

ORDINANCE NO. 837

**AN UNCODIFIED ORDINANCE OF
THE CITY OF ROHNERT PARK ADOPTING A NEW
RATE STRUCTURE AND RATE PLAN FOR
SEWER SERVICE CHARGES**

WHEREAS, the City of Rohnert Park works each day with increasingly limited financial resources to ensure that the sewer system is properly maintained to protect residents and our environment from hazardous waste, spills and sewage leaks; and

WHEREAS, the City's Sewer fund, which is meant to pay for all sewer services, currently has an annual deficit of over \$2 million dollars; and

WHEREAS, the City of Rohnert Park is not only concerned about our community's health and safety but is also legally obligated to pay its share of sewer costs to other agencies providing services as part of a regional system; and

WHEREAS, the City has already made over \$6 million in cuts in the past two years from our general fund budget which supports essential City services such as police and fire, 9-1-1, park maintenance, recreation programs, and street/pothole repair; and

WHEREAS, if the Sewer Fund reserve is depleted, General Fund monies will need to be used, resulting in additional cuts to essential city services; and

WHEREAS, in studying this issue thoroughly, the volunteer Citizens' Sewer Fund Stakeholders Group recommended to the City Council that Rohnert Park must update its sewer rates to protect our City's health, safety and fiscal integrity; and

WHEREAS, delaying sewer repairs and maintenance only increases their cost to City ratepayers over time, and can result in even more costly repairs and fines or intervention by Regional, State, and Federal agencies; and

WHEREAS, even with a new sewer rate Rohnert Park will still have among the lowest sewer rates in the region; and

WHEREAS, these rates are reasonable, reflect a proportionate distribution of costs to each customer, and will cover the costs of providing sewer services within Rohnert Park; and

WHEREAS, section 13.42.010 of the Rohnert Park Municipal Code provides that the City Council shall establish rates for sewer service by ordinance; and

WHEREAS, Resolution No. 2011-19 accepting the Sewer Financial Plan and Rate Study prepared by The Reed Group, Inc., dated March 3, 2011, ("Reed Report")

was passed by the City Council on March 8, 2011; and

WHEREAS, the Reed Report confirmed that since 2009, annual expenses for sanitary services have exceeded revenues, resulting in a rapid reduction in the balance of the sewer operating funds; and

WHEREAS, the City delivers wastewater to the Santa Rosa Subregional Sewer System for the legally required treatment pursuant to an Agreement with the City of Santa Rosa and other local agencies signed in 1975 (the “Subregional Agreement”); and

WHEREAS, the Subregional Agreement requires that the City meet certain state and federal requirements, including adoption of a sewer service revenue program that will fund operations, maintenance and replacement of the sewer system; and

WHEREAS, in 2005 the City entered into an Installment Purchase Agreement so that it could issue Certificates of Participation to secure funds to repair and restore the existing sewer operations as well as to provide for future system expansion, and

WHEREAS, the Installment Purchase Agreement includes covenants regarding sewer rates and charges to assure that there will be adequate funds to maintain the sewer operations and pay the indebtedness incurred under the Certificates of Participation; and

WHEREAS, the Reed Report demonstrates that the City is in breach of the Certificate of Participation covenants and the Subregional Agreement, because the sewer operation has no Net Revenue because costs of operation exceed revenue; and

WHEREAS, the Reed Report recommends that the existing sewer rate structure be replaced by a new rate structure and rate plan that will (a) improve revenue stability and proportionality in rates by assigning a greater portion of revenue to fixed monthly rates; (b) apportion fixed rates to meter size in recognition of the increase in potential demands upon the system from larger meters; (c) establish new usage rates that are adjusted to take into account the relative “strength” of the wastewater and the varying costs for treating differing wastewater loadings; (d) retain a fee component apportioned by system usage; and (e) calculate sewer service charges for schools based upon metered water consumption; and

WHEREAS, the City Council has determined that the recommendations of the Reed Report are sound and should be implemented;

WHEREAS, the City identified the parcels upon which the new rate structure and rate plan are to be imposed, calculated the rate to be imposed on each parcel, and mailed written notice to all record owners of properties upon which the new rate structure and rate plan would be imposed, including the proposed rate, the basis for the calculation of the rate, the reason for the rate and the date, time, and location for the public hearing to be held on May 10, 2011 at 6:00 p.m. in the Council Chamber, which notice was mailed

at least than 45 days in advance of the hearing; and

WHEREAS, the City Clerk published further notice of the hearing on April 29th and May 6th in a newspaper of general circulation in the City; and

