



Memorandum

To: Board of Selectmen
Martha White, Town Administrator

From: Michael Walters Young, Deputy Town Administrator

Date: Friday, May 29, 2009

Re: Water/Sewer Rate Setting

On June 1st you will continue your rate setting for the Water/Sewer Enterprise Fund for FY 2010. Over the course of the last month, we have provided several packets of information to assist you in this year's rate setting process. I am reattaching those packets to this memorandum so that you have the full picture of information to review when making your decision.

Items under this agenda item:

- 1) Cover memo dated Friday, May 29th, 2009 entitled "Water/Sewer Rate Setting"
- 2) Memorandum/Packet dated Friday, May 15th, 2009 entitled "Follow-ups on Water/Sewer Rate hearing Questions" (*For webusers – please see links on Water/Sewer Rate page*)
- 3) "FY 2010 Water & Sewer Rate Recommendations" dated May 4th, 2009. (*For webusers – please see links on Water/Sewer Rate page*)

Summary

This memorandum has three sections:

- 1) Outstanding questions from the rate/setting hearing of May 4th.
- 2) Final budget & Town Meeting action regarding the Water/Sewer Enterprise Fund.
- 3) Rate proposals and the votes you need to take on June 1st.

Section 1) Outstanding questions from the rate/setting hearing of May 4th.

At the first session of the water/sewer rate hearing, a lot of questions were raised by commissioners requiring follow-up by staff. Most of those questions were answered in the memorandum of May 15th. One outstanding question was in relation to the distinctions – legal or otherwise – between apartments and condominiums. The question raised was:

- **Question:** How do we distinguish between a condominium and an apartment legally other than through the assessment process? Are they really so different?
- **Answer:** Staff posed that question to Town Counsel. His research showed that in addition to the distinction which staff has already made between apartments and condominiums – which they are assessed in different manners – condominiums and apartments are treated differently when it comes to zoning. From a legal definition standpoint, Counsel found the following:
 1. Apartment: A part of a building set apart which is used or adapted to be used exclusively for the residence of one family, single dwelling unit. (Citation: Town of Natick Zoning By-Laws, Page I-7)
 2. Apartment House: Any building designated for, or occupied as a permanent (as distinguished from hotels, motels and boarding houses) residence for three or more families in separate dwelling units with means of egress and other essential facilities. (Citation: Town of Natick Zoning By-Laws, Page I-7)
 3. Condominium: The land or the lessee's interest in any lease of such land which is submitted to the provisions of this chapter, the building or buildings, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which have been submitted to the provisions of this chapter. (Citation: M.G.L. Ch. 183A, Section 1, pages 200-201.)

What Counsel's research found was that whereas condominiums are treated like single-family homes in terms of both assessment and zoning, apartments are treated differently. Apartments have a different zoning classification, and are a business which provides residential domiciles. Whereas apartments are established controlled via zoning, traditionally condominiums need not be.

As stated in previous memorandums, apartments are, treated different than as single-family homes and condominiums for several reasons for two other reasons:

- i) Apartments are fundamentally businesses. While condominium units are assessed on the market approach, (just like single-family homes), apartments are assessed via income approach. The impact that this has on Water & Sewer rates is that any increases in costs to the owner are factored into the final assessment at year-end. If the owner's net income were to drop (e.g. because of higher costs of water), then it would be likely that their assessment would also be lower. Thus higher water rates may actually lead to a lesser tax burden on the owner. Higher operating costs also affect apartment owner's income tax burden. Single-family homes and condominiums have no such ability to recoup the higher costs of water.
- ii) There is no guarantee that averaged water rates would actually be passed onto the tenants. State law requires that water be billed to the owner and that he/she distribute the cost of the water to the tenants via rent. Because tenants cannot pass on the costs of water rates directly to their tenants, there is no guarantee that averaging of apartments would result in a benefit to the renters.

A final question was asked as to whether or not the board could amend its averaging policy to only cover those condominiums which are truly owner-occupied. Town Counsel is researching this question, though even without counsel's opinion staff has concerns with the implementability of this change in policy. The Town has no mechanism to determine what units are being rented out and which ones truly are owner-occupied. We can discern that some units

are being sub-leased or rented out in some cases because one owner is getting a bill for dozens (and dozens) of units. But we have no formal knowledge of ownership versus renting status – this information can only be provided to the Town voluntarily, akin to an individual voluntarily documenting sales tax for a purchase they made on the Internet.

Staff does not believe changing the rate structure to average apartments at this time is warranted.

Section 2) Final budget & Town Meeting action regarding the Water/Sewer Enterprise Fund.

