



## Water, Sewer and Storm Drain Committee Agenda

August 31<sup>st</sup>, 2017 – 4:00 pm  
Live Oak City Hall

<b>COMMITTEE:</b>	Jason Banks, Mayor Diane Hodges, Council Member
<b>STAFF:</b>	Jim Goodwin, City Manager Scott Rolls, City Engineer Ron Walker, Public Works Facility Manager/Chief Plant Operator Hope Ithurnburn, City Clerk
<b>INVITEES:</b>	

### 1. Meeting called to order

### 2. Discussion Items:

- Review of Prop 218 Notice – **Jim Goodwin**
- Water and Wastewater Cost Allocations – **Joe Aguilar**
- Metering City Facilities and Allocation of City Facility Water/Sewer Charges – **Joe Aguilar/Ron Walker**
- Further Discussion Regarding Payment Kiosk – **Joe Aguilar**
- Penalty and Administrative Fees – **Joe Aguilar**
- Connection Fees – **Joe Aguilar**
- Low Income Assistance Program – **Jim Goodwin**

### 3. Adjournment



August 21, 2017

TO: Water/Sewer/Storm Drain Committee  
FROM City Manager  
RE: Proposition 218 Notification

**BACKGROUND**

At the August 16 meeting of the City Council, a comment was received from a resident suggesting the notice sent to residents was confusing. The comment suggested the insert detailing the protest procedures might be cast aside by residents. During the meeting, the Council directed me to consider adding to, or even re-doing, the notification.

Following the meeting I conferred with the City Attorney on two specific questions:

- Can Council direct staff to action following public comment on items not on the agenda?
- Did the Proposition 218 notice sent to residents and property owners meet the legal standard?

The City Attorney's responses to both questions are attached for your review.

Essentially, Council cannot direct staff to take action based on public comment on items not included on the agenda. If Council wishes to take action on any item brought up during the public comment opportunity, the item must be considered on a subsequent agenda with proper notice. The City Attorney has also determined the Proposition 218 notice meets all legal requirements.

Please keep in mind this process is not an election. No ballots are provided to the public. Legally, this process is notification of an action Council intends to take and an explanation of the legal right of the customer to protest that action.

Notices were mailed to residents and property owners in Live Oak. Information on the notices was provided in three languages (English, Spanish and Punjabi) reflecting the ethnic diversity of the community. The notice is clearly identified as a “Notice of Proposed Rate Increase and Public Hearing Date.” The insert is clearly titled “CUSTOMER RIGHTS – SUBMIT A WRITTEN COMMENT.” The insert provides direction on how to submit a written protest. The insert was included because there was too much required information to include in a standard 11 X 17 two-sided mailer.

To date one resident has commented negatively on the notice, and that occurred during the last City Council meeting. Most comments received relate directly to the proposed change in water rates, indicating residents understand the content of the notice.

In addition, a print advertisement appeared in the Appeal-Democrat on Monday, August 14. Calendar notices will be used as well, and information is readily available on [liveoakcity.org](http://liveoakcity.org). A handout is available at City Hall and on the website allowing residents to calculate water charges according to the new rates. A special Public Meeting has been scheduled for September 7 allowing residents to learn more about the city’s water and wastewater utilities and the reasons for the proposed rate adjustments. At this point residents have been notified in a matter satisfying state requirements. Two steps are left in the process, the Public Meeting on September 7 and the Public Hearing on September 27.

## **RECOMMENDATION**

Based on the information provided, staff does not recommend any supplemental notification as the City has already exceeded the state requirements and no additional cost for notification is justified.

Should the committee wish to direct staff to complete supplemental notification, the matter may be placed on the September 6 City Council agenda for consideration by the full City Council.

**MEMORANDUM**

**DATE:** AUGUST 18, 2017  
**TO:** CITY COUNCIL - CITY OF LIVE OAK  
**FROM:** NICOLE D. DELERIO  
**RE:** Proposition 218 Notice Requirements

**ISSUE:**

1. What are the legal requirements for a Proposition 218 Notice?
2. Does the Notice sent to Live Oak residents legally sufficient?

