

RESOLUTION NO. 6453-90

A RESOLUTION ADOPTING A POLICY REGARDING SEWER FOR THE CITY OF NEWPORT NEWS.

BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby adopts the "Policy Regarding Sewers" dated May 22, 1990, which is attached hereto and made a part hereof.
2. That all previous policies relating to the same subject are hereby declared null and void.

Sponsor:

Margaret V. Keator

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS MAY 22, 1990

Countersigned:

Jessie M. Rattley
Mayor

Teste:

Bernice O. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Patten, Rattley, Crittenden, DuVal, Fitzgerald, Frank, Keator
Nays: None

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POLICY REGARDING SEWERS

The Council of the City of Newport News hereby promulgates its policy regarding the installation of and payment for certain sanitary sewer facilities within the City.

SECTION 1 - CITY INSTALLATION OF SEWERS.

The City may, where deemed practical and economically feasible, install lateral sanitary sewers in existing public streets. Each abutting landowner will be required to pay to the City an assessment calculated by multiplying the average front footage for parcels affected by a particular project by thirty-three dollars (\$33.00) per front foot. It is the policy of the City that petitions from property owners requesting the installation of sanitary sewer not be accepted. Any pending petitions which have not been accepted by the Council pursuant to a validly enacted proposing ordinance are void and of no effect.

SECTION 2 - PROCEDURE FOR ASSESSMENT OF PROPERTY FOR SANITARY SEWER CONSTRUCTION.

The following procedure shall be followed for assessing the cost of sanitary sewer construction projects:

- 2.1 Proposing Ordinance. When the Council wishes to consider the construction of a particular sanitary sewer project, it may adopt an ordinance proposing the construction and authorizing the publication of notice to all the abutting landowners affected by the project notifying them of a public hearing wherein they may appear and be heard in favor of or against the construction of the sanitary sewer.
- 2.1 Title Examination. Upon adoption of the Proposing Ordinance, the City Attorney's Office shall examine the titles of all the abutting property in order to determine the fee simple owners thereof and prepare a list of such owners to be notified by publication of a public hearing to be held regarding the issue of constructing the sewer.
- 2.3 Public Notice of Hearing. The City Clerk shall cause a public notice to the affected property owners to be published in some newspaper published or having general circulation in the city once a week for two successive weeks. The second publication shall be made at least seven days before the parties are cited to appear.
- 2.4 Letter to Property Owner. In addition to the Public Notice, a letter shall be mailed by the City Clerk to each property owner stating the date of adoption of the Proposing Ordinance and containing a copy of the public

notice. This letter shall inform the property owner that the assessment process shall result in a lien being created affecting the owner's property.

- 2.5 **Authorizing Ordinance.** The public hearing shall be held at a regular or special Council meeting, after which public hearing the Council may adopt an ordinance authorizing the construction of the sewer, appropriating the estimated cost of the project and directing the docketing of an abstract of the ordinance together with an estimated assessment against each lot or parcel of land affected by the project.
- 2.6 **Construction of Sewer.** The construction of the project shall be accomplished as a regular City project and the work performed by either City forces or by contract.
- 2.7 **Public Notice and Letter to Property Owner.** Upon final completion of the project, including resurfacing the street and acceptance or final approval by the City of work performed by a contractor, the following shall take place:
 - 2.7.1 A notice shall be published of a public hearing to be conducted by the City Manager or his designee. This notice shall contain a list of property owners and the estimated assessments against their properties and shall be published in the manner set forth in Section 2.3.
 - 2.7.2 At the time the notice is published the City Manager or his designee shall also cause a letter to be mailed to each property owner. The letter shall inform the property owners that the facilities are available as of the date of the letter, that the final assessment has been ascertained (and its amount) and that the City Manager or his designee will conduct a hearing regarding objections to the assessment.
- 2.8 **City Manager Hearing.** At the City Manager Hearing, the property owners may appear either in person or by counsel and make objections to the assessment.
- 2.9 **Ratifying Ordinance.** After the City Manager has conducted his hearing, the Manager shall present to the Council an ordinance ratifying the assessments approved at the hearing. This ordinance, once adopted, constitutes the final assessment against the abutting property owners and an abstract of the ordinance shall be recorded in the Circuit Court Clerk's Office.

- 2.10 Notification of Assessment. Upon adoption of the Ratifying Ordinance, the City Clerk shall transmit a copy of it to the City Treasurer. The Treasurer shall notify each property owner by letter of the date on which full payment of the assessment is due and shall explain the option of using a ten-year payment plan, if such has been approved by the Council.
- 2.11 Ten-Year Payment Option; Interest. The Council may approve as a part of the Ratifying Ordinance the payment of the assessment over a period not exceeding ten (10) years. If such a payment option is authorized, the first installment shall be due not less than six (6) months nor more than twelve (12) months after adoption of the Ratifying Ordinance. As required by state law, payments shall nevertheless be due on the same dates as real estate taxes are due. If full payment is made before the first installment is due, no interest shall be charged. If full payment is not made before the first installment is due, interest shall be charged on the unpaid balances at an annual interest rate not to exceed the rate of one-year United States Treasury Bills at the time the Ratifying Ordinance is adopted.

