

City Manager's office and City Clerk: Please include this written supplemental with the 7-PM, May 28, 2019, Regular City Council meeting agenda's Public Hearing Item-5-a Re: 'Levy and 2% Increase in Sewer Charge'. Thank You.

May 28, 2019

To: Hermosa Beach City Council (Stacey Armato, Mary Campbell Collins, Hany Fangary, Justin Massey, and Jeff Duclos), City Clerk, Finance Director, City Treasurer, City Manager, and Contract City Attorney.

From: Howard Longacre, Hermosa Beach Resident.

Re: 1) Objecting to, and protesting the 'Sewer Service Charge' levy and its 2% increase.

Re: 2) Objecting to the cash-interest being earned on the 'Sewer Maintenance' fund's balance, as not being added into the 'Sewer Maintenance fund', but instead as being added into the General Fund and used for non-sewer-maintenance.

Re: 3) The ongoing 'Sewer Service Charge' fee, currently being charged Hermosa Beach residential and commercial property owners, is very-likely improper.

Honorable Councilmembers and others:

The following comments by me are given freely, and they are entirely my views and opinions on all that I've stated herein.

Re: 1) Objecting to, and protesting the 'Sewer Service Charge' levy and its 2% increase.

I am the owner of a Hermosa Beach residential property subjected to the "Sewer Service Charge Levy". My address and assessor's parcel number is on file with the city and has been for over four decades.

First off this is to formally indicate my objection to, and also that I am protesting the levy of the annual 'Sewer Service Charge' fee on my property, and the latest increase in the fee. Kindly, City Clerk please note in your 'record-of-protests-submitted' this protest.

I also object to the fee as it is probably improper as presently being charged.

Hopefully, of the thousands of residential and commercial properties within the city of Hermosa Beach, the City Clerk by the close of the Public Hearing, will have received perhaps at least one or two other protests other than my protest.

However, if the City Clerk receives less than a few dozen protests please do chalk it up as clearly representing the de facto deficient, and probably as such, improper notice to the property owners under your Council's apparent "could-not-care-less" leadership, and also the apathy of the property owners themselves in not giving a damn of what is going on in the city.

In owning property(s) in Hermosa Beach, all should know by now that they can't depend on the Hermosa Beach City Council to give them clear advance notice on anything, especially when it's going to take money from their wallets or impact their lives with high impact events.

Now what is really outrageous is that the Hermosa Beach City Council has implicitly directed (City Council please don't pass the blame elsewhere) that there be the absolute minimal legal notice made to the business and residential property owners and their renters (renters are also indirectly affected by this improper fee and its increases).

Interestingly, the fee's underlying original 'Sewer Service Charge' "fee" resolution, that a prior Council approved, requires that every property owner is to receive a notice of the increase in the 'Levy', but only after the City Council has voted to increase the fee. Isn't that ludicrous?

Wouldn't you know that not only is the protest vote backwards, but so is the noticing backwards. Is there any wonder the electorate looks upon politicians with such utter and complete disdain and disgust when things are done this way?

I.e., it doesn't take 50% of the property owners or those voting to approve the levy. It takes 50% of all property owners to object, to prevent the levy; it's absolutely absurd and a sham system to virtually ensure that the property owner has no say in the matter.

And then instead of a mailed notice before the levy is increased, with a form to reply indicating how to protest, a notice is instead mailed to the property owners after the Council increases the levy. Again, backwards and completely absurd.

Nothing precludes politicians from doing things better and more honorably but don't hold your breath.

This simply was designed as a corrupt fee to circumvent having the property owners vote on a tax. If money really was needed, it should have of course been a tax. But again, all understand that a tax in California requires a real vote, not a sham "protest" vote basis the loop-hole purposely placed in Proposition 218 by the commercial interests who created and circulated Proposition 218 to be sure that cities got a method to call a tax a fee and get some things passed in sham fashion, and, i.e., not fight their initiative too much.

Re: 2) Objecting to the cash-interest being earned on the 'Sewer Maintenance' fund's balance, as not being added into the 'Sewer Maintenance fund', but instead as being added into the General Fund and used for non-sewer-maintenance.

No doubt the Council or the City Attorney can find justification for having a dedicated-use-fund's money being co-mingled with other funds' money-balances to earn interest and then crediting all such interest earned into the General Fund.

However when your constituents are sold a bill of goods basis hired consultants, present to legitimize a de facto scam, and also through your own lecturing of those constituents, and then you assess them a fee (actually a tax) to be used for a very specific purpose, and then you don't commence work with that collected money for many years, while it sits idle earning interest which is being added to the General Fund, you are in fact stealing money from the fund for other uses. That is flat wrong. And you know it. That interest belongs in the 'Sewer Maintenance' fund. It's currently about \$128-Thousand per year that's being stolen.

The fact is that, according to the City Treasurer's funds report, the current 'Sewer Maintenance' fund has about \$6.4 million in it. Whether that as yet includes all of the 2018-2019 collected 'Sewer Service Charge' fee receipts from the County Treasurer you would have to ask the city's Finance Director; And please do ask that.

But notwithstanding, the amount indicated as presently being in the 'Sewer Maintenance' fund implies that next to no significant sewer repairs have been accomplished since inception of the fund (some 5 years ago), and notwithstanding the smoke and mirrors annual engineers report, mostly boiler-plate from the prior year.

