THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: June 23, 2020

Subject: Discontinue Capital Improvement Fee

Staff Resource(s): David Melton, Water Resources Department Director

Action Requested: Adoption of an ordinance authorizing the discontinuation of the Capital Improvement (CIP) Fee for Water Resources Customers.

Background:

- In 2006, an engineering evaluation of the Asheville Water System revealed that reinvestment in existing water infrastructure was imperative to the system's ability to continue to provide water service to its existing customers. The evaluation identified funding mechanisms to accommodate the reinvestment and address the deferred maintenance issues.
- Applying a CIP fee based on the maximum volume (gallons per minute) that will pass through a meter was chosen and approved as the funding mechanism.
- The water system regularly reinvests an average of $10,000,000 to $12,000,000 annually into the system.
- The reinvestments include, but are not limited to,:
    - water treatment plant projects,
    - water line replacement projects,
    - water meter and vault replacement projects,
    - water pump station and water storage tank projects, and
    - debt service payments.
- In June of 2018, a lawsuit was filed against the City of Asheville (Alexander vs. The City of Asheville, 18 CVS 2231), which alleged that charging the CIP fee was beyond the City's legal authority.
- At that time and continuing through the present, the City remains steadfast in its assertion that its water fees were valid and defended the lawsuit accordingly.
- The parties eventually reached an agreement to settle the lawsuit in December 2019. As part of that settlement and without admitting any liability, the City agreed to discontinue charging the CIP fee.

Council Goal(s):

- A financially resilient city

Committee(s):

- None

Pro(s):

- Compliance with the settlement agreement.

Con(s):

- Failure to comply could result in further litigation expenses.

Fiscal Impact:

- The Water Resources Department will experience an approximately $7.5 million reduction in CIP funding in Fiscal Year 2020-21.
- Staff is working with consultants to develop scenarios for future annual rate adjustments that will mitigate this capital revenue loss over time.

Suggested Motion:

- Motion to adopt an ordinance authorizing the discontinuation of charging the Capital Improvement Fee for Water Resources Customers.

Attachment(s):

- Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING THE FEES & CHARGES MANUAL TO DISCONTINUE THE WATER RESOURCES CAPITAL IMPROVEMENT FEE(s)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The Water Resources Capital Improvement Fee(s) will be discontinued and the City's Fees and Charges Manual is hereby amended to remove the Capital Improvement Fee.

That this ordinance shall be in full force and effective upon July 1, 2020.

Read, approved, and adopted this 23rd day of June 2020.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney