluntary ability of property owners to initiate neighborhood sewer extension projects, by applying for funding of the extension of public sewer mains. Additionally, the program addresses connection requirements for properties with frontage along City Capital Improvement Program (CIP) projects.

Council is being asked to approve the Septic to Sewer Conversion Program through the amendments to the Sewer Code. Funding is subject to budget and resource considerations annually. Details of the citywide program are included in the proposed Bend Code amendments, but are summarized as follows:

- Citywide program, with initial \$10M investment and approximately \$2.5M budgeted annually. The \$2.5M program is available to residents to apply for funding of neighborhood sewer extension projects, and additionally, for neighborhoods in the vicinity of a City CIP project. The \$10M investment will provide funding for a CIP project to retire the Nottingham and Simplicity pump stations, and provide a sewer main along Desert Woods connecting to the Southeast Interceptor (SEI).
- Application process to be considered annually, based on specified considerations. Staff will develop an application following Council approval of the attached code sections, which will establish an annual application process. Projects will be evaluated by a committee based on considerations including project cost, total number of homes benefitted, age of septic systems, and other factors as shown in Section E (1-6) of the Code. The program is expected to begin February 1, 2019, and is anticipated to be focused initially on the area along Desert Woods Drive.
- Connection fee. Staff is proposing a connection fee of \$10,000, based on the average cost estimates for 'stub outs' for similar projects today (such as the SEI). This fee will be the same for both neighborhood extension and CIP-associated projects, and can be reduced by 50% if the property owner connects within two years of the Notice of Operational Completion, which will be recorded and will run with the land, to explain the provisions of the Code. Property owners with stub outs along the SEI are not required to pay a connection fee if they connect within 2 years of Notice of Operational Completion; beyond 2 years, the property owners will be required to pay the connection fee in place at the time of application the same as other CIP projects.
- Timing of connection. Successful applicants for a neighborhood extension project must connect within two years of the Notice of Operational Completion. All property

owners with frontage along a neighborhood extension project or CIP project are required to connect upon septic system repair/failure, or upon application for development of property that adds capacity (ADU, partition, etc.).

- Assistance program. Staff is recommending that an assistance program be funded through connection fees paid, to assist in payment of connection fees for those who qualify under the City's customer assistance program guidelines (outlined under Section H (6)) of the Code.

BACKGROUND:

The Septic to Sewer project began in June 2017, as a result of recommendations from the Sewer Infrastructure Advisory Committee (SIAG), which was a citizen body appointed to provide input in the City's sewer master planning process and met between 2012-2014. One of their recommendations was to set aside \$1M annually, beginning in FY17/18, to develop a plan to assist in transitioning properties from on-site septic systems to public sewer. Citywide, an estimated 2,800 households are reliant on septic systems. The Septic to Sewer project initially focused on developing an engineering design and financing strategy for the 503 homes in Southeast Bend that were impacted by the Southeast Interceptor (SEI). The project was guided with input from a citizen advisory committee, who met 12 times between June 2017 and their final meeting July 2018, where they adopted a set of recommendations to City Council that focused on transitioning the properties within the Project Area, with a recommendation to also address the need for conversion to public sewer citywide. The Committee recommendations were evaluated by Council, which held 2 public listening sessions to receive input on the Committee proposals, and had staff analyze the rate impacts of a city/homeowner cost share scenario to reduce costs to homeowners.

The cost of providing sewer to the 503-home Project Area is estimated to be approximately \$30 million for the public portion of the project; the property owner would also be responsible for additional costs associated with decommissioning their septic system, connecting to the City's infrastructure, and other costs for work on their private property. Based on staff and consultant research, these private property costs could range between \$10-\$20,000 per property, although these numbers are just estimates and could be more or less. The Committee recommended the City "cap" both the public and private costs to \$25,000 per property owner, which would require a substantial subsidy on the part of the City sewer ratepayers. Based on the Committee's recommendations, citywide sewer rate payers would pay for approximately 73% of the public portion of the project costs. At Council direction, City staff also ran cost share scenarios for citywide sewer rate payers to pay 50%, 90% and 100% of the cost of the public portion of the project. All of these cost share scenarios resulted in significant sewer rate increases, and all were deemed by Council to be a financial burden on the individual property owners transitioning from septic to sewer. Under all of these scenarios, cumulative sewer rate increases through 2031 (adjusted for 3% inflation) would be between 32% and 36%. In addition, although the City could have potentially sought to coordinate the private portion of the costs, the City cannot legally fund the work on private property.

The Oregon Administrative Rule, OAR 340-071-0160, contains the criteria that the Oregon Department of Environmental Quality (DEQ) and County Health Department use for evaluating permits for septic system construction, installation, repair or alteration. DEQ makes the determination of physical availability under the administrative rule, often referred to as the "300-foot rule." This provision related to the physical availability of sewer has been reflected in the current code provision requiring hook up by properties within 300 feet of

public sewer with capacity, upon official notice by the City. In practice, the City has enforced the provision upon knowledge of the need for connection within 300 feet of sewer availability (e.g., septic system failure and notification from the County, a sale of property requiring a new or repaired system, etc.). Based on recent discussions with the DEQ and an October 10, 2018 letter from the DEQ Director to the Bend Mayor, the City understands that it can define legal availability under the OAR, and that a long-term plan and program, such as the septic to sewer conversion program proposed in these code amendments, is within the City's discretion.