On May 21st, Town Meeting concluded action for the 2009 Spring Town Meeting. The Water/Sewer Enterprise Fund Budget, including operating costs, indirects and capital projects, was approved in its entirety as per the recommendations of the Town Administrator and the majority of the Board of Selectmen. To review, that budget is summarized below:

	FY 2008 Budget	FY 2009 Budget	FY 08-09 %	FY 2010 Appropriated	FY 09-10 Change	
					\$	%
Water & Sewer Enterprise Revenues						
User Charges	9,992,305	12,173,950	21.8%	12,314,366	140,416	1.15%
Connection Fees	94,291	95,000	0.8%	95,000	-	0.00%
Other Departmental Income	739,814	740,000	0.0%	700,000	(40,000)	-5.41%
Investment Income	81,930	60,000	-26.8%	45,000	(15,000)	-25.00%
Capital Article Closeouts/Transfers				162,304	162,304	#DIV/0!
Retained Earnings	2,675,000	-	-100.0%	213,696	213,696	#DIV/0!
Total Water & Sewer	13,583,340	13,068,950	-3.8%	13,530,366	461,416	3.53%
Water & Sewer Enterprise Expenses						
Sewer	4,743,775	4,933,877	4.01%	5,218,449	284,572	5.77%
Water	1,649,681	1,930,055	17.00%	2,013,391	83,336	4.32%
Utility Billing	231,116	217,262	-5.99%	219,282	2,020	0.93%
Fringe Benefits	604,816	661,535	9.38%	607,776	(53,759)	-8.13%
Debt Service	1,888,392	2,264,563	19.92%	2,415,052	150,489	6.65%
Reserve Fund	0	200,000	#DIV/0!	200,000	-	0.00%
** Indirects** (included in G/F)	2,379,592	2,546,345	7.01%	2,506,416	(39,929)	-1.57%
** Capital**	TBD	315,000	#VALUE!	350,000	35,000	11.11%
Total Water & Sewer	11,497,373	13,068,637	13.67%	13,530,366	461,729	3.53%

This increase is being driven by two primary factors:

a) Increase in the MWRA Assessment of 7.5% or \$303,964: The MWRA Assessment – the charge which the Town must pay for the treatment of the Town’s sewage by the Massachusetts Water Resource Authority is on the rise. This cost could be higher if the Town had not worked in years past to continually limit the amount of excess water and storm water going into the sanitary sewer system (otherwise referred to as Infill & Infiltration or I&I work). Unfortunately, this is a fixed cost which is set by the MWRA and cannot be reduced by the Town. It must be paid.

b) Increase in Debt Service of 6.65% or \$150,489: Debt Service for FY 2010 is another fixed cost which must be paid as it is the cost of servicing (paying down) previously issued capital projects. Future year’s debt service is a variable cost dependent upon which capital projects are approved and for what duration they are bonded for.

Of the \$461,729 of expense increase from FY 2009 to FY 2010, \$454,453 (or 98.4% of the increase) is attributable to those two fixed costs.

Section 3) Rate Options:

The chart below shows the multiple impacts of choosing different rate options and alternatives. Once you have voted each option, staff will distribute the appropriate rate sheet for you to officially vote into the record.

Options for Rates:		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>F</u>
		Basic level necessary	Add Fire Connection Fee	Average Apartments	Average Out-of-Town Customers	Final Rate Increase
Percentage Inc./Dec.		1.15%	-0.65%	3.50%	0.65%	
1	If you vote the base proposal only	1.15%	N	N	N	1.15%
2	If you vote the base and add the fire connection fee	1.15%	-0.65%	N	N	0.50%
3	If you vote the base and add the fire connection fee and average apartments	1.15%	-0.65%	3.50%	N	4.00%
4	If you vote the base and average apartments and out of town customers	1.15%	N	3.50%	0.65%	5.30%
5	If you vote the base and average out-of-town customers	1.15%	N	N	0.65%	1.80%
6	If you vote the base and add the fire connection fee and average out-of-town customers	1.15%	-0.65%	N	0.65%	1.15%
7	If you vote all alternatives	1.15%	-0.65%	3.50%	0.65%	4.65%

Recommended Actions:

- 1) **Decide whether or not to vote the alternatives to the base rate increase – the addition of fire connection fees, the averaging of apartments and the averaging of out-of-town customers.**
- 2) **After those decisions have been made, staff will distribute the complete rate sheet for the option (shown above as options 1-7) for you to formally vote as the rates for FY 2010.**

Please let me know if you have any questions.