SECTION 3 - REVIEW OF ASSESSMENT RATE.

The City Manager and the City Council shall conduct an annual review of construction costs and assessment rates. Based upon such review, the Council may make such adjustments to the assessment rate as will most accurately reflect construction costs of sanitary sewer projects. Nothing in this section, however, shall be interpreted to permit the Council to increase the estimated assessment set forth in the Authorizing Ordinance.

SECTION 4 - COMPUTATION OF PROJECT AVERAGE FRONT FOOTAGE.

The City Manager is authorized to develop regulations relating to the computation of the project average front footage. These regulations, among other things, shall include provisions relating to parcels with large public street frontages so that such parcels will not unreasonably skew the average.

SECTION 5 - POLICY APPLICABLE TO SUBDIVISIONS.

- 5.1 Any person, firm or corporation (hereafter "Subdivider"), who proposes to develop a subdivision in the city for which the City determines there is a trunk line or main sanitary sewer which the City deems sufficiently contiguous and available for connection, is hereby prohibited from using septic tanks or other means of

sewage disposal. Such Subdivider shall install a gravity sanitary sewer system at his own cost and expense within said subdivision, and shall be required by the City to connect the sanitary sewer system so installed to the trunk line or main sanitary sewer system constructed or proposed to be constructed by the City.

- 5.2 The Subdivider shall furnish to the City, free of cost, a deed conveying a sufficient area of land upon which a lift station or sewage pumping station may be constructed, if deemed necessary by the City. The Subdivider shall convey to the City all of the sewer works constructed by him, including rights-of-way, pumping stations, force mains and gravity sewers, either on or off the subdivision site.
- 5.3 When a pumping station has been constructed in conjunction with a subdivision, and is fully operational prior to the completion and acceptance of all improvements in the subdivision, the City Manager may accept and maintain that pumping station.
- 5.4 The Subdivider shall pay a subdivision connection fee to the City in the sum of two and 50/100 dollars (\$2.50) per linear foot of all lots or land within the subdivision serviced by his sanitary sewer system within said subdivision for the privilege of connecting his sanitary sewer system to the trunk line or force main. In addition, the Subdivider shall pay the cost of constructing the lift station and/or pumping station and for the installation of the off-site connecting sewer and making the connection with City's sewer. The money received by the City for connections shall be credited to a revolving fund for future sewer extensions throughout the city as City Council may determine.
- 5.5 The City will enter into a formal agreement with the Subdivider which will provide among other things that all fees and monies required to be paid by the Subdivider shall be paid to the City prior to the connection with the City sewage system, and that the Subdivider will furnish bond in an amount required by the City to guarantee faithful performance. No lot or building shall be occupied within said subdivision until the sewer system serving such lot or building is connected to the City's sewer system.

SECTION 6. SEWER COLLECTION SYSTEM POLICY.

- 6.1 The Master Sewer Plan shall provide the guidelines for future new collection systems or upgrading of existing systems. The objectives of this Plan are the identification of potential sewage collection system service areas, the more efficient location of sewage

facilities within these service areas so as to avoid duplication or unnecessary facilities and the implementation of a long range plan for new construction and system upgrading. In order to accomplish these desired goals and objectives, a sewer collection system policy is established herein.

6.2 The Sewer Collection System Policy describes the guidelines or criteria for City participation in the construction of new sewage collection systems and the rehabilitation of existing systems as recommended by the Master Sewer Plan. It is the intention of this Policy for the City to recover one hundred (100) percent of its share in such construction and rehabilitation.

6.3 New Construction Policy.

6.3.1 City Non-participation Policy. The City shall not participate in the construction of sewage collection systems for specific developments whose sewage systems are only designed to convey sewage generated by that particular development and whose systems cannot be expanded to serve other areas.

6.3.2 City Participation Policy. The City shall participate in the construction of those sewage projects that are designed to accommodate anticipated flows generated from areas other than those being developed provided the following criteria are met:

6.3.2.1 A minimum of 50 percent of the anticipated average daily flow from a particular service area, as defined by the Master Sewer Plan, shall be accounted for by approved development.

6.3.2.2 All proposed sewage pumping stations are to be located at sites established by the Master Sewer Plan.

6.3.3 Should the pump station location criterion conflict with a site proposed by a development, the Subdivider shall be required to relocate the station to the site established by the Master Sewer Plan. The Subdivider shall, however, be reimbursed for the additional costs incurred because of the station relocation.

