



CITY OF ATLANTA

SHIRLEY FRANKLIN
MAYOR

55 TRINITY AVENUE, S.W.
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TEL (404) 330-6100

December 9, 2003

Council President Cathy Woolard
Members of the Atlanta City Council
City Hall 2nd Floor Suite 2900
55 Trinity Avenue, SW
Atlanta, Georgia 30335

Dear President Woolard and Members of Council:

I hereby return with my veto, Ordinance # 03-O-1713

On December 1, 2003 the Atlanta City Council adopted Ordinance # **03-O-1713** that proposes to increase the rates for the City of Atlanta ratepayers to upgrade the water and sewer system and to create a surcharge to pay for the cost of providing security services.

The City of Atlanta has a legal and moral obligation to provide clean drinking water and safe wastewater for its citizens and all users and for those who live near the rivers and streams in Georgia. Our City charter mandates that we protect the public health and welfare. We also have entered into two Consent Decrees with the Environmental Protection Agency (EPA) and executed two Consent Orders from the Environmental Protection Division (EPD) whose conditions must be met. Federal and State regulation require the City must continue to operate the drinking water and wastewater systems under their guidelines. The effects of the water and sewer rate passed by the City Council means the City will not be able to adequately fund the management, operation and maintenance systems as required under the Consent Decrees and by our legal obligations.

On May 18, 1998 the Atlanta City Council adopted Ordinance # 98-O-0902 that authorized the Mayor to enter into a Consent Decree with the the U.S. Department of Justice, the State of Georgia, and Citizen Plaintiffs to resolve claims relevant to the Clean Water Act and the Georgia Water Quality Control Act as raised in the Upper Chattahoochee Riverkeeper Fund, Inc., et al. Versus City of Atlanta, U.S. District Court Civil

Action File # 1:95-CZ-2550-TWT. This Ordinance was vetoed by the Mayor on May 26, 1998 and overridden by the City Council on June 1, 1998. Consequently, the City of Atlanta is compelled to implement the scope of the Consent Decree as dictated by adopted City policy from 1998 and 1999. Similarly the City executed in 1997 and 2003 Water Consent Orders from EPD. To clarify this, the City is required to perform certain work under the Consent Decrees and Consent Orders and to achieve compliance with federal and state laws in its day to day operations.

In January 2002, I took an oath of office to be "governed by the public good and interests of the city" and to uphold federal, state and local laws. I have taken a firm stance in support of open, honest and good government. Approval of this ordinance would violate the oath I took to serve the City of Atlanta and its citizens.

The buck stops with me as Mayor. I understand the importance of operating with fiscal responsibility and restraint, and I have consistently acted in this fashion while increasing transparency and effective government operations. Accordingly, since 2002, my administration with City Council approval, has implemented cost cutting measures totaling \$165 million, significantly reduced personnel and secured record levels of *pro bono* professional services, all the while instituting conservative financial controls and improving financial management. Shortly after I took office in 2002, I acted swiftly to close an \$82 million budget gap and to recover from a negative cash reserve in the general fund of \$7 million. I have worked to reduce the Program Management Team (PMT) budget (approved by the previous Mayor and City Council) by nearly \$10 million from the 2001 budget adopted by City Council.

A Department of Watershed Management (DWM) was created that would allow this Administration to provide improved services to our water and sewer customers. We dismantled the unacceptable relationship with United Water and returned these functions to the City. Once again this action was reviewed, debated and ultimately adopted by the Atlanta City Council.

On numerous occasions I have sought and requested support from the Federal government, the State of Georgia and Fulton County. I have made several visits to Washington, DC to work the halls of Congress and I have met with numerous federal legislators here in Atlanta. I have consciously sought out and met with many state legislators. Not all aspects of our message have fallen on deaf ears. As a matter of fact, during the waning hours of the 2002 and 2003 sessions of the Georgia General Assembly, our efforts, in coordination with those of our local delegation, bore fruit.