WHEREAS, the City Council held the duly noticed public hearing and considered all protests against the new rate structure and rate plan; and

WHEREAS, written protests against the new rates structure and rate plan were not presented by a majority of owners of the identified parcels;

NOW, THEREFORE, the City Council of the City of Rohnert Park does ordain as follows:

SECTION 1. In accordance with Article XIII D, Section 6(b), of the California Constitution, the City Council finds based upon the Reed Report, and upon other information received at several public meetings as well as at its public hearing on the proposed new rate structure and rate plan that:

A. The revenues derived from the new rate structure and rate plan do not exceed the funds required to provide sewer service because the rates are calculated to allow the City to recover its costs.

B. The revenues derived from the new rate structure and rate plan will not be used for any purpose other than that for which they are imposed because the revenue will be kept in a separate fund used only for costs related to the provisions of sewer service.

C. The charges under the new rate structure and rate plan do not exceed the proportional cost of the sewer service attributable to each parcel, because they are based upon relevant factors, including without limitation land uses, wastewater volume estimated from adjusted water usage, meter sizes, and waste loading factors in wastewater.

D. The charges under the new rate structure and rate plan will not be imposed upon parcels for which sewer service is not available.

E. The charges under the new rate structure and rate plan will be used for provision of sewer service rather than general governmental services.

SECTION 2. The City Council does further find and determine that the revenue generated by the new rate structure and rate plan will only be used to sustain sewer facilities and services, as authorized by Health and Safety Code section 5471.

SECTION 3. The following sewer service rate schedules are hereby adopted effective as

of the dates shown in Table 1 below:

| Table 1 | | | | | |
|--|------------------------|------------------------|------------------------|------------------------|------------------------|
| | July 1 2011 | Jan. 1 2012 | Jan. 1 2013 | Jan. 1 2014 | Jan. 1 2015 |
| <i>Single Family Residential Customers</i> | | | | | |
| Monthly Base Charge | \$ 6.88 | \$ 8.60 | \$ 8.86 | \$ 9.13 | \$ 9.40 |
| Flow Charge (\$/1,000 gal.) | \$ 8.01 | \$ 10.01 | \$ 10.31 | \$ 10.62 | \$ 10.94 |
| <i>Multi-Family and Non-Residential Customers</i> | | | | | |
| Monthly Base Charge (per water meter, excluding irrigation meters) | | | | | |
| Up to 3/4" meter | \$ 18.52 | \$ 23.15 | \$ 23.84 | \$ 24.56 | \$ 25.30 |
| 1" meter | \$ 28.34 | \$ 35.43 | \$ 36.49 | \$ 37.58 | \$ 38.71 |
| 1 1/2" meter | \$ 52.68 | \$ 65.85 | \$ 67.83 | \$ 69.86 | \$ 71.96 |
| 2" meter | \$ 82.00 | \$ 102.50 | \$ 105.58 | \$ 108.75 | \$ 112.01 |
| 3" meter | \$ 150.48 | \$ 188.10 | \$ 193.74 | \$ 199.55 | \$ 205.54 |
| 4" meter | \$ 248.27 | \$ 310.34 | \$ 319.65 | \$ 329.24 | \$ 339.12 |
| 6" meter | \$ 492.54 | \$ 615.68 | \$ 634.15 | \$ 653.17 | \$ 672.77 |
| 8" meter | \$ 785.79 | \$ 982.24 | \$1,011.71 | \$1,042.06 | \$1,073.32 |
| Flow Charge (\$/1,000 gal.) | | | | | |
| Multi-Family Residential | \$ 8.01 | \$ 10.01 | \$ 10.31 | \$ 10.62 | \$ 10.94 |
| Non-Residential | | | | | |
| Low Strength | \$ 8.37 | \$ 10.46 | \$ 10.77 | \$ 11.09 | \$ 11.42 |
| Medium Strength | \$ 11.22 | \$ 14.03 | \$ 14.45 | \$ 14.88 | \$ 15.33 |
| High Strength | \$ 16.90 | \$ 21.13 | \$ 21.76 | \$ 22.41 | \$ 23.08 |
| Notes: | | | | | |
| (1) Individual dwelling units with individual city-owned meters shall be categorized as single family residential customers. Multi-family units with master meters shall be charged as Multi-Family Residential. | | | | | |
| (2) Flow charges will be determined based on gallons of flow, rather than rounded to 1,000 gallon increments. | | | | | |

SECTION 4. Implementation of New Sewer Rate Structure.

