

DULUTH PUBLIC UTILITIES COMMISSION
Tuesday, November 17, 2015
City Council Chambers
AGENDA

1. Roll call
2. Public hearing:
15PUC-008 - RESOLUTION ESTABLISHING USER CHARGES FOR THE CITY'S STORMWATER UTILITY EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES.
3. Public hearing:
15PUC-009 - RESOLUTION REDUCING CLEAN WATER SURCHARGE EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES.
4. Approval of previous meeting minutes
5. Old business:
 - 5.1 15PUC-008 - RESOLUTION ESTABLISHING USER CHARGES FOR THE CITY'S STORMWATER UTILITY EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES. (vote)
 - 5.2 15PUC-009 - RESOLUTION REDUCING CLEAN WATER SURCHARGE EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES. (vote)
 - 5.3 Utility appeal procedures
 - General (vote for adoption)
 - Cold weather (update from Attorney)
6. New business:
 - 6.1 2016 meeting schedule
 - 6.2 Fee for customers who turn their water back on after it was shut off by PWU- discussion only
7. Updates from staff
8. Upcoming Council actions
9. Commissioner questions or comments
10. Preview of upcoming business

DULUTH PUBLIC UTILITIES COMMISSION
Meeting Minutes
October 20, 2015

Members Present: Councilor Zack Filipovich, Councilor Jennifer Julsrud, Rob Prusak, Jim Ramnes, Linda Sellner, Jason Thorsell

Members Absent: Councilor Joel Sipress

Staff Present: Bob Asleson, Jim Benning, Liz Bieter, Todd Carlson, Leanna Gilbert, Howard Jacobson, Chris Kleist, Chris Madden, Eric Shaffer, Glenn Strid

Call to Order: The meeting was called to order at 5:15 p.m. by President Prusak.

Approval of previous meeting minutes

The agenda was amended to move resolution 15PUC-007 to the top, since Commissioner Filipovich had to leave at a certain time.

15PUC-007 - RESOLUTION ESTABLISHING FEES FOR VARIOUS UTILITY-RELATED SERVICES.

Jim Benning stated that the fees remain unchanged from 2015 apart from the removal of fees in lieu of assessment for water and sewer which were given back to the City Council. Commissioner Filipovich motioned to approve 15PUC-007, and the resolution was approved unanimously.

Old business:

Use of County tax-forfeit parcels for stormwater pollution remediation - discussion only

Commissioner Sellner mentioned various organizations and documents related to stormwater protection. She then proposed that the most efficient way to gain utilization of the greatest amount of green infrastructure is through tax-forfeit properties. An Application for State Deed for Tax-Forfeited Land was provided. Eric Shaffer stated that the County sends lists of properties for sale to all City departments for review. Our department reviews these lists, and if we feel that a parcel is critical to stormwater treatment, we request that the County does not sell it and it is typically taken off of the land sale. President Prusak requested a report on the last five properties reviewed and flagged. Eric Shaffer will follow up on this. Commissioner Sellner expressed a desire to hear from someone in Planning, as she believes some properties are being sold without City Council being aware of them. Commissioners Julsrud and Filipovich mentioned a motion recently made by the City Council to request protection of a property on Park Point. Commissioner Sellner may contact Tom Johnson or someone in Planning and give another report to the Commission.

New business:

15PUC-008 - RESOLUTION ESTABLISHING USER CHARGES FOR THE CITY'S STORMWATER UTILITY EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES. - discussion only

Eric Shaffer gave a presentation about the stormwater system. Commissioner Filipovich left during this time. Eric Shaffer stated that he would like to see an additional \$1.5M in stormwater funds and recommended starting with a rate increase that would provide \$500,000 next year. After commissioners and staff discussed various aspects of the stormwater system and the costs involved, most agreed that

the three-phase approach recommended by staff would be best. Commissioner Ramnes asked what percentage of revenue is generated by commercial customers versus residential customers. Staff will look up this information.

15PUC-009 - RESOLUTION REDUCING CLEAN WATER SURCHARGE EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR INCONSISTENT OR CONFLICTING RATES. - discussion only

Staff explained the reason for the clean water surcharge and recommended reducing the surcharge, since there should be adequate funds for bond payments and other expenses until the surcharge sunsets in 2028.

Establish public hearing dates

Commissioners and staff decided that hearings for both rate adjustments will be held at the November 17th regular meeting. Eric Shaffer will shorten the stormwater presentation that was given today and have it available for the hearing. Staff will give the required public notice.

Utility appeal procedures - general and cold weather

Jim Benning stated that there are two proposals for the Commission: an amendment to the existing appeal procedure and a new cold weather rule appeal procedure. He explained that state law requires a hearing panel for cold weather rule appeals and that the Commission would be the most appropriate body. The main issue is that the Commission only meets monthly, which would not be timely for these appeals. Staff is proposing a subcommittee of the Commission or an amendment to the quorum requirements. Liz Bieter explained what customers would be appealing and the proposed procedure. Staff will prepare an amendment to the ordinance that created the DPUC to present to City Council.