- 6.3.4 To provide sewer service to areas adjacent to proposed developments, the City may require that certain sewer collection lines be installed at a depth greater than what is required to serve a particular development. The City shall be responsible for the additional costs incurred because of the lowering of the sewer lines.
- 6.3.5 All new sewage pump stations that are to be accepted into the City sewerage system shall have the station site and maximum service area defined by the Master Sewer Plan. All stations are to be designed based on the following criteria:
- 6.3.5.1 A minimum of 50 percent of the total anticipated flows generated by a particular service area defined by the Master Sewer Plan.
- 6.3.5.2 The maximum amount of sewage flow generated by a proposed development.
- 6.3.6 Should the criterion in 6.3.5 necessitate a larger station than the one proposed to accommodate sewage flows generated by a particular development, then that Subdivider shall receive a credit against the subdivision connection fee of two and 50/100 dollars (\$2.50) per linear foot, for the amount of the station cost above what was necessary to serve the development.
- 6.3.6.1 If the Subdivider's additional pump station costs are in excess of the subdivision connection fee to be collected, then the City shall credit the total amount of the fee.
- 6.3.6.2 If the additional pump station costs are less than the subdivision connection fee to be collected, then the Subdivider shall pay to the City the difference between the additional construction costs and the subdivision connection fee.
- 6.3.7 Should the maximum amount of sewage generated by a proposed development exceed fifty (50) percent of the total anticipated flows from a particular service area, as defined by the Master Sewer Plan, the City at its discretion shall participate in the sizing of the station

to accommodate one hundred (100) percent of the service area flow. The anticipated sewage flow shall be defined by the existing land use zoning.

- 6.3.8 Should a portion of a service area be rezoned to a higher density than what was anticipated in the sizing of a particular station, thereby necessitating a upgrading of the station, the Subdivider shall be required to pay all upgrading costs.

6.4 Existing Collection System Upgrading

- 6.4.1 City Non-participation Policy. The City shall not participate in the upgrading of existing City sewage facilities whose upgrading is required to accommodate flows from a particular development that would either complete the development of a particular sewage collection system service area or those facilities whose combined sewage flows are less than fifty (50) percent of the maximum sewage flows identified by the Master Sewer Plan.

- 6.4.2 City Participation Policy. The City shall participate in the upgrading of existing City sewage facilities provided these upgrading projects are designed to accommodate anticipated sewage flows from areas other than those being proposed for development, provided, further, the following criteria are met:

6.4.2.1 A minimum of fifty (50) percent of the maximum anticipated average daily flows, as identified by the Master Sewer Plan, shall be from existing development.

6.4.2.2 The upgrading shall be designed to accommodate the total anticipated average daily flow, as identified by the Master Sewer Plan. Should the total anticipated flows exceed the flows generated by a proposed development, the City shall participate in the amount above what is required by a particular development so as to upgrade the system to accommodate total anticipated flows.

6.5 Connection by Non-participating Subdividers

6.5.1 Developments that have not participated in the cost of the construction of new or upgraded facilities shall pay a pro rata share of the facility construction along with a factor reflecting the inflation rate experienced from the project construction date to the date of connection.

6.5.2 The basis for the amount of pro rata share shall be the projected service area sewage flow as defined by the Master Sewer Plan.

6.6 Increases Caused by Change to Development Plan

Should a Subdivider who participates in the construction of sewage facilities for a specific amount of sewage flow exceed said flow, then that Subdivider shall be responsible for additional costs as defined elsewhere in this sewer policy.

#1/kmisc22

May 15, 1990

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Revision to Sewer Policy - Installment Payments

It has recently come to the attention of the City Treasurer that our procedure for collecting sanitary sewer assessments needed to be modified to conform to State law. It also became apparent in reviewing this section of the Sewer Policy that clarification was needed with respect to how interest is charged and until what point a full payment may be made without interest. As a result of discussion of these matters among the City Treasurer, City Attorney, and my Office, paragraph 2.11 of the Policy has been redrafted to accomplish the following:

- 1) To specify that installment payments for sewer assessments will be due on June 5 and December 5 when real estate taxes are payable; this change brings our Policy into conformance with State law.
- 2) To establish the payment date of the first installment under the ten-year payment option; this date is to be the first real estate tax payment date which is no less than six months or more than 12 months after adoption of the ratifying ordinance. Since the ratifying ordinance adoption is dictated by project completion, it can occur anytime during the year. In the future, the ratifying ordinance will state the due date for the first installment payment, and that date will be such that every home owner has between six and 12 months to make full payment of the assessment without paying interest.
- 3) As clarification for the computation of the rate of interest, the Policy will provide that interest is due from date of ratifying ordinance to first installment payment date unless the assessment has been fully paid prior to that date. The interest rate is to be established in the ratifying ordinance, with the ceiling being a rate not to exceed the one-year U.S. Treasury Bill rate as required by State Code. Over the last year or so, the ratifying ordinances have specified an appropriate interest in accordance with this requirement.

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The adoption of this Policy with the revised Section 2.11 is supported by the City Treasurer as a means to clarify the process of collecting installment payments. As explained, the changes are largely dictated by State Code provisions with the exception of when the first installment is to be due.

William P. Maroney
FOA: Ed Maroney

EEM:RWH:kds

pc: City Treasurer