



Staff Report

File #: 24-91
Version: 1

Date: 3/11/2024
Item #: 7.1a.

TO: Mayor and City Council
THROUGH: Keith Stahley, City Manager
FROM: Brian D. Matin, PE, Public Works Director

SUBJECT:

First reading of Ordinance Bill No. 02-24 for the assessment of project costs for the conversion of the private Sleepy Hollow Phase I water system to the City's public water system.

Ward(s): Ward 6
Councilor(s): Councilor Hoy
Neighborhood(s): East Lancaster Neighborhood Association
Result Area(s): Safe, Reliable and Efficient Infrastructure

SUMMARY:

The private water system supplying the residents of Sleepy Hollow contained elevated levels of arsenic since at least 2012. Working with the homeowners, an agreement was reached with the City for the residents to be disconnected from the existing private Sleepy Hollow Phase I Water System and be connected to City water. In the agreement, a portion of the cost of the new infrastructure is to be paid by each property owner, who will be assessed under the procedures of *Salem Revised Code (SRC) Chapter 21 (General Assessment Procedures)*. The assessment amount is \$5,000 per property, which will go toward the cost of the project. The project is now complete at a total project cost \$768,108.

ISSUE:

Shall the City Council advance Ordinance Bill No. 02-24, related to assessment of project costs to customers of the former Sleepy Hollow Phase I water system, to second reading for enactment?

RECOMMENDATION:

Advance Ordinance Bill No. 02-24, related to assessment of project costs to customers of the former Sleepy Hollow Phase I water system, to second reading for enactment.

FACTS AND FINDINGS:

1. The Sleepy Hollow Phase I Water System had been operated as an independent small community water system within the jurisdictional boundary of Salem. The system served 114 residents through connections to 44 homes and a community center. The private system was supplied from a community well through a distribution system consisting of 4-inch and 2-inch PVC water lines.
2. Several tests conducted beginning in 2012 indicated the water delivered to Sleepy Hollow customers exceeded federal maximum contaminant levels for arsenic. In October 2019, Sleepy Hollow members voted to establish a new drinking water connection and become water customers of the City of Salem.
3. In 2016, the City's Water/Wastewater Task Force adopted a policy to subsidize the cost of connecting homes served by distressed private water systems and to assess those homeowners benefitting from the connection a maximum of \$5,000 as a fair share of the project costs. The assessment is intended to be representative of the Water System Development Charge that is paid by a developer for a new connection to the water system by a residential property.
4. In March 2020, City Council authorized the improvement project for the Sleepy Hollow water system with the understanding that part of the cost of constructing the project would be assessed to owners of property benefitting by the improvements.
5. A majority of homeowners within the Sleepy Hollow Phase I Water System voted to pursue a connection to the City's public water system, which is one of the requirements of SRC Chapter 21.
6. On October 25, 2021, and following a public hearing, City Council authorized staff to begin project activities to disconnect homeowners from the Sleepy Hollow Phase I Water System and connect the customers to the City's water system. (See File # 21-465.)
7. The City applied for, and received, a loan totaling \$1,132,810 from the State of Oregon's Safe Drinking Water Revolving Loan Fund for the construction of the project. Upon completion of the project, fifty percent of the loan amount became forgivable by the state. At a final project cost of \$768,108 a total of \$414,054 is forgivable; the remainder is due to the state.
8. The 45 properties will contribute \$5,000 each for a total of \$225,000. The State of Oregon, through the forgivable portion of the loan, will contribute \$414,054. The City will contribute the remaining \$129,054.
9. In December 2023, a letter was mailed to all Sleepy Hollow property owners informing them of the completed project and of the intended assessment of \$5,000 per property. In this

letter, City staff committed to informing the property owners of the date and time of the public hearing during which Council would take action on the recommended assessment. Residents were also informed, subject to Council approving the assessment, that they would be afforded the option of either paying the assessment as a lump sum, with a payment plan, or having a lien placed on the property.

10. Ordinance Bill No. 2-24 (Attachment 1) implements the assessment of \$5,000 per property.
11. A notice of public hearing was published on February 12, 2024, in the *Statesman Journal* in accordance with SRC 21.015(b).
12. A notice to property owners of the improvements and the proposed assessments was mailed on February 14, 2024, in accordance with SRC 21.030.
13. On February 26, 2024 the Salem City Council conducted a public hearing. No one testified at the public hearings. At the conclusion of the hearing, City Council approved the assessment and advanced Ordinance Bill No. 2-24 to first reading.
14. Staff are recommending Ordinance Bill No. 2-24 be advanced to second reading for enactment.

BACKGROUND:

The Sleepy Hollow Phase I Water System operated as an independent small community water system within the jurisdictional boundary of Salem. The system served 114 residents through connections to 44 homes and a community center. The private system was supplied from a community well through a distribution system consisting of 4-inch and 2-inch PVC water lines. The residents are current City utility customers for wastewater and stormwater services.

The private system had been experiencing elevated arsenic levels in water samples collected from the well since 2012. From 2012 to March 2020, 16 of 27 samples for arsenic exceeded the federal maximum contaminant level (MCL) for arsenic. In 2014, Sleepy Hollow entered into a Bilateral Compliance Agreement (BCA) with the Oregon Health Authority Drinking Water Services (DWS) to address the arsenic exceedances and develop a plan to bring the system into compliance. However, the BCA was cancelled by DWS in February 2015 for inaction of the system overseers to pursue the steps outlined in the BCA.

Another violation notice for arsenic was issued to Sleepy Hollow in July 2017. At that time, Sleepy Hollow approached the City on the possibility of converting their private system to City water. Representatives of Sleepy Hollow were presented with the options recommended and adopted by the Water/Wastewater Task Force in the 2016 white paper "*Using Utility Funds to Subsidize Connecting Distressed Water Systems to City Water.*" However, after the conversations with the City Sleepy Hollow members voted to continue the use of the current well and water system and develop a plan

to abate the arsenic. Sleepy Hollow subsequently entered into another BCA with DWS to address the arsenic contamination.

As part of the new BCA, Sleepy Hollow contracted with HBH Consulting Engineers to conduct an evaluation of water supply and treatment options for the system. HBH presented three options: (1) connect to the City water systems and become customers of the City; (2) establish a bulk water connection with the City and become a wholesale customer; or (3) install a treatment system for arsenic and remain independent of the City. A majority of the members voted in October 2019 to pursue Option 1, connect to the public water system and become customers of the City. A formal request to connect was submitted to the City in March 2020.

Robert Chandler, PhD, PE
Assistant Public Works Director

Attachments:

1. Ordinance Bill No. 02-24 - Sleepy Hollow Waterline Assessment
2. Legal Description of Properties to be Assessed