**LEGAL ANALYSIS:**

The Article XIII D, Section 6(a) process for imposing a new property-related fee or increasing the rate of an existing property-related fee has three formally required components: (i) notice, (ii) hearing and (iii) protest.

Notice is governed by Article XIII D, Section 6(a)(1), which requires that “the agency shall provide written notice by mail of the proposed fee or charge to the record owner of each...parcel upon which the fee or charge is proposed for imposition.” Article XIII D, Section 6(a) includes the following requirements for the mailed notice with respect to a property-related fee:

The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

So the very specific requirements in the written notice are as follows: (1) the amount of the fee or charge proposed to be imposed, (2) The basis upon which the amount of the proposed fee or charge was calculated, (3) the reason for the fee or charge, and (4) date, time and location of public hearing on the proposed fee or charge.

The Notice that was sent out to rate payers for the City of Live Oak is legally sufficient. Namely, it provides both a written explanation and a rate table for the amount of the fee and proposed changes. The basis upon which the fee was calculated and the reason for the fee or charge is set forth in detail. And finally, the information related to the public hearing is also set forth in the Notice.

In addition to the legal requirements, the Live Oak Notice has additional items that were otherwise not required, but provided additional information to the public. Namely, information on why the recipient is getting the notice, rate histories, protest information, and contact information for more information. The Notice meets the requirements as set forth above and no further notice is legally required prior to the hearing on September 27, 2017.

## MEMORANDUM

**DATE:** AUGUST 17, 2017  
**TO:** CITY COUNCIL - CITY OF LIVE OAK  
**FROM:** BRANT J. BORDSEN  
**RE:** Meeting Agenda Requirements in the Brown Act

Regular meetings of the City Council must have agendas posted at least 72 hours before the meeting. The agenda must contain a brief general description of each item of business to be transacted or discussed.

At a Regular Meeting of the City Council members of the public have a right to address the City Council on any item of interest to the public within the subject matter of the Council, whether or not such topic is on the agenda. It is not appropriate for the Council to take action (which includes giving direction) on items and topics which might be raised during the public comment portion of the meeting unless the agenda has that topic scheduled for possible Council action.

Technically, if a member of the public asks a question, there is no obligation to provide a response at the meeting. It is permissible, if the Council allows, to provide a brief answer to a question if the information is available. This is a courtesy and not a legal requirement. Accordingly, if a question is raised during the public comment session there are three options:

1. Provide no response whatsoever;
2. Provide a brief response to a question if the information is known to Council and/or staff;
3. Provide the name of the person who has such information with the expectation that questions will be answered at some time other than during the Council meeting.

The Council does not have the option to direct further action be taken by City staff in response to public comments/questions unless the matter is agendized for action. There is a place on Council agendas to request topics to be agendized for future meetings and this portion of the agenda should be utilized if a public comment/question motivates a Council member to bring the matter back for discussion at another meeting.

BJB



August 24, 2017

TO: Water/Sewer/Storm Drain Committee

FROM: Finance Director

RE: Potential Cost Allocation Changes

**BACKGROUND**

The City currently allocates portions of staff costs to the two utility enterprise operations (water and sewer). Attached (attachment 1) you will find the current allocations percentages used in the FY 17-18 City Budget. One councilmember has questioned 1) the validity of the percentages used for each position, 2) the validity of charging the current percentage of time for the City Manager, and 3) the propriety of charging City Council personnel costs to the utility operations.

This past week, the City Manager circulated time sheets to all full-time employees to record where they spend their time for the next several weeks. In regards to the City Manager time percentage, we surveyed several other neighboring cities and found the City Manager allocated used by Live Oak was in line with the surveyed agencies and somewhat on the lower side of most of them. Lastly, there is no requirement for the City to charge elected officials to the utility operations. However, not charging for elected officials will be outside the norms practiced by most utility agencies.

It was pointed out by the Finance Director that the City does not fully charge the entire administrative costs to the utility operations. Generally, the cost of running the city facilities (city hall and the corporation yard) has not been allocated to the utility operations. The current cost allocations can be described that we have only charged direct costs, not indirect costs.

