

**COUNCIL ACTION FORM**

**SUBJECT: CUSTOMER REQUEST FOR A ONE-TIME WAIVER OF THE PEAK (SUMMER) WATER RATE**

**BACKGROUND:**

Roger Swenson submitted a letter to the City Council requesting the water charges billed on the October 21, 2008 utility statement for 717 Onyx Street be calculated on the non-peak (winter) rate rather than the peak (summer) rate. The letter was referred to staff. The house was vacant when the water heater drain plug broke, resulting in 121,220 cubic feet of water usage. The usage was due to an extraordinary one-time event that resulted in water charges of \$6,050.44, which is \$4,239.71 higher than if the usage had occurred during non-peak times.

Charging the higher seasonal rate would be unnecessary if the only purpose of the rate ordinance was to discourage future usage during seasonal peak periods. However, the rate ordinance is designed primarily to allocate the cost of additional capacity to the customers contributing to the seasonal peak demand. Regardless of the reason for the high water consumption, this customer account clearly contributed to the seasonal demand.

When the City Council was considering the new rate structure, staff placed considerable emphasis on the importance of not making value judgments about whether water uses were "good" or "bad," or "wasteful" versus "efficient." The focus of the seasonal rate structure is solely on the pattern of usage. Given this underlying philosophy, the staff cannot support this request for a waiver of charges for water that was "used" during our peak months.

However, if the Council's desire is to approve this request, staff recommends that Council consider directing staff to prepare a revision to the rate ordinance. It is likely that other property owners will experience similar one-time extraordinary events during the peak season and request a waiver from the rate ordinance. The rate ordinance revision could delegate to staff the authority to waive the seasonal rate on a case-by-case basis, eliminating the need for Council to become involved in every case. Such a revision will alter the premise of the current rate ordinance by introducing an element of subjectivity. Staff will be required to distinguish between wasteful and nonwasteful or intentional and unintentional water uses, something that staff worked hard to avoid

during the development of the existing ordinance. It is for this reason that staff sees this as a less desirable alternative.

**ALTERNATIVES:**

1. Deny the customer request for a one-time waiver of the peak (summer) water rate for charges billed on the October 21, 2008 utility statement for 717 Onyx Street. This will maintain the existing philosophy of the water rate structure focusing on seasonal patterns of use.
2. Approve a one-time waiver of the peak (summer) water rate for this specific request and direct staff to recalculate the October 21, 2008 bill based on the non-peak (winter) rate. This action will reduce the outstanding bill from \$6,050.44 to \$1,810.73. Future requests for a waiver would be required to be presented to Council for action.
3. Direct staff to develop a rate ordinance revision that will grant staff the authority to waive the peak seasonal (summer) rate on a case-by-case basis. Provide guidance to staff on those conditions when a waiver would be appropriate. This customer request would be held in abeyance until the final adoption of the rate ordinance revision, and then will be recalculated under the new rate ordinance.

**MANAGER'S RECOMMENDED ACTION:**

The City staff has mixed feelings about this referral. On one hand, we would like to offer some type of assistance to this customer. This was an extraordinary one-time event that is unlikely to occur again at this location. On the other hand, the seasonal water rate structure adopted by Council in May 2008 is based on patterns of usage without regard for the reason for the usage. The rate is designed to generate the revenue necessary to operate and maintain the water utility. Each customer is responsible for maintaining their property and monitoring their water usage. It is assumed that every customer will pay for their water usage because, if they do not, then other customers must pay more to make up for the lost revenue.

The Council should understand that Staff has received similar waiver requests recently because of claims regarding incorrect programming or malfunctioning of automated sprinkler systems. However, because the water was actually used during the peak season, we did not adjust the bills.

Given the underlying philosophy of the seasonal rate structure approved by the City Council to make sure those who contribute to the summer peak pay the higher cost of this usage, the staff believes it has no choice but to require full payment of this outstanding bill. Therefore, it is the recommendation of the City Manager that the City

Council adopt Alternative No. 1, thereby denying the customer request for a one-time waiver of the peak (summer) water rate for charges billed on the October 21, 2008 utility statement for 717 Onyx Street. To mitigate the impact on the customer, the Council could direct the staff to offer an extended payback schedule of up to 12 months to pay off the \$6,050.44 debt.

However, should City Council believe that this extraordinary event warrants some type of remedial action, Alternative No. 2 should be approved, thereby directing staff to recalculate the outstanding bill based upon the non-peak winter rate. This action will reduce the bill from \$6,050.44 to \$1,810.73