The General Assembly voted to allow the Fulton/Dekalb County Commissions the opportunity to place on the ballot for referendum, a Special Purpose Local Option Sales Tax (S.P.L.O.S.T.) specifically to fund Atlanta water and sewer system improvements. Much of our legislative support has come from our downstream neighbors. City Council and I have made official requests for the Fulton County Commission to consider placing this referendum on the ballot in 2003 or 2004 and I remain optimistic our request will ultimately be granted.

On December 1, 2003 the City Council adopted an amendment to incorporate a 6 ccf discount rate plan that would further reduce the DWM operating budget by deleting an estimated \$25 million for fiscal year 2004. This revenue loss compounds negatively to \$88 million by year 2008. This action would have a devastating effect on the ability of the City to provide mandated services and to operate the system as required by law. This action, if approved, would be tantamount to throwing the baby out with the bath water. The City of Atlanta must operate within the regulations and guidelines of the Clean Water Act, the Safe Drinking Water Act and the Homeland Security Act. As Chief Executive Officer for the City of Atlanta I would be derelict in my duty and irresponsible if I approved such a reduction in the 2004 operating budget. The downside for immediately implementing this legislation is too steep and we simply cannot risk a substantial reduction in the delivery of services to our customers and non-compliance with Court Orders.

As elected officials we are all in this boat together. We have worked well to restore financial stability and controls to the general operations of the City and launched our clean water plan, along with re-starting the Hartsfield-Jackson Atlanta International Airport capitol program. Our success has been based on a careful analysis and debate of best practices, addressing each issue on its merits. I believe the future success of the City depends on a continuation of this approach.

Finally, the water and sewer rate program adopted by the City Council does not allow us to demonstrate to investors that we will have a solid five-year financial plan or revenue stream to cover our current and future bond obligations. Declining debt coverage is just the tip of the iceberg when it comes to the devastation that lies ahead for our water and sewer system under this adopted rate. Quite simply, this rate structure does not work.

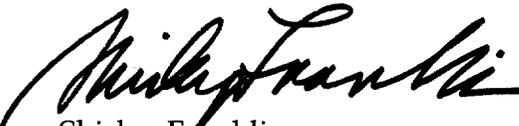
While I would like to have a positive response to this proposal, the facts just do not support the theory that the adopted rate structure can occur without dire consequences.

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Council President Cathy Woolard
Members of Atlanta City Council
December 9, 2003

While I would like to have a positive response to this proposal, the facts just do not support the theory that the adopted rate structure can occur without dire consequences.

Based on the rationale as outlined in this letter, I urge you to sustain my veto of Ordinance #03-O-1713.

Sincerely,



Shirley Franklin

CITY COUNCIL
ATLANTA, GEORGIA

AN ORDINANCE

03-O-1713

BY CITY UTILITIES COMMITTEE

AS SUBSTITUTED BY COUNCILMEMBER CLAIR MULLER

A SUBSTITUTE ORDINANCE AMENDING CHAPTER 154 ARTICLE III DIVISION 3 SECTIONS 154-111 AND 154-112 (WATER RATES AND CHARGES) AND CHAPTER 154 ARTICLE V DIVISION 3 SECTIONS 154-276 AND 154-277 (SEWER RATES AND CHARGES) TO INCREASE THE WATER AND SEWER RATES FOR THE CITY OF ATLANTA, GEORGIA TO BE CHARGED ALL RESIDENTS, PREMISES, AND FACILITIES SERVED BY THE WATER AND SEWER SYSTEM OF THE CITY; AND AMENDING CHAPTER 154 ARTICLE III DIVISION 3 SECTION 154-118 TO ENACT A WATER AND WASTEWATER SYSTEMS SECURITY SURCHARGE FOR THE CITY OF ATLANTA, GEORGIA TO BE PLACED ON WATER BILLINGS FOR ALL DOMESTIC, COMMERCIAL, INDUSTRIAL AND OTHER USERS OF THE CITY OF ATLANTA WATER SYSTEM TO PAY FOR THE COST OF PROVIDING SECURITY SERVICES AND TO PUT IN PLACE SECURITY INFRASTRUCTURE AND UPGRADES; FOR OTHER PURPOSES.