The current staffing cost allocations to the utility operations are completely defensible and appropriate under Proposition 218. As requested, periodic time studies are being reinstated. The time studies will continue for the remainder of the year and their results will be summarized for allocations in the next fiscal year (18-19). For managerial staff, different matrices will be used to arrive at allocation percentages including: time studies, percent of budget, percent of full-time staff assigned and percent of city council agenda items.

The City Manager and Finance Director are committed to refining the methods used to arrive at costing for the utilities and will continue to provide this information to the full City Council. The Finance Director plans to include worksheets in next year's budget document that show the various methods for

each position allocated to the utilities. For most front-line positions, the largest weight to be used will be the time studies. For managerial positions, a combination of matrices will be used to come up with an average application of costs.

Many cities use a full-fledged cost allocation plan for distributing direct and indirect costs to its utility operations and other enterprise operations. Most of these plans are outsourced and periodically updated by contract providers. The City has a current list of consultants available to provide such work should the City pursue this work.

The Finance Director will not recommend pursuing a full cost plan since by all estimations the costs to be attributed to the utility operations will most likely go up. The present majority of City Council members have expressed a desire to reduce charges to the utilities not increase them. I believe any money spent to create a new cost plan will result in not implementing the results. We have reached out to a few firms and we have attached a sample of their scope of work. We obtained an informal price from NBS (CFD tax consultant of the City) and they estimated the work at about \$12,000.

#### **RECOMMENDATION**

1. Leave the current staff allocations where they are for the remainder of FY 17-18 and use the time study results from several months of surveying as the basis for allocations for the following fiscal year budget.
2. Leave the current percentage allocation for the City Manager at their current levels.
3. Leave the current year allocation of City Council costs as their current levels and consider any adjustment to this allocation for the next fiscal year so that the proposed General Fund budget can be adjusted and planned out for carrying such costs.
4. Do not spend any money on devising a full cost plan at this time.



## Cost Allocation Plan

**A.** Develop a Cost Allocation Plan calculating the full costs of providing each city service. The plan will be used to document departmental overhead charges, and to true up the general fund and other funds, resulting in annual charges to these funds.

**B.** Work with city staff to refine the project scope, purpose, uses and goals of the city's Cost Allocation Plan to ensure that the study will be both accurate and appropriate to the city's needs.

**C.** Meet with staff and conduct interviews as needed to gain an understanding of the city's processes and operations. Identify the total cost of providing each city service at the appropriate activity level and in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public entities including, but not limited to, the State Controller's Office Guidelines for Cost Claiming and OMB 2 CFR Part 225 standards.

**D.** The updated plan shall allow for the ability to continuously update the model and overhead cost allocation plan from year-to-year as the organization grows and changes, including: the addition of new cost centers, the ability to add hypothetical service area information for future services enhancements, and the ability to calculate the estimated costs of providing the service under consideration.

**E.** Present a preliminary Cost Allocation Plan to the city staff and modify as necessary.

**F.** Consult with city staff should the need arise to defend the cost allocation plan as a result of audits or other challenges.



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*Helping Communities Fund Tomorrow...*



August 24, 2017

TO: Water/Sewer/Storm Drain Committee

FROM: Finance Director

RE: Potential City Facilities Utilities Billings

**BACKGROUND**

The City currently meters most of its facility locations. Presently, we are working to identify all non-metered locations and estimating their potential utility usage. The most significant usage not metered at this time is a portion of Memorial Park. Please note that we presently meter the Community Building, the pool and the little league fields at Memorial Park and we already have usage history for those portions of the park. It appears that the central portion of the grass area of Memorial Park is not metered. For our cost analysis, we have assumed an irrigation rate equivalent to our next largest metered park (Pennington Ranch). We estimate the grass portion of the park to be 114% of the size of Pennington Ranch Park.

