



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: O-1415-30

File ID: O-1415-30

Type: Ordinance

Status: Non-Consent Items

Version: 1

Reference: Item No. 26

In Control: City Council

Department: Legal Department

Cost:

File Created: 12/01/2014

File Name: Water Rates Use Restriction

Final Action:

Title: ORDINANCE O-1415-30 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 21-113(A) OF CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF NORMAN, OKLAHOMA, PROVIDING THAT WATER RATES AND CHARGES SHALL BE COLLECTED FOR THE PURPOSES OF PROVIDING FUNDS FOR THE WATER SYSTEM AND FOR OTHER MUNICIPAL GOVERNMENTAL PURPOSES RELATED TO PROVIDING UTILITY SERVICES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

Notes: ACTION NEEDED: Motion to adopt or reject Ordinance O-1415-30 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance O-1415-30 upon Final Reading as a whole.

ACTION TAKEN: _____

Agenda Date: 12/23/2014

Agenda Number: 26

Attachments: Text File O-1415-30.pdf, O-1415-30, O-1415-30 annotated

Project Manager: Kathryn Walker, Assistant City Attorney

Entered by: kathryn.walker@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	12/09/2014	Introduced and adopted on First Reading by title only				Pass
Action Text: That this Ordinance be Introduced and adopted on First Reading by title only. by consent roll call							

Text of Legislative File O-1415-30

Body

BACKGROUND: During the Council meeting on November 10, 2014, Council members expressed a desire for Staff to explore the possibility of an amendment to Section 21-113(a) of the City Code that currently specifies

that revenues generated from water rates are available not only for water system purposes but also for “other municipal governmental purposes”. After consultation with bond counsel, the financial advisory for the City, and the City’s Finance Director, and providing Council with a separate privileged and confidential memorandum, Ordinance O-1415-30 tightening water rate revenue usage language to specify purposes “related to providing utility services” is submitted for Council consideration.

DISCUSSION: Section 21-113 was first adopted and codified in 1973 when the City added a separate article to the Code of Ordinances pertaining to utility billings, charges, rates and service. The language in Section 21-113(a) has not been changed since its adoption in 1973, over 41 years ago.

The Norman Utilities Authority (“NUA”) was created as of February 2, 1970 for the use and benefit of the City of Norman. The City of Norman has continued to own all of the water and wastewater assets, including production, storage, transportation and distribution systems as well as the treatment plants (collectively “the System”). The City leased these assets to the NUA via a Lease Agreement and Operation and Maintenance Contract. A primary purpose of leasing the system to the NUA was to provide for the efficient operation and maintenance of the System and to provide the Authority with certain collateral from which revenue could be generated (from rate payers) to be used in repaying indebtedness incurred by the Authority for paying the cost of acquiring, constructing, improving, and extending such additions to the system and other municipal improvements approved by the City. An Amended Lease Agreement and Operation and Maintenance Contract remains applicable to the parties today (the “Amended Lease”), and is on file at the Cleveland County Courthouse.

The Amended Lease provides that the City owns the System, but leases the System to the NUA. NUA is charged with operation and maintenance of the System. “Operation and Maintenance” is defined as “the reasonable and necessary current expenses of the AUTHORITY or the CITY paid or accrued in operating, maintaining and repairing the SYSTEM, determined in accordance with generally accepted accounting procedures.” NUA is allowed to use the revenue generated from rate payers as collateral to fund improvements to the System, often through debt financing via revenue bonds.

Although NUA is a separate legal entity, its Trustees are the same persons as elected City Council members, and NUA’s primary function is to provide a legal conduit for debt financing via revenue bonds secured by revenue generated from ratepayers. Accordingly, the City provides the employees to operate the facilities and to bill and collect the revenues from the ratepayers of the various NUA utilities. As City employees, they are eligible to participate in the citywide retirement plan and the City’s health insurance plans, and many staff members are eligible to be members of the AFSCME collective bargaining group. The NUA also benefits from City administrative services without being required to hire separate staff.

The City has utilized enterprise fund accounting for over 25 years. Revenue bonds for water system improvements require a pledge of the revenues generated through water sales. These revenues are pledged to pay principal and interest on the bonds. As Council is well aware, the rates recently adopted and forwarded to the Election Board for a Special Election were necessary precisely because projected revenues from water sales without a rate increase are inadequate to provide for necessary capital, maintenance, and operational costs for the system. With the rate increase, there are no projected revenues in excess of that needed to operate the system which would be available to be used for “other municipal governmental purposes” other than the latitude afforded to cover City employee costs, internal service allocations for NUA professional services, and franchise fees. There are also other phases of the 2060 Strategic Water Supply Plan that will rely on the proposed rates and future rate increases to accomplish those additional phases.

Although there is little to no chance of there being any excess revenues that could be used for “other municipal governmental purposes” in the foreseeable future, other than what has been the operational practice for many years, Staff has drafted language that seeks to address the concerns expressed regarding tightening the language in Section 21-113(a) that requires water revenue expenditures be used only for purposes related to providing utility services.

Ordinance O-1415-30 amends Section 21-113(a) of the Code as follows:

- (a) The water rates and charges hereinafter enumerated shall be collected for the purposes of providing funds

for the continued operation, improvement, servicing and maintenance of the City water system and for other municipal governmental purposes related to providing utility services.

This language tightens the code provision regarding how water rates can be utilized and also will allow water rates and charges to continue to be used to pay Revenue Bonds for utility improvements while still preserving the operational practice of the Norman Utilities Authority using water revenues to pay for the staffing costs associated with utility operations.

RECOMMENDATION: Water and wastewater revenues are pledged to repay outstanding revenue bonds leaving little to no excess revenues to be used for anything other than utility related expenditures. Current City Enterprise fund accounting practices, subject to annual audit, already ensure that all water and wastewater revenues are spent toward providing utility services. While Bond Counsel and the City's financial advisor do not recommend deleting the "other municipal governmental purposes" language, they feel they can work with the proposed language addition as a means of tightening the language of §21-113(a) as set out in Ordinance O-1415-30. Staff forwards Ordinance O-1415-30 to Council for consideration.