During an October 3, 2018 Council work session, Council directed staff to evaluate the rate impacts of setting aside \$2.5 million annually for a neighborhood sewer extension program-- a program where property owners would work together to request extension of sewer to their neighborhoods. Staff analyzed the rate impacts and feasibility of such a program, and also recommended that \$10 million in rate revenues be modeled to directly invest in the southeast Bend project area and construct a CIP project to retire two pump stations. The rate impacts for investing \$2.5M annually would result in cumulative sewer rate increases through 2031 (adjusted for 3% inflation) of 17%, and the program with the additional initial \$10M investment would have a cumulative sewer rate increase of 23% through 2031.

Based on the results of the sewer rate impact analysis and staff's recommendations, Council approved moving forward with the \$10 million project by motion at their November 7, 2018 regular council meeting.

A sub group of three Councilors met on November 26 to consider outstanding issues relating to connection fees and timing of connections, at a publicly noticed meeting. As recommended, the code provides that property owners who signed an application for a neighborhood extension project must connect to the public sewer within two years. Connection by other property owners who did not sign the application or along the frontage of a CIP project is voluntary (with the incentive to connect described below), **except that:** All property owners with frontage along a neighborhood extension project or CIP project are required to connect upon septic system repair/failure, or upon application for development of property that adds capacity (ADU, partition, etc.).

The sub group agreed that a connection fee of \$8,500-\$10,000 (to be further discussed by the full Council) should be charged for both CIP and neighborhood sewer extension projects. They recommended that this fee be reduced by 50% if the property owner connects within 2 years of Notice of Project Completion. Properties along the SEI that received stub outs as part of the City construction project do not need to pay the connection fee if they connect within 2 years of notice by the City; beyond 2 years, property owners will be required to pay the currently effective connection fee, the same as other property owners along CIP projects. Although the amount of the connection fee is not in the proposed code amendments before Council, staff needs direction on the connection fee amount to include when Council considers the fee schedule on December 19, 2018, in order to implement the program. All property owners connecting to public sewer pay sewer SDCs. Private costs, including decommissioning tanks, etc., are the responsibility of the property owner.

The attached Code amendments provide the framework for the citywide Septic to Sewer Conversion program. A first reading of the ordinance is December 5, and second reading is scheduled for December 19, with the program, if approved, beginning February 1, 2019. The findings (Finding K) express the Council intent to revisit and review the program no later than three years after its adoption to assess its effectiveness and every 3-5 years thereafter to make necessary changes, if any.

CURRENT YEAR BUDGET IMPACTS IDENTIFIED BY DEPARTMENT:

Moving forward with the initial investment of \$10 million in the southeast Bend project area will require a budget adjustment for the current biennium, since the design has been completed and construction could start as early as Spring 2019. Future budget adjustments will be presented to Council in early 2019 to add the project to the 2018-19 budget and CIP.

Rate impacts associated with proposed program are discussed above.

DEPARTMENT DIRECTOR REVIEW

Reviewed by: Tom Hickmann Date: 11/29/18

FINANCIAL REVIEW

Reviewed by: Sharon Wojda Date: 11/21/18

LEGAL REVIEW

Reviewed by: Mary Alice Winters Date: 11/28/18

COMMUNITY OUTREACH PROCESS AND POTENTIAL IMPACTS: In December of 2016, by resolution 3058, the City Council formed a septic to sewer advisory committee of 13 members, to provide recommendations on funding alternatives and policy direction for the City Council to consider regarding septic to sewer transitions in the area of the SEI. The committee met regularly from June of 2017 through summer 2018. As requested, it made recommendations on funding options, including consideration of local improvement district(s) (LID), a separate rate classification, surcharges, connection fees/charges, grants, loans, etc. The intent was to have the process include discussion of potentially having city ratepayers share a portion of the cost for this transition to sewer, and/or a combination of the various options. In addition to making recommendations, the committee served the important role of public involvement in the decision-making process, and to be a conduit of information back to the interested neighborhood groups and associations.

The advisory committee held 12 public meetings between June 20, 2017 and July 12, 2018, when they recommended approval of a set of recommendations to the Bend City Council. Additionally, 2 presentations were conducted at neighborhood association meetings during development of the recommendations, and Council held 2 public listening sessions on August 15 and 29 2018, to receive input on the advisory committee recommendations. Regular neighborhood newsletters were mailed to affected property owners, as well as multiple door-to-door outreach efforts.

ATTACHMENTS:

- Proposed Ordinance
- Proposed Code Amendments (Exhibit A)
- Interim Resolution No. 3093