WHEREAS the City of Atlanta, pursuant to its charter, has the responsibility of providing water and sewer service to its citizens, corporate customers and others outside the corporate boundaries of the City on both a retail and wholesale basis; and

WHEREAS, the City's water and sewer system is aging which has resulted in water main breaks and leaks and sewerline overflows; and

WHEREAS, it is necessary to upgrade, improve and expand the system to protect the public's health and welfare and to serve their needs; and

WHEREAS, in 1998 and 1999 the City agreed to Consent Agreements with the EPA and the State to complete specified system improvements within a stated period of time; and

WHEREAS; the cost of these improvements, estimated at \$3 billion over the next five years, are such that resources are not available for construction within the existing water and sewer revenue stream; and

WHEREAS, the Mayor and City Council have, after extensive research and analysis, concluded that to maintain and upgrade the water treatment and distribution system and wastewater treatment and collection system to meet federal and state regulations and the future demands of economic growth in the City, a major program of capital improvements had to be initiated; and

WHEREAS, it is necessary for water and sewer rate increases to be implemented to provide continued funding so that the capital improvement program can be completed within the period agreed to in the Consent Agreements with the EPA and State; and

WHEREAS, it is the desire of the Mayor and the City Council to minimize to the extent possible the impact of rate increases on ratepayers and implement a rate structure that maintains affordability and promotes water conservation; and

WHEREAS, on June 12, 2002, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act) was signed into public law (P.L. 107-188) by the 107th Congress; and

WHEREAS, Title IV of this Act amends the Safe Drinking Water Act and outlines actions which community water systems and the U.S. Environmental Protection Agency (EPA) must take to improve the security of the nation's drinking water and wastewater infrastructure; and

WHEREAS, the City of Atlanta, pursuant to the Safe Drinking Water Act and Public Health Security and Bioterrorism Preparedness and Response Act, has the responsibility to conduct a vulnerability assessment of its treatment and water works; to implement security enhancements to reduce vulnerabilities identified in a vulnerability assessment; and to implement additional security enhancements to reduce vulnerabilities identified in a vulnerability assessment; and

WHEREAS, the City has conducted a vulnerability assessment and has concluded that to upgrade the security of the City of Atlanta water treatment and distribution system and wastewater treatment and collection system to meet federal and state regulations, a major program of security and capital improvements had to be initiated; and

WHEREAS, the projected cost for the City of Atlanta water security system upgrade totals over \$28 Million; and

WHEREAS, the City of Atlanta intends to provide funds through the creation of a security surcharge to pay for federally mandated security improvements to the City of Atlanta water treatment and distribution system and wastewater treatment and collection system facilities.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1: that Chapter 154, Article III, Division 3 (Water Rates, Charges, and Related Matters), Section 154-111 and 154-112 be amended to increase water rates as follows:

that the City of Atlanta water rate structure will include an affordability base rate for domestic, commercial, industrial and other users of the City of Atlanta system. Such affordability base rate shall be \$1.75 per hundred cubic feet for three hundred cubic feet per month for In-City water users and \$2.12 per hundred cubic feet for three hundred cubic feet per month for Outside-City water users for all billing cycles beginning on and after January 1, 2004. The affordability base rate shall constitute the minimum billed charge ~~per month~~ for all metered customers and shall increase for each year thereafter by the Consumer Price Index or other appropriate index for the preceding period not to exceed three percent (3%) per annum. The affordability rate of \$1.75 per hundred cubic feet shall be charged for usage over three hundred cubic feet per month up to six hundred cubic feet per month for In-City water users. The affordability rate of \$2.12 per hundred cubic feet shall be charged for usage over three hundred cubic feet per month up to six hundred cubic feet per month for Outside-City water users. All additional water usage above six hundred cubic feet per month will be billed as follows:

that In-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$2.54 per hundred cubic feet and Outside-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$3.07 per hundred cubic feet effective for all billing cycles beginning on and after January 1, 2004.

that In-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$3.68 per hundred cubic feet and Outside-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$4.45 per hundred cubic feet effective for all billing cycles beginning on and after January 1, 2005.

that In-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$4.08 per hundred cubic feet and Outside-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$4.94 per hundred cubic feet effective for all billing cycles beginning on and after January 1, 2006.

that In-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$4.53 per hundred cubic feet and Outside-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$5.49 per hundred cubic feet effective for all billing cycles beginning on and after January 1, 2007.

that In-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$5.03 per hundred cubic feet and Outside-City water rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$6.09 per hundred cubic feet effective for all billing cycles beginning on and after January 1, 2008.

