



Request for City Council Committee Action from the Department of IGR

Date: October 17th 2012

To: Council Member Glidden, Chair Intergovernmental Sub-Committee

Referral to: Council Member Lilligren, Chair Committee of the Whole

Subject: Sewer Availability Charge (SAC) Work Group update and Recommendations on program changes by the Metropolitan Council

Rec.: Support the proposed changes put forth by the SAC Work Group including specific support for the "Net-Credit" changes, support for the SAC loan program and support for continued conversation around customer service issues and revisions to community review process to reduce punitive impact on property owners/businesses.

Communicate the City's support to the Metropolitan Council via a letter from the IGR and Public Works Chair.

Once the Full Metropolitan Council has acted on the proposed changes, direct staff from Regulatory Services, CPED, Public Works and Finance to:

- Make a recommendation to the City Council on a city policy and processes for excess Net-Credits.
- Make recommendations to the City Council on a city policy and process for a potential SAC loan program.
- Engage Metropolitan Council Environmental Services staff in further discussions about resolving customer service issues including help from the Neighborhood and Community Relations Department to assist in outreach to emerging small business communities.

Previous Directives: August 2nd, 2012 City Position on SAC

Department Information

Prepared by: Pierre Willette, IGR
Approved by: Gene Ranieri, Director IGR
Presenters in Committee: Pierre Willette IGR

Financial Impact

- No direct financial impact

Supporting Information

Proposed Changes for SAC Credits

This fall, City of Minneapolis was invited to participate in a work group called by Metro Cities with Met Council Environmental Services (MCES) staff to revisit MCES policies around the use of credits for the Sewer Availability Charges known as the (SAC) program. SAC “credits” is the term used for regional wastewater capacity that has been ‘freed up’ within a jurisdiction, and policies around their use have changed greatly over time. Current policy restricts SAC credits to the site on which they are generated. Consistent with the Minneapolis City Council Position articulated in its August 2nd Council Action the City was interested in pursuing modified policies allowing credits that are not needed on a site to be used city wide.

MCES agreed to establish the work group to consider this and other SAC issues including a possible loan program for SAC with the City of Minneapolis adding the requests for an examination of customer service issues. Minneapolis staff from IGR, Public Works, and Regulatory Services participated along with strong support from CPED Staff. Other participants included staff from St. Paul, Bloomington, Andover, Brooklyn Park, Lakeville, Roseville, St. Louis Park and Shakopee, staff from MCES and two Metropolitan Council Members. The group was Co-Chaired by Met Council member Gary Van Eyll and Patricia Nauman, Executive Director of Metro Cities.

Brief History on Current SAC Policy:

Proposed in 2006, the SAC program went to a “no-net-credit” system effective at the beginning of 2010. Prior to that time, a city could use SAC credits on a city-wide (net credit) basis. In 2010, city wide credits were disallowed and became limited to the amount needed on a specific site for a new use. Under these current policies, credits are potentially available for onsite use only and determined based on prior use over the last seven or eight years (the “look back” period). Prior the 2010 changes, credits were mostly based simply on the payment history of SAC for a property. Plus, properties built before 1973 were “grand-parented” into the system, and were allowed to generate credits. Property use/demand was not taken into account in the determination of credits.

The impetus for the 2010 changes (approved by the Metropolitan Council in 2006) centered on difficulties in accessing 1973 data, and the theory that long vacant properties were not paying to maintain sewer capacity. Metro Cities convened a work group of city officials including Minneapolis at that time to make recommendations but the final product was not supported by the City of Minneapolis.

Since the changes in SAC policies that took effect in 2010 there have been numerous concerns, some stemming from impacts on small businesses and restrictions on SAC credits,

particularly the challenges associated with redeveloping properties and the inability to use net (city wide) SAC credits in those efforts.