We estimate an annual billing of about \$30,000 per year for water to the City for all non-utility operation related city facilities. Based upon our recent analysis, park facilities and landscaping strips use the largest amount of city utilities. Please note that our largest park (the new soccer park) is on its own water well. We estimate that the General Fund will incur about 70% of the new utility billing. The balance of the charges will be distributed to a variety of restricted funds. The estimate billing for sewer will be less than \$6,000 per year

The City has a number of utility locations using water and sewer utilities. Some of these locations are not metered and we recommend no action for these potential utility billing accounts until staff can arrive at reasonable estimates install plumbing and meters. We can plan on arriving and billing revenues for next fiscal year as part of the budget process for FY 18-19.

The City rate consultant estimated that for every \$10,000 of expenses or revenues equates to 30 cents in the new rate for water and 28 cents for sewer.

**RECOMMENDATION**

1. Staff recommends that City begin billing city facilities on or about October 1, 2017 for all existing facilities that are metered and the landscaping portion of memorial park at an irrigation rate of 114% of Pennington Ranch Park
2. Staff recommends that for facilities that are not metered, that City staff bring back a report to the City Council that evaluates the cost of installing plumbing and meters to those facilities lacking them.



August 25, 2017

TO: Water/Sewer/Storm Drain Committee

FROM: Finance Director

RE: Payment Kiosks

**BACKGROUND**

During the last committee meeting, the committee asked for research on the potential use of an electronic payment kiosk.

**RECOMMENDATION**

Staff has not been able to complete required research over the past two weeks on this topic. Information will be brought back at a subsequent meeting.



August 21, 2017

TO: Water/Sewer/Storm Drain Committee  
FROM: Finance Director  
RE: Setting of Penalty and Administrative Fees for Water and Wastewater

Ordinance 559 was adopted by your City Council on August 16 and becomes effective September 15. Among the changes in the ordinance was the requirement for the City Council to set certain fees by resolution. In addition, the costs of providing some services requested by customers should be covered by the customer making the request. Below is a summary of those changes. A draft resolution is attached for your review. Attachment A to the resolution shows the fee calculations. Council has already discussed the concept of committing all penalty charges to a low income assistance program. The resolution states the penalty fees shall be held in a fund specifically for that purpose. Staff is requesting you review the changes and draft resolution and make a recommendation for approval to the full City Council.

**13.04.220 Meter Installation (Non-penalty Fee)**

The costs to purchase and install a meter shall be borne by the building permit applicant.

**13.04.260 Meter Testing (Non-penalty Fee)**

If a customer requests the meter be tested, a fee is required. If the meter is found faulty, the fee will be refunded.

**13.04.460 Service Reconnection (Penalty Fee)**

If service is discontinued, a reconnection charge will be applied.

**13.04.460 Meter Tampering (Penalty Fee)**

If the meter is tampered with, a tampering charge will be applied. A penalty charge will also be applied pursuant to LOMC Section 1.17.030 (See attached)

**13.04.520 Late Fee (current code—not amended by Ordinance 559) (Penalty Fee)**

Charges not paid on or before the 20<sup>th</sup> day of the month shall be subject to a 10 percent late fee.

**13.24.080 Sewer Disconnection (Penalty Fee)**

If service is discontinued, a fee is required to reinstate.

**Water Quality Sampling (Non-Penalty Fee)**

While not specifically covered in Ordinance 559 or the LOMC, the cost of conducting water quality sampling requested by the customer should be paid for by the customer making the request.

**After Hours Service for Any of the Above Services**

Any after hour service will trigger overtime and should be covered at 1.5X the stated rate.



August 22, 2017

TO: Water/Sewer/Storm Drain Committee  
FROM: Finance Director  
RE: Connection Fees

#### BACKGROUND

Connection Fees are charged based on the expected contribution of new development to the cost of required infrastructure improvements serving that new development. Unlike AB 1600 Development Impact Fees that only can be used for new capacity, Connection Fees can be used also for system maintenance or rehabilitation.

The City contracted with Hansford Economic Consulting (HEC) to calculate new connection fees. A Technical Memorandum (attached) was completed and presented to the City Council in Study Session. Subsequently, the Water/Sewer/Storm Drain committee discussed the fees. The proposed connection fees are again before the Water/Sewer/Storm Drain Committee for consideration.

Three issues have been raised regarding the proposed fees. A discussion of these issues is presented below.