Given the "Sewer Maintenance" fund was supposed to have been initialized with \$3 million from the original "sewer slush fund"/UUT, (Btw, the UUT(Utility Users Tax) was originally intended itself, mostly for Sewers) and given that the 'Sewer Maintenance' fund has been collecting \$1M to \$1.04 million per year in 'Sewer Service Charge' fees, now for some four tax years, there should be, or will be some \$7.1 Million in the fund.

In any event, what this indicates is that next to no significant work has been accomplished on the sewers going on five years. The property owners were told repeatedly at the inception of the 'Sewer Service Charge' fee that the sewers had been fully analyzed and that as soon as funds were available the city would immediately be placing contracts for repair work as the sewers were in "dangerous condition".

What is going on? Answer: The only thing apparently going on appears to be that the Council increases the levy on property owners each year and then has been hoarding the money to earn interest to be used for other non-sewer stuff at the current rate now of \$128,000 per year. This is outrageous!

The Sewer Maintenance Fund with \$6.4 million presently is earning interest at the rate of \$128-Thousand per year. Why is not its pro-rated share of interest (representing the \$6.4 Million in the 'Sewer Maintenance' fund) not being added back into the 'Sewer Maintenance' fund?

Is the fund being hoarded to generate interest to pay for other less important projects that The City Council and its gurus are particularly interested?

In any event the Council needs to give firm direction that interest earned on special purpose funds money go back into those funds, and retroactively. KINDLY DO NOT OPERATE LIKE THE LOS ANGELES COUNTY BOARD OF SUPERVISORS.

Re: 3) The ongoing 'Sewer Service Charge' fee, currently being charged Hermosa Beach residential and commercial property owners, is very-likely improper.

As written and then initiated for the 2015-16 property tax year, the Hermosa Beach 'Sewer Service Charge' fee has not been court tested that I am aware, and in my view is in fact improper as implemented here in Hermosa Beach for the following reasons.

1. The fee is improperly and unfairly being charged, and not necessarily to all properties.
2. It is based on false, convoluted water usage logic, having little to do with actual sewer infrastructure required for residential and commercial properties. (It's surprising that an educated Civil Engineer/consultant with a state PE licensee is representing it as otherwise.)
3. Businesses are being billed basis actual water usage, while homes and condos pay a fixed flat fee whether they use virtually no water or an infinite amount of water.
4. Properties with apartments are paying a smaller flat fee per apartment when the total number of apartments may account for very little water usage as compared to a home, or in fact far more water per unit than many homes.
5. A home using 10 or more times the water as another home pays the exact same fee as the home using little water or that of a larger condo.
6. A property with one large home using the same water amount as an exactly same size property next door with three condos is paying 1/3 the amount of the 3 condos.
7. A 4000 square foot home on a 10,000 square foot lot using 10 times the water of a 600 square foot home that is on a 2000 square foot lot pays the same fee as the small home on the much smaller property.
8. Meanwhile a business using lots of water pays a sky high fee, while another business next door on a same size lot and paying the same rent pays next to nothing even though the sewer



infrastructure requirements for sewers to the two businesses are the exact same.

9. Many commercial properties are inherently being overcharged, while others are being charged next to nothing on similar commercial properties. This is being indicated as proper and OK, however when the same situation exists between two homes the two homes pay the same.
10. The consultant in my view clearly helped facilitate this nonsensical approach to the 'Sewer Service Charge' fee. The City Council at the time, wanting to approve a fee in any manner possible, did not want to spend the time to execute such a fee correctly or take a chance doing a proper tax election.
11. Homes worth \$10 million pay the same fee as those worth a small fraction of that.
12. While sewers are being improved for their future usage, property owners having vacant lots that use no water presently do not have to pay for the development/maintenance of this important infrastructure that increases the value of such vacant property.
13. Commercial properties that are empty for perhaps a year or more and have no water usage pay no fee while homes that may be vacant or have their owners on vacation for a year have to pay the fee.
14. The Council claimed at the time that it would be too costly to do a fee that was fair for all. That is absolutely incorrect and absolutely not the correct way to legislate.
15. A similar sewer fee in Manhattan Beach is based on water usage for every property even though its fee is also inherently incorrect basis what sewer infrastructure is about.
16. The fact is that sewer infrastructure needs are directly related to property size and street frontage. A proper sewer fee should be based on such, whether the property is fully developed or not as sewer infrastructure directly benefits all properties in an existing city of lots and streets.
17. The 'Sewer Service Charge' fee in Hermosa Beach is a complete abomination and is especially ripping off many commercial properties that use more water than others and also is ripping off homeowners owning small homes on small lots using very little water and requiring minimal sewer infrastructure.
18. Why should such an owner of a tiny home, using little water, on a tiny lot be charged a high 'Sewer Service Charge' fee per year that's identical to the fee for a 6000 square foot Strand Home using 6 to 15 times the water and which stands on a 6000 to 9000 square foot?

The Council should immediately set in motion the replacement of the 'Sewer Service Charge' to be based on a formula that's basis existing sewer infrastructure street frontage and existing lot square footage, parcel independent, and regardless of whether the property is commercial, residential, under-developed, or over-developed.

The Council should commence this correction before someone does in fact take the city to court and forces the city to return the fees already improperly collected, along with the city also having to pay substantial attorney fees. Don't believe that that can't in fact happen.

The Sewer Service Charge as presently implemented is a scam using the Proposition 218 fee loop-hole improperly, to avoid having a vote of the property owners to implement a proper tax to maintain sewer infrastructure, and of course notwithstanding seniors being exempted who receive less than \$75,000/year of income.



*** End of written communication. ***