A. All active accounts of the sewer system shall be subject to a monthly base charge, as described in Table 1 above. Single family residential base charges will apply to dwelling units with individual city-owned meters. Multi-family and non-residential base charges will be based on the size of the domestic water meter (excluding irrigation meters).

B. Both single family residential and multi-family residential accounts shall be subject to a sewer flow charge. Sewer flow will be estimated on the basis of the lesser of:

- a. Actual monthly water usage in gallons, or
- b. Average monthly water usage in gallons from the prior winter period using water usage from billing cycles ending in December, January, and February. The most recent average winter water usage calculation shall be incorporated in billing beginning with bills occurring on or after April 1 of each year.

C. Non-residential accounts shall be subject to a sewer flow charge. Sewer flow will be estimated on the basis of actual monthly water usage in gallons, exclusive of any water used through dedicated irrigation meters.

D. Non-residential accounts shall be classified into strength classifications for purposes of determining the appropriate sewer flow rate. The Director of Public Works, or his designee, will determine which strength classification is to be assigned to each non-residential account using industry standard information and data. The following are examples of classifications:

- a. Low Strength – Bar without food, beauty salon, car wash, church, convalescent home, dry cleaners, health club/spa, hospital, hotel/motel without restaurant, self-service laundries, manufacturing without process discharge, office building, public/municipal building, retail stores, schools.
- b. Medium Strength – Auto repair facilities, auto service stations, commercial laundry, hotel/motel with restaurant, mixed use including restaurants, restaurant with grease interceptor, retail with food service.
- c. High Strength – Bakery, bar with food, butcher, grocery with bakery, butcher or food waste grinder, mortuary, restaurant without grease interceptor.

E. The Director of Public Works may make adjustments to the estimates of sewer flow proscribed in 4(B) and 4(C), above, when such estimates are determined to not reasonably reflect actual usage of the sewer system.

F. Any customer may, at their own cost, install devices for measuring actual sewer flow in accordance with standards proscribed by City. Such actual flow measurements will then become the basis for determining sewer flow charges.

G. Any customer may, at their own cost, sample sewer discharges for biochemical oxygen demand (BOD) and total suspended solids (TSS) in accordance with standards prescribed by City. Such sewer strength information will then be used by the Director of Public Works to determine the appropriate strength classification, as follows: the low strength classification shall apply in instances where the sum of BOD strength and TSS strength (both in mg/l) does not exceed 600; the medium strength classification shall apply in instances where the sum of BOD strength and TSS strength (both in mg/l)

exceeds 600 but does not exceed 1,200; and the high strength classification shall apply in instances where to sum of BOD strength and TSS strength (both in mg/l) exceeds 1,200.

H. The provisions of Section 13.44.055 of the Rohnert Park Municipal Code shall not apply to fees established by this ordinance until such time as the City Council elects to authorize liens pursuant to the Revenue Bond Law of 1941.

SECTION 5. Environmental Review. The City Council does find and determine, based upon the information presented in the Reed Report and all other information presented and considered during the public hearing process that the adoption of the new rate structure and rate plan is for the purpose of meeting operating expenses, purchasing or leasing supplies, equipment, and materials, meeting financial reserve needs and requirements, and obtaining funds for capital projects necessary to maintain service within existing service areas, and therefore exempt from the California Environmental Quality Act under §15273 of the CEQA Guidelines.

SECTION 6. Severability. The City Council hereby declares that every section, paragraph, sentence, clause and phrase of this ordinance is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 7. Effective Date. This ordinance shall be in full force and effective 30 days after its adoption and shall be published and posted as required by law.

This ordinance was introduced on the 10th day of May, 2011 and **DULY AND REGULARLY ADOPTED** this 24th day of May, 2011 by a four-fifths vote of the City Council as follows:

AYES: Four (4) Council Members Ahanotu, Callinan, Stafford, and Mayor Belforte

NOES: None (0)

ABSENT: One (1) Council Member Mackenzie

ABSTAIN: None (0)

ATTEST:

CITY OF ROHNERT PARK

/s/ City Clerk Judy Hauff 5/24/11

/s/ Mayor Gina Belforte

APPROVED AS TO FORM:

/s/ City Attorney Michelle Kenyon