SECTION 2: that Chapter 154, Article V, Division 3 (Sewer Rates and Charges), Sections 154-276 and 154-277 be amended to increase sewer rates as follows:

that the City of Atlanta sewer rate structure will include an affordability base rate for domestic, commercial, industrial and other users of the City of Atlanta system. Such affordability base rate shall be \$4.45 per hundred cubic feet for three hundred cubic feet per month for sewer users for all billing cycles beginning on and after January 1, 2004. The affordability base rate shall constitute the minimum billed charge per month for all metered customers and shall increase for each year thereafter by the Consumer Price Index or other appropriate index for the preceding period not to exceed three percent (3%) per annum. The affordability rate of \$4.45 per hundred cubic feet shall be charged for usage over three hundred cubic feet per month up to six hundred cubic feet per month. All additional water usage above six hundred cubic feet per month will be billed as follows:

that sewer rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$6.45 per hundred cubic feet for all billing cycles beginning on and after January 1, 2004.

that sewer rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$9.36 per hundred cubic feet for all billing cycles beginning on and after January 1, 2005.

that sewer rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$10.39 per hundred cubic feet for all billing cycles beginning on and after January 1, 2006.

that sewer rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$11.53 per hundred cubic feet for all billing cycles beginning on and after January 1, 2007.

that sewer rates for domestic, commercial, industrial and other users of the City of Atlanta system shall be \$12.08 per hundred cubic feet for all billing cycles beginning on and after January 1, 2008.

SECTION 3: that Chapter 154, Article III, Division 3 (Water Rates, Charges, and Related Matters), Section 154-111 and 154-112 be amended to increase Wholesale Water Rates as follows:

that the Wholesale Water Rate be changed from the current rate of \$1.00 per hundred cubic feet to a rate of \$1.45 per hundred cubic feet for wholesale customers effective for all billing cycles beginning on and after January 1, 2004.

that the Wholesale Water Rate shall be \$2.10 per hundred cubic feet for wholesale customers effective for all billing cycles beginning on and after January 1, 2005.

that the Wholesale Water Rate shall be \$2.33 per hundred cubic feet for wholesale customers effective for all billing cycles beginning on and after January 1, 2006.

that the Wholesale Water Rate shall be \$2.59 per hundred cubic feet for wholesale customers effective for all billing cycles beginning on and after January 1, 2007.

that the Wholesale Water Rate shall be \$2.87 per hundred cubic feet for wholesale customers effective for all billing cycles beginning on and after January 1, 2008.

SECTION 4: that effective January 1, 2009 for all billing cycles beginning on and after January 1, 2009 and for each year thereafter, water and sewer rates shall be increased based on the Consumer Price Index or other appropriate index for the preceding period not to exceed three percent (3%) per annum.

SECTION 5: that in the event of the receipt by the City of Atlanta of additional funds, which are specifically and solely designated for use by the City of Atlanta for the purposes of funding the specified system improvements to maintain and upgrade the water treatment and distribution system and wastewater treatment and collection system to meet federal and state regulations and the future demands of economic growth in the City, the water and sewer rate increases ordained herein shall be revised and recalculated so as to reduce the rates all metered customers in appropriate proportion.

SECTION 6: that Chapter 154, Article III, Division 3 (Water Rates, Charges, and Related Matters), Section 154-118 be amended to create a security surcharge as follows:
(a) That the imposition of a surcharge of shall be placed on all domestic, commercial, industrial and other users of the City of Atlanta Water and Wastewater System to pay for the cost to implement the security and infrastructure requirements as described in the Safe Drinking Water Act and Public Health Security and Bioterrorism Preparedness and Response Act.

(b) that for purpose of this ordinance, the surcharge will be described as the "Water and Wastewater Systems Security Surcharge."

