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Dear Mayor Thomas and Council Members

MY REQUEST: Please re-establish the Sewer Fund Ad Hoc Committee and appoint me to replace past Councilman Jeff Williams.

PURPOSE: To develop a fair and equitable sewer rate within the Sewer District based on actual and verifiable costs to provide the Sewer Service, *as required by law*.

HISTORY: In 2019, the then City Council proposed a sewer rate increase. Upon review of the April 2019 Sewer Rate Study by members of the public it was revealed that the proposed rates were erroneously based on “historical charges” paid from the Sewer Fund. It was also discovered that payments were made from the Sewer Fund for activities that should have been paid from the City’s General Fund. As a result, the Council abandoned the first attempt to increase the sewer rates. Because the financial data was provided to them by the City, the authors of the 2019 Rate Study included a disclaimer stating “...no warranty is expressed or implied as to the correctness, accuracy or completeness of the information herein.”

After the 2019 effort failed, the Council created an ad hoc committee and appointed two members from the public to look deeper into the expenses of the Sewer Fund and more misuse was quickly discovered. The then City Manager’s response was that the Ad Hoc Committee went far beyond their objective by truly looking into the “actual costs” to provide the sewer service. Instead, he insisted that their *only purpose* was to agree upon a sewer fee that would be merely “palatable” to the ratepayers and he immediately shut down the Committee.

In 2020, the City Council again proposed a sewer fee increase. This second attempt was based on lesser rate percentages than those proposed in 2019. However, members of the public had discovered even more misappropriation of the Sewer Fund, which was admitted to by City staff. The City Council again rightly rejected the proposed rates. Shortly after, the Council received a list of other instances of the misuse of the Sewer Fund. Subsequently, the City Council went into a Closed Session to evaluate the problems. The following week the Finance Director resigned and a couple of weeks later the City Attorney also resigned.

In mid-2021, the City Council moved forward with a third sewer rate increase. This time the proposed rates were based on a new Wastewater Rate Study completed by NBS. Apparently the then City Attorney’s partner negotiated the cost and he awarded the contract directly to NBS. But this Study was not based on actual and verifiable costs to provide the service, as required by law. Instead, the 2021 NBS Rate Study used terms like “industry standard principles” and “new methodology” while describing the estimated costs supporting the sewer fees “adjustments.” NBS employees have acknowledged that their sewer fee modifications didn’t fully comply with the Proposition 218 process. In addition, they describe their flawed practice of estimating their costs as “defensible” in the event that their illogical fees were challenged.

The NBS Rate Study is clearly faulty. In calculating the sewer fees for apartment complexes, the NBS Study used the metered amount of fresh water consumed by apartment complexes instead of the actual quantity of effluent the apartment tenants generate on an annual basis.

Recent census figures confirm that in Willows the number of people living within a single apartment unit is equivalent to those living in a single family home. Nevertheless, based on the erroneous NBS Study, the then City Council gave substantial sewer rate reductions to apartment owners while increasing the fees on single-family homes and local businesses.

If fresh water consumption is a valid factor for establishing sewer rates, then the fees for a downtown business with only a toilet, sink, *and no landscaping at all*, should have the lowest rates—not the highest. NBS literature rightly says “...that rates [should] be proportionate to the cost of providing service for all customers” and that one “customer group” cannot legally subsidize any fees for another customer group. Nevertheless, the homeowner and business “groups” located in Willows are subsidizing the sewer costs for the out-of-town corporations that own apartment complexes.

WHERE WE ARE TODAY:

Depending upon which NBS sewer expense forecast, or City budget, or fiscal yearend revenue and expense ledger, or the audits people compare, there are significant and unexplained disparities in the figures found in certain categories contained within those documents.

For example, the timecards filled out by Public Works employees confirm that of the more than 7,000 man hours they were paid *per year* from the Sewer Fund, approximately 100 of their hours were in reality spent maintaining the in-town portion of the sewer system. Even if their salaries and benefits equaled \$100 per hour, (the cost that Inframark charges the City) the accurate total would be less than \$10,000 for the entire year.

Nevertheless, the NBS Rate Study forecasted the in-town maintenance costs for employee salaries and benefits for the fiscal year 2020/21 to be \$331,393. And the 2020/21 Adopted City Budget listed \$315,077 for that category, about \$16,000 *lower than* the NBS predictions. However the 2022/23 City Budget shows \$281,877 for FY 2020/21 was paid from the Sewer Fund for the City employee salaries and benefits.

