



BOARD OF DIRECTORS

Agenda Report

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File #: 2021-1741

Agenda Date: 7/28/2021

Agenda Item No: 23.

FROM: James D. Herberg, General Manager
Originator: Lorenzo Tyner, Assistant General Manager

SUBJECT:

PROPOSED ORDINANCE NO. OC SAN-57 UPDATING THE CAPITAL FACILITIES CAPACITY CHARGES ORDINANCE

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

- A. Adopt Ordinance No. OC SAN-57, entitled "An Ordinance of the Board of Directors of the Orange County Sanitation District Amending Requirements for Accessory Dwelling Unit Capital Facilities Capacity Charges, Restating Previously Adopted Charges, and Repealing Ordinance No. OCSD-50 and Ordinance No. OCSD-54";
- B. Motion to read Ordinance No. OC SAN-57 by title only and waive reading of said entire Ordinance;
- C. Receive and file the Carollo Engineers letter dated June 2, 2021; and
- D. Direct the Clerk of the Board to publish summaries of the Ordinance as required by law.

BACKGROUND

Orange County Sanitation District (OC San) Ordinance No. OCSD-50 was adopted by the Board of Directors on March 28, 2018 and Ordinance No. OCSD-54 was adopted on May 22, 2019 to amend Ordinance No. OCSD-50 to clarify language. Staff is requesting to repeal both Ordinances and adopt Ordinance No. OC-SAN 57 to reflect legislative mandates for Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).

Sections 2.02 (G), 2.13 and Table A of Article II reflect legislative mandates for Accessory Dwelling Units and Sections 2.02 (H) and 2.14 reflect legislative mandates for Junior Accessory Dwelling Units.

Table A and Table B have been updated with the previously adopted 2021 fiscal year rates.

OC San previously charged Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) Capital Facilities Capacity Charges based upon the number of bedrooms per Ordinance Nos.

OCSD-50 and OCSD-54. Following the adoption of these Ordinances, legislative mandates were passed for ADU's and JADU's. These mandates require capacity charges for ADU's to be based upon square footage or fixture units and for JADU's to be exempt from capacity charges.

OC San contacted Carollo Engineers to review the previous rate study and recommend the square footage rate that could be used to charge ADU's. Ordinance No. OC SAN-57 reflects the legislative mandates, allows for ADU's to be charged based upon square footage, and exempts JADU's from capacity charges.

RELEVANT STANDARDS

- Address legislative mandates
- Sustain 1, 5, 20-year planning horizons
- Collection of appropriate fees for sewer connections

PROBLEM

Since the adoption of Ordinance Nos. OCSD-50 and OCSD-54, the State of California has adopted legislative mandates for ADU's and JADU's that the previous Ordinances did not address. Therefore, Capital Facilities Capacity Charges could not be collected for ADU's and JADU's.

PROPOSED SOLUTION

Adopt Ordinance No. OC SAN-57 and Repeal Ordinance Nos. OCSD-50 and OCSD-54.

TIMING CONCERNS

June 23, 2021: First Reading of the Ordinance

July 28, 2021: Second Reading and Adoption of the Ordinance

September 1, 2021: Ordinance takes effect

RAMIFICATIONS OF NOT TAKING ACTION

Capacity Charges will not be collected for ADU's, resulting in revenue loss.

PRIOR COMMITTEE/BOARD ACTIONS

June 2021 - 1st reading of Ordinance No. OC SAN-57.

May 2019 - Adopted Ordinance No. OCSD-54 (amendment to clarify language in Ordinance No. OCSD-50).

March 2018 - Adopted Ordinance No. OCSD-50.

December 2017 - Adopted 2017 Facilities Master Plan and received and filed 2017 Rate Study.

ADDITIONAL INFORMATION

To ensure the appropriate allocation of costs and fees, OC San engaged an engineering consulting firm, Carollo Engineers, to provide an independent analysis of OC San's cash flow modeling and a cost of service study. The study demonstrates that OC San's proposed facilities fees are appropriate and reasonable and will support its projected capital and operating requirements.

Carollo Engineers completed the Facilities Master Plan update. In conjunction with this update, Carollo was tasked with performing an updated sewer rate study to determine the appropriate rates going forward to support the Facilities Master Plan update. The Rate Study was received and filed, and the Facilities Master Plan was adopted by Resolution No. OCSD 17-16, in December 2017 and the Ordinance concerning Capital Facilities Capacity Charges was adopted in March of 2018. An amendment to this Ordinance, Ordinance No. OCSD-54, was adopted in May of 2019 to clarify language.

Since the adoption of Ordinance No. OCSD-54 in May 2019, several legislative mandates governing ADU's were enacted. To ensure compliance with these mandates, OC San engaged Carollo Engineers to provide a new method for calculating ADU capacity charges. To reflect the new mandates governing ADU capacity charges and the new methodology for levying capacity charges against ADU's, OC San should repeal Ordinance Nos. OCSD-50 and OCSD-54 and adopt a new Ordinance.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Proposed Ordinance No. OC SAN-57 (Redline)
- Proposed Ordinance No. OC SAN-57 (Clean)
- Ordinance No. OCSD-54
- Ordinance No. OCSD-50
- Carollo Engineers Letter Dated June 2, 2021