Work Group Recommendations for SAC Credits:

The group met five times and had robust discussions associated with changing the SAC policies. The work group's set of recommendations represents a compromise, a partial reversal of current policies on those sites that have never paid SAC and a partial reintroduction of "city-wide net credits." These changes are intended to make the program more flexible and simplify the administrative aspects of the program.

The changes proposed, which received unanimous support by the group, are as follows:

- SAC paid at any time (1973-present) is sufficient evidence in generating potential SAC credits. In such cases, net credits can occur that can be used city wide OR left site specific at the city's option (a one-time election with monthly reporting). The look back period and vacancy rules would no longer apply.
- If a city shows either grand-parented (pre 1973 so no SAC paid) or continuous demand (property built post-1973 but did not pay SAC) on a site, no city-wide (net) credits would be available, but the property could generate credits based on the amount associated with the site's continuous demand or pre 1973 status, available as on-site credits only.
- Allowances for minor SAC credit transfers would be allowed where determination is 10 SAC units or less and upon request by the city for use on a new site within the city. This would, for example, allow cities to use up to 10 credits from the former site of a business for its new site, before a new use occurs on the former site (credits generally are not available until a new use is determined on a site, and availability of any credits is known). Cities would need to provide the addresses from which credits were taken and the property to which they are being transferred.
- Community reviews would be limited to review of SAC activity for the last three years. This does not relieve cities from paying SAC if it becomes known that SAC should have been paid but was not, but MCES would not be looking back further than three years.
- The new rules are proposed to go into effect 1/1/13.
- Under the proposed change to make credits use more flexible, SAC costs could increase somewhat. The exact of those costs are difficult to measure. Cost factors include the potential for change between projected and actual growth in SAC receipts, borrowing rates for Metropolitan Council Projects, changes in Council policy around what SAC must pay for capital costs, etc. Any estimate is thus static and could change. Right now, the MCES staff estimates that the potential approximate added cost for SAC could be between zero and \$1 million a year. If SAC receipts come in higher than forecast, the costs would likely be to the low side or indeterminable.

MCES SAC Loans

In addition to changes for net credits, the group recommendation includes a proposal for a SAC loan program to assist small businesses. Under the recommendation, a city could make a request to the Met Council to participate in a SAC deferral loan and execute an agreement with the Council. MCES would provide loans contingent on the city agreeing to pass through the loan terms to the property owner or responsible SAC party.

Under the loan agreement, 20% of SAC would be due upfront, with 80% deferred and the maximum individual loan limited to 10 SAC units. Interest would be based on the Metropolitan Council's average rate on its wastewater bonds, and new loans would be fixed at that rate. The terms of loans would be 5-10 years at the city's option, with payments required annually. Cities would make loan arrangements with business owners. If there is a default on the loan, the site would not be credited for SAC, and no payments would be refunded. The city would have the option of completing payments regardless of default by a property owner. (SAC credits would then be available.) Any loans of course would be voluntary, and up to individual cities.

Customer Service and SAC

Minneapolis and other cities expressed great concern relating to customer service around SAC especially when dealing with small business owners and the MCES' process of Community Reviews. MCES staff pledged to review their own customer services practices and acknowledged the need for additional training and education to the business community and property owners groups on the various aspects of SAC. They stated that they are open to any new ideas the City may have for reaching new audiences especially if all the proposed new changes are adopted.

Minneapolis also expresses concern over their processes for the "Community Review" audits, and while all work group participants acknowledged that some kind of audit function is necessary, new rules have been proposed so that they would be generally limited to onsite activity no more than three years prior to the date of the review. However, if evidence is apparent cities will still have some obligation to bring SAC up to date.

MCES said that they would also create alternative language versions of the SAC brochure for better outreach into new emerging small business communities and review their website for other alternative language options. In this area as well they have pledged that they are open to other ideas even specifically partnering with our Neighborhood and Community Relations Department to find the right audience.

A public hearing is scheduled for October 23, 2012 to take input on these changes and written comments are due by November 2nd 2012. It is anticipated that the Full Metropolitan Council will consider the changes mid-November.