(c) that the Water and Wastewater Systems Security Surcharge shall be \$0.15 per hundred cubic feet for all billing cycles beginning on and after January 1, 2004. Funds collected from the surcharge shall be deposited in a fund separate and distinct from other funds of the Water and Wastewater System.

(d) that a capital and operational program budget must be developed for the expenditure of the "water and Wastewater Systems Security Surcharge" fund. This program budget must be approved by Council, prior to the expenditure of any said funds.

SECTION 7: that funds generated by the Water and Wastewater Systems Security Surcharge shall only be used for the purpose of:

- (a) The reduction of the City of Atlanta Water System security related vulnerabilities which may lead to substantial disruption and the ability of the treatment works to safely and reliably operate; or have a substantial adverse effect on critical infrastructure, public health or safety, or the environment;
- (b) The purchase and installation of equipment for access control, intrusion prevention and delay, and detection of intruders and hazardous or dangerous substances,
- (c) Security improvements to electronic, computer, or other automated systems and remote security systems, including controlling access to such systems, intrusion detection and prevention, and system backup;
- (d) Participation in training programs and the purchase of training manuals and guidance materials relating to security; and
- (e) Security screening of employees or contractor support services.

SECTION 8: That the City of Atlanta shall aggressively evaluate and pursue financial structuring options, restructuring of billing disruption and operational cost-saving measures to reduce the cost of the projected capital improvements program, as well as seek additional funds from other sources. In the event of reduction in the financing or other costs or the receipt by the City of Atlanta of additional funds, which are specifically and solely designated for use by by the City of Atlanta for the purposes of funding the specified system improvements to maintain and upgrade the water treatment and distribution system and wastewater treatment and collection system to meet federal and state regulations and the future demands of economic growth in the City, the water and sewer rates increase ordained herein shall be reduced accordingly. In any event, the water and sewer rates shall be reviewed annually and accordingly revised and recalculated so as to reduce the minimum billed charge for all metered customers in appropriate proportion to cost reductions and/or additional revenues.

SECTION 9 The Mayor or her designee shall provide to the City Council on a quarterly basis, in writing and before the Finance and City Utilities Committees, a status and progress report specifically detailing the efforts and initiatives undertaken by the City to reduce the burden on ratepayers through: 1) value engineering activities, 2) collection of delinquent in-city and inter-jurisdictional accounts, 3) fine-tuning the appropriate allocation of fees based on actual usage by ratepayers, 4) lobbying efforts with local, state and federal sources, and 5) receipt of funds from other sources.

SECTION 10: that all ordinances or parts in conflict herewith, be and the same are hereby repealed.

RCS# 5225
12/01/03
10:50 PM

Atlanta City Council

Regular Session

03-0-1713

WATER AND SEWER RATE INCREASE
ADOPT SUB AMEND

YEAS: 8
NAYS: 7
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

Approved

N Smith	Y Archibong	Y Moore	N Mitchell
N Starnes	N Fauver	Y Martin	Y Norwood
Y Young	N Shook	Y Maddox	Y Willis
N Winslow	N Muller	Y Boazman	NV Woolard

03-0-1713

Motion to Override Mayor's Veto of
 ROLL CALL 03-0-0713
 ATLANTA CITY COUNCIL

Meeting <i>January 5, 2004</i>	YEA		NAY
Cathy M. Woolard President of Council			
COUNCILMEMBERS:			
Carla Smith Council District 1			X
Debi Starnes Council District 2			X
Ivory Lee Young, Jr. Council District 3	X		
Cleta Winslow Council District 4			X
Natalyn Mosby Archibong Council District 5	X		
Anne Fauver Council District 6			X
Charles Howard Shook Council District 7			X
Clair Muller Council District 8			X
Felicia A. Moore Council District 9	X		
C. T. Martin, Jr. Council District 10	X		
Jim Maddox Council District 11	X		
Derrick Boazman Council District 12	X		
Cesar C. Mitchell Post 1- at- Large			X
Mary Norwood Post 2- at- Large	X		
H. Lamar Willis Post 3- at- Large	X		
TOTAL 15 YEAS	8	NAYS	7

FORM 8 01/04/02

Motion to Override Veto FAILS
Due to the Lack of a 2/3 Majority Vote

(RA)