From October 2020 until October 2021, the City paid Inframark \$95,000 for the in-town sewer system maintenance. It’s not clear what tasks Inframark completed, but we were told that no City employees were paid from the Sewer Fund during that same time period.

Nevertheless, the 2023/24 the City’s Budget records the “actual” amount for salaries and benefits paid to City employees for FY 2020/21 was \$282,906 for sewer maintenance. What’s even more confusing is that the 2021 fiscal yearend Auditor’s Report displays a (\$70,853) negative figure for employee salaries and benefits for sewer maintenance during FY 2020/21.

Another example is that the costs listed on the Sewer Fund expense ledger for Equipment Maintenance range from a low of \$5,783 in 2011 to a high of \$16,653 in 2017. But in 2018, that figure jumped by \$100,000 to over \$116,000. City staff has not provided any explanation for the huge increase.

One more unexplained inconsistency is the General Administration account paid from the Sewer Fund. For several years, that amount was around \$69,000 to \$77,000 per year. When it was discovered that Sewer Fund was unlawfully charged to pay the police department staff, the Administration cost category was reduced to \$39,000 per year. The new General Administration rate proposed in the NBS Study jumped to over \$165,000 per year starting in FY 2021/22. But the City records show that only \$39,000 was paid from the Sewer Fund for General Administration in FY 2021/2022.

For the fiscal years 2022/23 and 2023/24 the City Budgets show no expenditures for "Administrative Overhead." Instead, a new category of Overhead-General Fund appears in the Budget showing amounts of \$147,000 and \$154,000 respectively for those two fiscal years.

MY POINT: Whether a person compares the above accounts, or the ones for the discharge permit, insurance, professional services, tires, fuel, vehicle maintenance, or PG&E costs, there are noticeable differences in the estimated and/or actual charges to the Sewer Fund.

RECOMMENDATION: Reinstate the Sewer Fund Ad Hoc Committee to look deeper into and distinguish the "historic expenditures" paid by the Sewer Fund from the *actual costs* to provide the service, *again as required by law*. Appoint members from the public to the Ad Hoc Committee who have the specialized skill sets needed to examine City records and report on their findings. For example, a local auto mechanic could review the City's vehicle maintenance logs to separate any costs associated with the sewer related from the non-sewer equipment. Someone else knowledgeable of solar systems might determine the causes for the failures related to the solar equipment installed at the sewer treatment plant. Another person could review the employee timecards and segregate the actual hours they spent on their sewer related tasks from their non-sewer activities.

RATIONALE FOR THE RECOMMENDATION: First, during their respective campaigns, three new Council members vowed to revisit the current Sewer Rates to determine a fair and equitable fee that should be borne by all ratepayers. Second but most important, there are still too many unanswered questions and unexplained expenditures from the Sewer Fund for which the ratepayers deserve honest and accurate explanations. Third, it is the City Council's fiduciary responsibility to undertake this endeavor.

SUGGESTED TIMEFRAME FOR THE COMMITTEE'S ACTIVITIES: My hope is that within six months from now the Committee would produce an all encompassing Report with findings and recommendations for the entire Council to analyze and consider. I envision at least four Committee meetings to periodically review the progress of those who will have studied and analyzed specific subdivisions of the Sewer Fund. I suggest that these meetings should be announced for maximum public participation and for full transparency.

FISCAL IMPACT: Apart from the staff time to provide copies of public information, I don't see huge costs stemming from this necessary obligation. The Council might consider whether staff time should be spent taking minutes or managing the audio recordings of the Committee meetings. It has been questioned whether there could be a cost associated with creating a new Sewer Rate Study to support any changes in sewer fees after the Committee's Report is completed. I already have the commitment from an experienced associate of mine who is qualified to provide a revised Study, *at no cost to the City*, if one becomes necessary.

THE END GOAL: Again, to develop a fair and equitable sewer rate within the Sewer District based on actual and verifiable costs to provide the Sewer Service, *as required by law*. Thank you in advance for your favorable consideration on this matter.

Sincerely,


FORREST J. SPRAGUE
Council Member