

Council Meeting Staff Report

December 18, 2019

Agenda No.:	7.A
Indexes (Council Goals):	DPU FY2020 - 1.0 Provide Safe and Reliable Utility Services, DPU FY2020 - 6.0 Develop and Strengthen Partnerships with Stakeholders
Presenters:	Bob Westervelt
Legislative File:	OR0867-19

Title

Recommendation to Council for Approval and Adoption Of Incorporated County Of Los Alamos Code Ordinance No 02-302, An Ordinance Amending Chapter 40, Article II, Division 2, Sections 40-63, 40-65, And 40-67 of the Code of the Incorporated County of Los Alamos To Clarify The Transfer Of Operating Profits From The County Department Of Public Utilities To The General Fund And To Clarify The Appropriate Procurement Code For The Department; Approval Of Incorporated County Of Los Alamos Resolution No 19-29, A Resolution To Update A Payment In Lieu Of A Franchise Fee For The Incorporated County Of Los Alamos, Department Of Public Utilities Pursuant To Charter Section 506; and Approval Of Incorporated County Of Los Alamos Resolution No.19-30, A Resolution Repealing Incorporated County Of Los Alamos Council Resolution 97-07, A Resolution Establishing A Methodology For Computing Electric And Gas Operating Profits For Transfer To The County General Fund.

Recommended Action

I move that the Board of Public Utilities recommend to Council approval and adoption of Incorporated County of Los Alamos Code Ordinance 02-302, Incorporated County of Los Alamos Resolution 19-29, and Incorporated County of Los Alamos Resolution 19-30, as presented.

Staff Recommendation

Staff recommends approval of the motion as presented

Body

At the March 19, 2019 County Council meeting the "Transfer of Revenues from Electric and Gas Funds to the General Fund" was discussed/voted on. Because this annual process is driven by County Charter, Ordinance and Resolution, this item was passed for 2019, however, Council agreed to consider options/alternatives for future years.

As a result, options for changing the approach were considered using the following goals to guide the development of proposed options:

- o Assure consistency with word and Intent of Charter (get "back to basics"), this includes:
 - § Being sure that LAC Charter, Sections, 504,506, and 509 are being met.
 - § Specifically, assure that items 1-5 of Section 509 are being met and that both near-term and long-term utility infrastructure

requirements and expenses are being planned and budgeted for.

- o In the past, mechanisms and timing for gas and electric purchase did result in potential yearly profits (or losses) but these mechanisms have been replaced with more real-time purchasing approaches.
- § Specifically, for Section 509 item 4, appropriately set franchise fees that would normally be assessed against privately owned gas and electric utilities.
 - o These are currently set at 2% and changes to this have not been considered in over 25 years.
 - o Franchisee fees are now set at 2-4% for comparable providers/organizations (Albuquerque-Bernalillo County Water Utility Authority 4%, PNM 3%).
- o Improve transparency (to the DPU, BPU, County Council, and the public) regarding how the County informs, understands, and presents data regarding options and decisions regarding rates, reserves, infrastructure maintenance and replacement, and capital investment.
- o Facilitate performing "what if" option analysis for DPU for rates, reserves, infrastructure maintenance and replacement, and capital investment to clearly elucidate trade-offs for different approaches.

As a result, four documents are recommended for approval.

- o An Ordinance Amending Chapter 40, Article II, Division 2, Sections, 40-63,40-65 and 40-67 to Clarify the Transfer of Operating Profits from the Department of Public Utilities to the General Fund and to Clarify the Appropriate Procurement Code for the Department which
 - § More clearly states financial review process to reflect how it is actually being performed and alignment with the other changes to the ordinance. (reword Section 40-63 (b))
 - § Removes the requirement for the annual 5% profit transfer. (Delete Section 40-63 (c)(11))
 - § Changes the definition of the Schedule of Funds to include data regarding reserve balances. (Update Section 40-65)
 - § Clarifies that expenditures and obligations must be created in accordance with the County's procurement code. (Section 40-67)
- o A Resolution Repealing Incorporated County of Los Alamos Council Resolution 97-07, A Resolution Establishing a Methodology for Computing Electric and Gas Operating Profits for Transfer to the County General Fund
 - § This resolution repeals the 1997 methodology for managing a 5% transfer to the County's General Fund.
- o A Resolution to Update the Franchise Fee for the Incorporated County of Los Alamos, Department of Public Utilities Pursuant to Charter Section 506
 - § This resolution updates the franchise fee from 2% to 3% based on current comparison with other communities in New Mexico.
- o An updated version of LAC County Council ' s Financial Policies. Key changes include:

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- § Deletion of the paragraph concerning "Utility Profit Transfers to the General Fund."
 - § Addition of a section entitled "Utilities Budget" which documents that a Schedule of Funds (as required in LAC Charter, Sections 506, and 509 and County Code Chapter 40) is prepared as part of the budget development and approval process and includes 10-year projections of rates, revenues, funding reserves, and the capital project program plan.
 - § Clarification that Council will review and approve the DPU utility reserve policy in accordance with the County Code Section 40-45.

Alternatives

The BPU could elect to wait to endorse these items pending further discussion, however because of the budget preparation, review, and approval process and schedule, such action would result in having to prepare two drafts of the FY21 Budget, one including the profit transfer and lower franchise fee, and another with no profit transfer and the revised franchise fee, for review and consideration. The BPU/Council sub committee and CMO and DPU staff have reviewed the proposed revisions and collectively endorsed moving forward as proposed, albeit with recognition that such further discussion may be desired by the full Governing Bodies.

Fiscal and Staff Impact

In FY18 DPU paid \$321,153 in Franchise fees to the General Fund. With the proposed revision this would increase to \$481,729. In FY18 DPU paid \$781,421 in "Profit Transfer" to the General Fund. With the proposed revisions this transfer would be eliminated. The net result is \$620,845 lower costs to the Utilities Systems and lower interfund revenues for the County General Fund. That savings in the Utilities funds provides the opportunity for increased investment in infrastructure. There is no specific staff impact.

Attachments

- A - Incorporated County of Los Alamos Draft Code Ordinance No 02-302
- B - Incorporated County of Los Alamos Draft Resolution No 19-29
- C - Incorporated County of Los Alamos Draft Resolution No 19-30
- D - Draft Updates to LAC County Council Financial Policies
- E - Draft Format of Schedule of Funds and Budget Projections