

# AGENDA ITEM SUMMARY

## WASTEWATER UTILITY ENTERPRISE

ITEM NUMBER: 3

DATE: October 7, 2008

STAFF: Brian Janonis  
Terri Bryant  
Kevin Gertig

### SUBJECT

Resolution No. 002 Declaring the Official Intent of the Wastewater Utility Enterprise to Use Proceeds of Tax-Exempt Revenue Bonds to Reimburse Itself for Certain Capital Expenditures Made From Other Revenues.

### RECOMMENDATION

Staff recommends adoption of the Resolution.

At its September 25, 2008 meeting, the Water Board voted to recommend adoption of the Resolution.

### FINANCIAL IMPACT

The Enterprise intends to begin demolition and construction activity at the Mulberry Reclamation Facility in the late fall, 2008 and issue debt of approximately \$31.8 million in January, 2009 for the project. The Enterprise intends to begin construction and procure equipment for the project in early fall to exercise cost containment in a volatile construction market.

### EXECUTIVE SUMMARY

The Enterprise intends to finance approximately \$31.8 million to pay the costs for improvements at the Mulberry Reclamation Facility. The Reimbursement Resolution is required in order for the Enterprise to reimburse itself from debt proceeds resulting from capital expenditures paid directly by the Enterprise prior to the debt issuance. The resolution provides flexibility to draw bond funds to reimburse those expenditures made more than 60 days prior to bond issuance. The Enterprise intends to issue debt in January, 2009 to finance this capital project.

The Resolution is necessary in order to comply with the provisions of the Internal Revenue Code to maintain the tax-exempt status of the intended financing.

### BACKGROUND

The Mulberry plant was built in 1946 with upgrades in 1958 and 1972. In the past two years, the treatment performance of the plant's 60-year old trickling filter (which provides first-stage secondary treatment for the plant flow) has degraded several times requiring it to be taken off-line, cleaned and

restarted. Failure of the trickling filter creates a significant increase in odors until it has been cleaned. Even after restarting, the trickling filter's effectiveness has not recovered to its past efficiency. In late 2006, a study by MWH Consulting Engineers was commissioned to determine the best solution for the long-term use of the Mulberry plant. Upgrading the plant's secondary treatment processes by removing the trickling filter and its associated facilities and installing a new aeration basin and associated facilities is the most cost-effective solution. Because the trickling filter is already recommended for replacement, odor control improvements will also take place. Upgrading the facility will also allow the Utilities to prepare for future regulation-based improvements. The improvements, including design and construction, are projected to cost approximately \$31.8 million and will be funded by debt.

An 11% increase is proposed for 2009, 10% for 2010, and 9% for 2011 to maintain reserve requirements, meet debt service, and continue operations and maintenance functions.

## **ATTACHMENTS**

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1. Water Board Minutes – excerpt from September 2008 meeting relating to the Resolution.

WATER BOARD MINUTES (Excerpt of Draft/Unapproved Minutes)  
September 25, 2008

2009 Budget Agenda Item

*Presenter: Terri Bryant, Utilities Finance and Budget Manager*

*Recommendation for Motion:*

→ Vice Chairperson Gina Janett moves to approve the wastewater reimbursement resolution for Mulberry Reclamation Facility improvement bonds. Board Member Phil Phelan seconded the motion.

*Discussion on the Motion:*

Board member comments:

- It makes sense to order equipment (identified as needed for the project) before actually needed due to costs of materials and equipment on the increase. This is an opportunity save a significant amount of money.
- Money is currently being spent from reserves. This would allow Utilities to go through debt service to obtain funds and reimburse the reserves.
- Some Board members would like to see more emphasis on debt reduction and questions 10 percent of our budget being spent on debt service.
- There appears to be millions of dollars in reserves for the water fund. Why is that not the case for the wastewater and stormwater funds?

*Staff response:* A good share of the water budget reserve is "cash in lieu of." A special fund paid by Development in anticipation of building a reservoir (referring to Halligan Reservoir.) Staff also did a much better job of projections on the water side.

Staff comments:

Ms. Bryant noted the advantage to selling debt when conditions are most favorable and maintaining tax exempt status when selling the debt. Utilities Executive Director Brian Janonis added we are in the process of spending money, regardless of this reimbursement clause. For example, demolition is already taking place. This would provide a way to be reimbursed for it. Mr. Janonis stated hiring an asset manager will move us in the right direction and provide the opportunity to project expenses for the next 40-50 years and plan for level rate increases.