Updates from staff

Jim Benning stated that the WLSSD letter included in the meeting packet is for informational purposes. Eric Shaffer reported that all of the main is in for the 4th Street water main project except for the cured-in-place pipe. The pipe is in for the project on 1st Avenue West; there is just restoration work to do and a little piece on Michigan Street. The blanket gas project will be wrapping up in the next two weeks. Everything should be wrapped up by the first week in November.

Upcoming Council actions

Jim Benning mentioned that commissioners are welcome to attend the budget presentation on November 9th at 5:15 p.m.

Commissioner questions or comments

Commissioner Julsrud reported that Duluth is in third place according to the 1st quarter results for the Georgetown prize.

President Prusak thanked commissioners for letting him amend the agenda to allow Commissioner Filipovich to be present to vote on resolution 15PUC-007.

Preview of upcoming business

The next regular meeting is scheduled for Tuesday, November 17, 2015, at 5:15 p.m. in City Council Chambers. The Commission will hold public hearings regarding rate adjustments for the stormwater and clean water utilities and then vote on the rate resolutions.

Adjournment: The meeting was adjourned at 7:10 p.m.

RESOLUTION NO. 15PUC-008

**RESOLUTION ESTABLISHING USER CHARGES FOR
THE CITY'S STORMWATER UTILITY EFFECTIVE AS
OF JANUARY 1, 2016; SUPERSEDING ALL PRIOR
INCONSISTENT OR CONFLICTING RATES.**

RESOLVED by the Duluth Public Utilities Commission (the "Commission") that the Commission hereby makes the following Findings of Fact:

- 1.) The City has historically incurred capital costs, debt service costs, operating and maintenance costs for the creation and maintenance of a stormwater utility system which benefits all properties and property owners in the City and continues to incur these costs on an ongoing basis.
- 2.) Pursuant to Chapter 43 of the Code, the City has established a stormwater utility for the purpose of constructing, operating and maintaining the City's storm sewer system and has provided for a stormwater utility charge to fund the expenses thereof.
- 3.) Although the costs of constructing, operating and maintaining the City's stormwater utility system have continued to increase every year, the current stormwater utility fee was established as of January 1, 2008, and has not been increased since that time to reflect the increasing costs incurred by the City.
- 4.) It is necessary and reasonable to increase the stormwater utility fees as provided for below to fund the increased costs to the City's stormwater utility.

RESOLVED FURTHER, that pursuant to Section 43-66 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the stormwater utility, there is established a user charge as provided in said ordinance effective January 1, 2016. The user charge rate shall be based upon equivalent residential units (ERU = 1,708 impervious square feet) per month, as follows:

Rate Class	Units	Effective January 1, 2008	Effective January 1, 2016
ERU - Commercial/Industrial	1 st ERU	\$6.08	\$6.75
	> 1 ERU	\$6.08	\$6.75
ERU-R - Residential, Single Family Home	1st ERU	\$6.08	\$6.75
	> 1 ERU	\$6.08	\$6.75
ERU-R - Residential, Duplex and Triplex	1st ERU	\$6.08	\$6.75
	> 1 ERU	\$5.33	\$6.00
ERU-A - Multi-Family, 1-4 Floors	1st ERU	\$3.9480	\$4.35
	> 1 ERU	\$3.1980	\$3.60
ERU-B - Multi-Family, 5-9 Floors	1st ERU	\$3.6815	\$4.05
	> 1 ERU	\$2.9315	\$3.30

ERU-C - Multi-Family 10+ Floors	1st ERU	\$3.4150	\$3.75
	> 1 ERU	\$2.6650	\$3.00

RESOLVED FURTHER, that any prior rates inconsistent or conflicting with the rates set forth herein are hereby superseded.

Approved by the DPUC: _____
(date)

Submitted to City Council: _____
(where appropriate) (date)

ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE:

The purpose of this resolution is to authorize an increase in the monthly stormwater utility rates effective January 1, 2016.

The City has not increased the stormwater utility fee since January 1, 2008. This rate increase of approximately 11% is necessary to fund increased capital, maintenance and operating costs. The proposed increase for the average homeowner will be \$8.04 per year.

