



STAFF REPORT

DATE: September 24, 2019

DISCUSSION

AGENDA ITEM: SAC Count Consideration for Private Residential Club Houses

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

In July Gonyea submitted an application to the Met Council for a SAC (Sewer Availability Charge) determination for their clubhouse at Legacy at Northstar. The city requires this for all non-single family homes. We even required it for a business that is proposing only to connect to city water, not sewer, because the city policy has been to charge the same number of REC (residential equivalent charges) for city water and sewer access charges as determined by the Met Council. It makes it easier to administer if there is one uniform way of determining the number of REC units.

The Met Council made a SAC determination on July 25, 2019. A copy of the determination is included in your packet. It outlines how the number of SAC were determined. They received 3 SAC, one for each shower, and 1.53 (or 2) SACs for the number of fixtures (sinks, toilets, drinking fountains, etc).

Craig Allen, Gonyea, called me after receiving the total permit fee information. He stated that in other communities where they have done this clubhouse they only paid 1 SAC and were considered residential. I went over the SAC determination letter with him and suggested if he thought it was wrong how they calculated it he could contact Met Council or make adjustments to his plan. I asked him to provide me with the list of other cities where they have built this and said I would follow up to see if we missed something. Craig later provided the list of building costs from three other cities-Champlin, Plymouth and Maple Grove. I reached out to all three and got a response from two cities. I asked them how they charge their city WAC and SAC and if there was some exemption for clubhouses from the Met Council that I was unaware of.

The building official in Plymouth said:

Plymouth City code states that it will charge the equal assessment of units for both SAC and WAC fees as Met Council charges. All community club houses (commercial use) are assigned these fees. We typically see Met Council assign 1 SAC charge for these buildings (small party room, office, 1 bathroom, pool side deck and the pool).

Note: the clubhouse at Legacy is over 1300 square feet, includes 3 showers/bathrooms, indoor and outdoor kitchens, dining area and great hall. Outside there will also be a pool.

The community development director in Maple Grove looked into the issue and found that they had undercharged Gonyea. The correct SAC amount should have been 3 units.

I also checked with the Woodbury Building Official since they have similar developments. His response was:

We use the Met Council determinations for all of our SAC determinations and collections. The number of SAC is based on what the contractor submits to Metropolitan Council for the determination and we collect this as a pass through fee for them. The number of SAC assessed purely depends on the building size, pool and interior items being installed in the clubhouse /pool house projects. Each one is different in each of our developments.

Our club houses are based on a Commercial permits and NOT under a single family residential permit.

Staff also checked with Stillwater since they have some similar developments. The City of Stillwater does not charge city SAC fees. They do collect the same number of WACs (\$1,000 per WAC) as Met Council SACs on their determination letter.

Staff has reached out to the Met Council for a review as well. It appears that they may have been undercharged in those other communities where they only had 1 SAC. Due to some Met Council staff being out of the office they have not completed their review but I expect to have a more comprehensive explanation in time to share with City Council on Tuesday.

ISSUE BEFORE COUNCIL:

Should the City Council adopt a policy different for WAC and SAC charges that doesn't correlate to the Met Council determination?

PROPOSAL DETAILS/ANALYSIS:

The Mayor and Council Member McGinn have asked for this issue to be discussed by the Council after hearing concerns from the developer. The concern as I understand it is that there should not be this many, if any, units charged to the clubhouse because the residents in the homes in Legacy at Northstar have already paid their WAC and SAC with their building permits. It has also been stated that this is not like other commercial properties because it is not open to the public and will only be in use a few months out of the year.

SAC units are determined based upon the maximum potential daily wastewater flow. The Met Council associates 247 gallons of maximum potential daily wastewater flow with one SAC unit.

As previously mentioned city policy, as stated in the fee schedule, is to charge City SAC, WAC and connection charges on a per REC basis.

If Council wants to change the amount that Gonyea is being charged they should think in terms of a policy change that could impact a group of users so as not to be arbitrary and capricious. According to the City Attorney, the legal definition of arbitrary and capricious is a willful and unreasonable action without consideration or in disregard of facts or law or without determining principle.

A judge may rule that decisions are "arbitrary and capricious" for several reasons including:

- there was a clear error in judgment
- there was an absence of a rational connection between the facts found and the choice made
- the action was not based upon consideration of relevant factors
- there was an abuse of discretion
- the action was not in accordance with the law, or taken without the required legal procedures

For example, Council may wish to charge only 50%, 75% or some other portion of the SAC units to new commercial units as an economic development incentive to increase the tax base. However, it should be noted that the clubhouse will likely be tax exempt once it is turned over to the HOA after the developer leaves. This is the case for other clubhouses in residential areas in Washington County.

FISCAL IMPACT:

Met Council fee: 5x \$2,485=\$12,425

City SAC and connection fees: 5x \$4,000=\$20,000

City WAC and connection fees: 5x \$4,000=\$20,000

As noted in the 2018 Audit presentation, the water and sewer funds are not covering operating expenses with user charges. Trunk fees such as WAC and SAC, are currently filing the shortfall. The long range financial plan for the utilities last year estimated that there would be 70 commercial WAC/SAC added in

2019. To date there have only been 14. Once the finance director performs the annual update to the utility pro forma, more information about the financial impact will be known.

OPTIONS:

- 1) Make no changes to policy
- 2) Provide direction to staff on how to amend the policy of charging WAC and SAC on a per REC basis

RECOMMENDATION:

Staff would recommend no changes to our current policy. It appears consistent with what we've heard from other communities.

ATTACHMENTS:

- Legacy Clubhouse SAC determination