Deputy City Attorney Carrie Daggett noted the reason for taking this resolution before Council. Treasury regulations are very strict about proceeds of bonds and what they can be used for. This resolution follows the process set out for this exact type of scenario by the regulations, for example spending money in anticipation of issuing bonds. This resolution will have no effect if the bonds are not issued, but if they are issued, the resolution allows proceeds from the bonds to be used to reimburse these expenses.

Annual rates from wastewater funds are about \$14 million. If we doubled our rates to fund repairs to a broken water treatment plant, it would take approximately 2.5 years, assuming no cost increases, to raise enough cash to fund a wastewater plant.

*Vote on the Motion:* Following discussion on the motion, a vote was taken, and it passed with one abstention by Board Member Connor (7 for, 1 abstention, 0 against.)

*Recommendation for Motion:*

Vice Chairperson Janett moved to approve refunding of all of Water's outstanding revenue refunding bonds and improvement bonds, series 1998 to create cash flow savings estimated at \$1.2 million. Board Member John Bartholow seconded the motion.

*Discussion on the Motion:*

There was no discussion on the motion.

*Vote on the Motion:* A vote was taken, and it passed with one abstention by Board Member Connor (7 for, 1 abstention, 0 against.)

*Recommendation for Motion:*

Board Member David Pillard moved to approve the 2009 Water, Wastewater and Stormwater recommended budgets. Board Member Steve Balderson seconded the motion.

*Discussion on the Motion:*

Board Member Gary Wockner shared his feedback in a special document sent to members prior to the Board meeting.

*Vote on the Motion:*

A vote was taken, and it passed (6 for, 2 against.) Dissenting votes were recorded as follows: 1) Board Member Connor would like to see more movement toward a fiscally conservative position of retiring debt over time and addressed in more detail in a budget proposal, and 2) Board Member Wockner as stated in his document. The document is attached as part of the record.

Prepared by:

Robin Pierce, Executive Administrative Assistant  
Fort Collins Utilities

RESOLUTION NO. 002  
OF THE BOARD OF THE WASTEWATER UTILITY ENTERPRISE  
DECLARING THE OFFICIAL INTENT OF THE WASTEWATER  
UTILITY ENTERPRISE TO USE PROCEEDS OF TAX-EXEMPT REVENUE BONDS  
TO REIMBURSE ITSELF FOR CERTAIN CAPITAL EXPENDITURES  
MADE FROM OTHER REVENUES

WHEREAS, the City's Wastewater Utility Enterprise (the "Enterprise"), reasonably expects that within the ensuing year the Enterprise will issue certain tax-exempt revenue bonds (the "Bonds"), in a principal amount of up to \$32 million, in order to finance the demolition and construction of the Mulberry Reclamation Facility (the "Project") and related improvements; and

WHEREAS, the Enterprise reasonably expects that prior to the issuance of the Bonds the Enterprise will make certain capital expenditures for or in connection with the Project with the expectation of reimbursing itself from proceeds of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE CITY OF FORT COLLINS, COLORADO, WASTEWATER UTILITY ENTERPRISE that the Board hereby declares that it is the official intent of the Enterprise to use proceeds of the Bonds to reimburse itself for certain capital expenditures made from Wastewater Fund reserves for or in connection with the Project, provided that (a) the Bonds will not be used to reimburse any expenditure paid more than 60 days prior to the present date; (b) the Bonds will not be issued more than 18 months after the later of (i) the date of the first expenditure to be reimbursed with the proceeds of the Bonds, or (ii) the date the Project is placed in service; and (c) in no event may the Bonds be issued more than three years after the date of the first expenditure to be reimbursed with the proceeds of the Bonds; and provided further that the limitations hereof will not apply to qualified "preliminary expenditures" as permitted by Treasury Regulation Section 1.150-2(f).

Passed and adopted at a regular meeting of the Wastewater Utility Enterprise held this 7th day of October, 2008.

CITY OF FORT COLLINS, COLORADO  
WASTEWATER UTILITY ENTERPRISE

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Mayor, Ex-Officio President

ATTEST:

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Chief Deputy City Clerk, Ex-Officio Secretary