1. **A lower connection fee is being charged for multi-family units, inconsistent with the principle used for setting utility rates that all residential units should be treated the same.**

It should be noted that on a per acre basis, the **multi-family** unit developer paying the reduced per unit fee **actually pays more fees** on a per acre basis than the single family home developer. For example, under the proposed new connection fees, at 6-units per acre, a single family home developer can expect to pay \$32,766 ( $\$5,461 \times 6$ ) in water connection and \$42,840 ( $\$7,140 \times 6$ ) in waste water connection fees for a total of \$75,606 per acre in fees. A four-acre multi-family project developer would pay \$43,344 ( $56 \times \$3,096/4$ ) in water connection fees and \$59,920 ( $56 \times \$4,280/4$ ) in sewer connection fees for a total of \$103,264 per acre. Council should also note that while the proposed new connection fee methodology reduces fees for single family homes, the fees increase for multi-family projects.

Another example would be the recent Kristen Court project that paid \$109,000 in water connection fees and \$89,000 in sewer connection fees using the “meter size” methodology. Under the new dwelling unit

fee structure, projects like Kristen Court would pay \$173,000 for water connection fees and \$239,000 for sewer connection fees.

The City Council has proposed to the community a water and sewer rate structure treating all residential units equally. Differences in water consumption are captured in the rates. For example, the median single family home customer uses 12 units per month, while the median multi-family unit consumes only 6 units per month. Even though the base charge is the same for all residential properties, the different types of properties use different amounts of water.

Unlike the rates for water consumption, the connection fee is one fixed fee calculated based on expected capital improvements required to serve a variety of new customers in different land use categories. The Connection Fee calculation must make a nexus between land use and water consumption. Multi-family units use less water, so the nexus to that type of housing necessitates a reduced fee.

In addition, by migrating from a meter size calculation to an Equivalent Dwelling Unit (EDU), the fee is standardized with other development related fees, improving customer service.

**2. An argument has been raised that charging multi-family housing a smaller fee than single family housing creates an incentive to build multi-family housing instead single family homes.**

On the surface this argument appears reasonable. However, upon further examination, it is clear the variables related to real estate investment decisions are much more complex. A single family home developer will not propose apartments instead of single family homes based on fees. Land use decisions in the General Plan and Zoning Code have determined where certain types of housing can be built. Apartments cannot be built in R-1 or R-2 zones designated for single family housing. Historically subdivision developers and multi-family housing developers do not “cross over.” Ryland Home’s abandoned townhouse project (where Kristin Court now stands) would be an exception.

Our recent affordable housing units have been built by developers specializing in affordable housing projects. Live Oak has been an attractive location based on the demographics of the community aligning with HOME program and tax credit financing programs. Once Live Oak either reaches a saturation point in the market, or the demographics improve to a point the city no longer qualifies for these housing programs, the affordable housing developers will seek opportunities in other communities.

**3. The fees are too high for Live Oak to be competitive in the region as a place to invest.**

Setting development related fees is primarily a mathematical exercise. The calculation starts with the expected capital investment required to support new development. A formula is then applied to determine the required contribution from different land use designations. The attached technical memo explains the calculations used to determine the current recommended water and wastewater connection fee amounts.

It should be noted that the current fee analysis reduces fees in some land use categories and increases fees in other categories. For example, as already explained, the connection fees for single family home projects will go down and the connection fees for multi-family projects will go up. Similarly, with regard to commercial fees, the connection fees for smaller commercial projects (under 5,000 sq. ft.) will go down, while the same fees for larger commercial projects will increase.

With regard to single family homes, staff is aware downward pressure on housing prices in Live Oak, despite lack of inventory, affects investment decisions in the community. Much like our fee analysis, the investment decision for single family home developers is a mathematical equation determining likely return on investment (ROI). If the target price based on market comps of resale values cannot be set high enough to cover all costs, the developer will not consider the project. Major costs include land, construction, financing, and fees. To the extent that fee reductions provide sufficient improvement in ROI, a fee reduction strategy may stimulate investment. A one-year fee incentive program in 2009 resulted in the construction of 58 additional homes in Pennington Ranch Park subdivision from 2010 - 2012. Council may establish a fee reduction incentive by resolution.