RESOLUTION NO. 15PUC-009

**RESOLUTION REDUCING CLEAN WATER SURCHARGE
EFFECTIVE AS OF JANUARY 1, 2016; SUPERSEDING
ALL PRIOR INCONSISTENT OR CONFLICTING RATES.**

WHEREAS, pursuant to Ordinance No. 9982 and the authority of Section 43-11.1 of the Duluth City Code, 1959, the Duluth city council established a monthly clean water surcharge in the amount of \$5.57 on each customer and user of the City's wastewater system; and

WHEREAS, pursuant to Ordinance No. 10024, the City Council amended said section 43-33.1 to confer on the Duluth Public Utilities Commission the authority to impose such clean water surcharges upon such customers and users; and

WHEREAS, said Commission has determined that a clean water surcharge in the amount of \$4.90 will be sufficient to pay amounts needed for debt service, grants and operating and maintenance related to the system.

RESOLVED, that pursuant to Section 43-11.1 of the Duluth City Code, 1959, as amended, effective January 1, 2016, the clean water surcharge authorized thereunder will be reduced to \$4.90 per month for consumers and users.

RESOLVED FURTHER, that any prior rates inconsistent or conflicting with the rates set forth herein are hereby superseded.

Approved by the DPUC: _____
(date)

Submitted to City Council: _____
(where appropriate) (date)


ATTEST:

Director
Public Works and Utilities
City of Duluth

STATEMENT OF PURPOSE:

The purpose of this resolution is to authorize a decrease in the amount of the clean water

surcharge established in 2009 from its present level of \$5.57 per month to \$4.90 per month for each consumer and user of the City's system. This amount has been determined to meet the funding needs of the City for operating and maintaining the system as well as for debt service and for following through on grant commitments.

PROCEDURE: Utility Appeal Process - General		Page 1 of 1
	Duluth Public Utilities Commission	Approved by DPUC:
	Effective Date:	Written by: Liz Bieter

PURPOSE:

The purpose of this procedure is to outline the appeals process before the Duluth Public Utilities Commission (the Commission).

PROCEDURE:

An applicant who desires to dispute a **Public Works & Utilities** Department finding that is adverse to the applicant and is an appealable finding must do so within six (6) months of the occurrence that gives rise to the appeal. The applicant shall give written notice of the appeal on a form provided by the Department.

The appeal shall state the nature of the dispute and the basis for the appeal. The applicant shall also state the expected outcome of the appeal. **Appeals submitted without a clear statement of the dispute will be returned to the applicant. The applicant will have 10 days to resubmit the appeal with the appropriate explanation.**

The written notice should be mailed **or hand delivered** to the department director ~~and the City Clerk's Office~~. The applicant will be notified by regular mail **or in person** of the date, time and location of the Commission's meeting.

Any appeal involving a termination of services must be filed prior to the proposed date of termination to avoid action by the Department.

City staff will prepare a facts and findings report and present this report to the Commission prior to the meeting. The Director of Public Works & Utilities shall provide all information from the applicant to the Commission.

Appeals shall be heard at the first meeting of the Commission following the filing of an appeal, if there are at least five (5) business days, exclusive, between the written filing and the meeting. Otherwise, the appeal will be heard at the subsequent meeting.

The Commission has no power to cancel a debt to the Department.

All decisions of the Commission shall be binding on the Department and the applicant, unless contrary to law. Decisions shall be in written form and sent to both the Department and the applicant **within 10 days of the decision.**

Definition of an applicant: Any person or persons applying for water or gas service from the Department and any guarantor of payment for such services as provide for in this chapter (Section 48-1 Duluth City Code).



City of Duluth Public Works and Utilities Commission
Utility Appeal Form

Please provide all the information listed below and return form to Director, Duluth Public Works and Utilities Department, 211B City Hall, 411 West First Street, Duluth, MN 55802 ~~with a copy to the Duluth City Clerk's Office, 330 City Hall.~~

Name of person filing this appeal must match the name on the utility account.

Name _____ Account # _____

Service Address _____ Mailing Address _____

Daytime Phone _____ Alternate Phone _____

E-mail (optional) _____

Description of dispute or issue (attach additional sheets and any documentation, if needed):

Description of any action you are requesting or expected outcome of appeal:

I certify that the information I have given is true and accurate to the best of my knowledge.

(Signature) (Print Name) (Date)

Office Use Only- Date form received by Director's Office _____

Hearing date and time _____

Received by _____

Appeal results: Accepted _____ Denied _____

2016 DPUC Meeting Schedule

All meetings will be held on the 3rd Tuesday of the month at 5:15 PM in City Council Chambers unless otherwise noted

January 19

February 16

March 15

April 19

May 17

June 21

July 19

August 16

September 20

October 18

November 15

December 20

Proposed fee for customers who turn their water back on after it was shut off by PW&U:

The purpose behind the proposed fee for customers that turn on their own utilities is to make it clear that the Public Works & Utilities Department (the Department) will not tolerate theft of City water. Presently, it is a misdemeanor to turn utilities back on; however, it is a burden on the Police Department to have to enforce this law. The result is that it is never enforced. Through a fee/fine for theft of utilities, the Department takes on the responsibility of enforcement.