

RESOLUTION NO. 657 658

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,
WASHINGTON, REGARDING LOCAL FACILITIES CHARGES
FOR THE BIRCH BAY VIEW SEWER PROJECT

The following recitals shall be considered findings of the Board of Commissioners of the Birch Bay Water and Sewer District.

WHEREAS, residents of the Birch Bay View area are within the District's service area and approached the Board about their need for sewer services; and

WHEREAS, the Birch Bay View area contains a high percentage of low income residents and is already developed at urban densities; and

WHEREAS, the soils in the Birch Bay View area are generally of poor quality to support on-site sewage systems and there have been numerous failures of such systems in the past; and

WHEREAS, the District decided to consider extension of its sewer system and services to the Birch Bay View without forming a U.L.I.D.; and

WHEREAS, financing said improvements via collection of local facilities charges was substantially more favorable to Birch Bay View property owners than financing by way of U.L.I.D. formation; and

WHEREAS, at the same meeting in November 2003, the Board of Commissioners of the Birch Bay Water and Sewer District adopted Resolution Nos. 627 and 628; and

WHEREAS, Resolution No. 627 established an alternative mechanism for sewer extensions including policies and procedures associated therewith; and

WHEREAS, Resolution No. 628 established a financial plan for extension of sewer system to Birch Bay View area in which local facilities charges would fund part of the cost of the extension; and

WHEREAS, in November 2004, the District adopted Resolution No. 636, which clarified and modified Resolution No. 627 by replacing it in its entirety; and

WHEREAS, on December 23, 2004, the District revised Resolution No. 636 regarding deferral agreements by adopting Resolution No. 640; and

WHEREAS, upon its adoption Resolution No. 640 replaced Resolution No. 636 and became the District's complete governing resolution establishing an alternative mechanism for sewer extensions, including policies and procedures associated therewith; and

WHEREAS, Resolution No. 640 is applicable to the extension of sewage facilities at the Birch Bay View development; and

WHEREAS, notice of a Public Hearing concerning the extension and financing of sewage facilities at the Birch Bay View development ("Birch Bay View Sewer Project") was mailed to property owners on April 29, 2005; and

WHEREAS, the Public Hearing was held at the District's regular meeting on May 12, 2005; and

WHEREAS, following the Public Hearing, and after consideration of the factors identified in Section 5 of Resolution No. 640, the Board of Commissioners adopted Resolution No. 647 on May 26, 2005, establishing the Project Service Area and ordering design and construction of the Birch Bay View Sewer Project in accordance with State and District requirements; and

WHEREAS, construction of the Birch Bay View Sewer Project has now been completed; and

WHEREAS, the final costs associated with the Birch Bay View Sewer Project have now been calculated in accordance with Section 7.A. of Resolution No. 640; and

WHEREAS, based upon the final Birch Bay View Sewer Project cost, a proposed local facilities charge was calculated for each property in the Project Service Area per Equivalent Living Unit ("ELU"), as that term is defined in the District Code; and

WHEREAS, the real property within the Project Service Area is described and/or depicted on Exhibit A; and

WHEREAS, two heretofore undeveloped parcels of real property are located outside of the Project Service Area, but will be benefited from the Birch Bay View Sewer Project upon development; and

WHEREAS, said two undeveloped parcels of real property known as Monterey Heights (parcel described in Exhibit B1) and Horizons (parcel described in Exhibit B2), respectively (hereafter individually "Benefited Property" and collectively "Benefited Properties"); and

WHEREAS, based upon a final Birch Bay View Sewer Project cost, a proposed local facilities charge was calculated by lineal foot for the Benefited Properties; and

WHEREAS, said calculation was adjusted to exclude estimated grant-related costs; and

WHEREAS, the proposed charges together with notice of a Public Hearing thereon were mailed to each property owner in the Project Service Area on June 12, 2006 and to Monterey Heights and Horizons on June 13, 2006; and

WHEREAS, the Public Hearing on the local facilities charges was held at a special meeting of the Board of Commissioners on June, 29, 2006; and

WHEREAS, in the course of adopting this resolution the Board of Commissioners have duly considered all information and testimony presented prior to and at the Public Hearing; and

WHEREAS, the Board of Commissioners find that the final project cost for the Birch Bay View Sewer Project was One Million Seven Hundred Twenty-Four Thousand Forty Four Dollars (\$1,724,044.00); and

WHEREAS, the Board of Commissioners find that the proposed local facilities charge per equivalent living unit ("ELU") for property in the Project Service Area was properly calculated and applied pursuant to Resolution 640 and the local facilities charge per lineal foot for the Benefited Properties was properly calculated and represents a fair and equitable share of the costs; and

WHEREAS, the foregoing recitals and findings are a material part of this Resolution;

NOW, THEREFORE, be it resolved by the Board of Commissioners ("Board") of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: Local facilities charges are hereby established and assessed for all real property within the Project Service Area, in an amount per equivalent living unit ("ELU") as set forth in Exhibit C. The amount established herein for local facilities charges per ELU is subject to change by future resolution for properties not connected to the District system.

Section 2: Local facilities charges are hereby established and assessed for the Benefited Properties as set forth in Exhibit D, based upon the amount per lineal foot set forth therein. Said local facilities charges shall run with the land of each Benefited Property. In the event of subdivision of the Benefited Property known as Monterey Heights, the applicable local facilities charges for Monterey Heights shall be pro-rated as determined in the sole discretion of the District.

Section 3: Billing and collection policies and procedures for all local facilities charges subject to this Resolution are hereby established as set forth in Exhibit E, including attachments thereto.


Section 4: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Commissioners hereby declare that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 6: This Resolution shall be effective immediately.

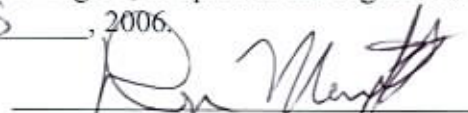
ADOPTED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a special meeting held the 29th day of June, 2006.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 657 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on 6/29/06, 2006.


SECRETARY