## **RECOMMENDATION**

Staff believes the technical memo establishes the appropriate nexus for setting the fee and encourages Council to enact the water and wastewater connection fees as proposed.

Should Council wish to create an overall incentive for new investment, staff recommends your City Council direct staff to bring back a development incentive program for Council consideration at a subsequent meeting.



August 25, 2017

TO: Water/Sewer/Storm Drain Committee  
FROM: City Manager  
RE: Low Income Assistance Program

**BACKGROUND**

The City of Live Oak continues to face the dilemma of a small user base carrying the cost of expensive water and sewer utilities due primarily to state requirements. This is compounded by the disadvantaged status of the community.

In response, the City Council has expressed the desire to provide water/sewer utility discounts to low income households.

Several ideas for paying for the program have been raised. An analysis of each is provided:

**1. Directing all city utility penalty fees to the low income assistance program**

This proposal is simple to implement and has been anticipated throughout the discussion of creating a low income assistance fund. The estimated contribution to the fund based on operating history is approximately \$25,000 per year.

**2. Eliminating current cost allocation of Council members to utilities**

This proposal does not make a significant contribution to the fund and sets the precedent of not allocating all allowable costs to the utility funds. Staff does not recommend this approach.

**3. Eliminating City Council insurance coverage and redirecting those payments to the low income assistance program**

The elimination of City Council insurance coverage is an unrelated policy discussion. If eliminated, a cost-reduction to the utility fund would occur. A savings to the General Fund, if redirected to the low income assistance fund, would still be a General Fund contribution.

**4. Seed the low income assistance program with a one-time General Fund payment**



The City does have available fund balance of undesignated General Fund reserves. While staff does not advocate any General Fund subsidy of the utility funds, a low income assistance program does serve a public purpose and is an allowable General Fund expense.

A one-time “seeding” of the fund alone will not be effective as staff anticipates exhausting the fund annually.

As an alternative, staff recommends a one-time General Fund Reserve contribution of \$50,000, and then matching annual penalty payments with a contribution of the General Fund. This could be done during the annual budget process to allow review and reconsideration if General Fund revenues are not sufficient to support the program. Based on current information, an estimated \$25,000 annual match from the General Fund would bring the annual Low Income Utility Assistance Fund revenues to \$50,000.

Staff would provide status reports to the City Council on the status of the Low Income Utility Assistance Fund as part of ongoing financial reporting.

### **Managing the Program**

Staff is recommending income screening be handled by a third party. Yuba Sutter Economic Development Corporation (YSEDC) also manages the Community Action Agency and already does income screening for several low income assistance programs. Staff recommends contracting with YSEDC for this service. An application fee would be required and payment would be made directly to YSEDC by the applicant. Applications would require annual renewal. A representative of YSEDC will attend the Water/Sewer/Storm Drain meeting.

YSEDC provided a separate breakdown of incomes and households that mirrors closely the data provided by Hansford Economic Consulting (HEC). According to HEC, 800 households (4 person household) are at or below 100% of the Federal Poverty Level. YSEDC’s data shows 754 households (with an average of 3.5 persons per household) at or below 100% of the Federal Poverty Level. With program funding at \$50,000, the City could offer households at or below 100% of the Federal Poverty Level a \$5 per month discount on the water/sewer utility bill.

### **RECOMMENDATION**

Staff recommends the City Council form a Low Income Utility Assistance Fund as follows:

1. Households at or below 100% of the Federal Poverty Level would be eligible for assistance (the number of estimated eligible households is 800)
2. Assistance would be a \$5 per month credit to the combined water/sewer utility bill
3. A Low Income Utility Fund will be established in the City of Live Oak Budget and Financial Statement
4. The Low Income Utility Fund revenues will come from water/sewer utility penalty payments matched dollar for dollar with a General Fund contribution
5. Provide a one-time seed of \$50,000 from General Fund reserves to start the Low Income Utility Assistance Fund
6. Utilize YSEDC for third party income verification. Application fee to be set by YSEDC and application payments made directly to YSEDC.
7. Annual renewal required for continued receipt of the discount.