



## Legislation Details (With Text)

**File #:** REPORT 15-0525 **Version:** 1 **Name:**  
**Type:** Action Item **Status:** Public Hearing  
**File created:** 6/17/2015 **In control:** City Council  
**On agenda:** 6/23/2015 **Final action:**  
**Title:** MAJORITY PROTEST HEARING AND CONSIDERATION OF AN ANNUAL SEWER SERVICE CHARGE AND AUTHORIZATION OF THE CHARGE FOR FISCAL YEAR 2015-2016 TO FUND MAINTENANCE, OPERATION, SERVICING AND IMPROVEMENTS TO THE SEWER COLLECTION SYSTEM; AND AN ORDINANCE ADDING A NEW CHAPTER 13.12 TO THE MUNICIPAL CODE REGARDING SEWER SERVICE CHARGE  
(Public Works Director Andrew Brozyna)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. HB Sewer 218 Notice 2015 - FINAL(1)\_attach 1, 2. Sewer Service Charge Public Presentation Questions and Answers\_for Staff Report\_Final\_Attach 2, 3. RESO approving sewer service charge\_6-23-15\_Attach 3, 4. PENCO Hermosa Beach Sewer Services Charges Report 6-8-15 for Reso 6-23, 5. Sewer Service Charge Ordinance 6-23-15\_Attach 4, 6. Objection to Proposed Sewer Charge - Roberta Moore 5-14-15.pdf, 7. SUPPLEMENTAL Letter from Ron Felsing (added 6-22-15 at 6pm).pdf, 8. SUPPLEMENTAL Letter from Sam Perrotti (added 6-22-15 at 6pm).pdf, 9. SUPPLEMENTAL Letter from Roger Bacon (added 6-23-15 at 4pm).pdf, 10. SUPPLEMENTAL Letter from H. Longacre (added 6-23-15 at 4pm).pdf

Date	Ver.	Action By	Action	Result
6/23/2015	1	City Council		

**Honorable Mayor and Members of the Hermosa Beach City Council  
Regular Meeting of June 23, 2015**

**MAJORITY PROTEST HEARING AND CONSIDERATION OF AN ANNUAL SEWER SERVICE CHARGE AND AUTHORIZATION OF THE CHARGE FOR FISCAL YEAR 2015-2016 TO FUND MAINTENANCE, OPERATION, SERVICING AND IMPROVEMENTS TO THE SEWER COLLECTION SYSTEM; AND AN ORDINANCE ADDING A NEW CHAPTER 13.12 TO THE MUNICIPAL CODE REGARDING SEWER SERVICE CHARGE**

(Public Works Director Andrew Brozyna)

**Recommended Action:**

It is recommended that the City Council:

Hold a majority protest hearing at the June 23, 2015 Council meeting, confirm the number of written protests received at the close of the public hearing, and if a majority protest is not received:

1. Adopt attached Resolution, adopting the annual sewer service charge and authorizing

the charge for Fiscal Year 2015-16 to fund maintenance, operation, servicing, and improvements to the City's sewer collection system; and

2. Waive full reading and introduce attached Ordinance, adding a new Chapter 13.12 to the Municipal Code regarding the sewer service charge.

**Background:**

At the meeting of June 10, 2014, the City Council considered a plan to either annex into Los Angeles County's Sewer Maintenance District or continue to own and operate the City's own sewer system. Necessary capital improvements to the sewer system are projected to cost approximately \$11 million. At the June 2014 meeting, the City Council elected to continue ownership and operation of the City's sewer system. The Council also directed staff to return with scenarios on how to fund both operations and maintenance, alongside critical capital improvements to both the sewer and storm drain system.

Council held a second study session in September 2014 to review staff's findings, and discuss the funding mechanism for operation and maintenance as well as necessary improvements to the City's sewer system. Council discussed various types of sewer service charges for both residential and commercial units. Council directed staff to return with a proposed sewer fee structure that will fund sewer operations and maintenance.

At the April 14, 2015 Council meeting, staff and the City's sewer fee consultant, Penco Engineering, Inc. (Penco) proposed a sewer charge formula for determining each property owner's sewage charge. In addition, Council was also presented with several charge rate levels to fund necessary capital improvements on the City's sewer system and annual operation and maintenance costs. Council selected to use \$3 million in cash from the Sewer Fund and finance the remaining \$8 million for the expenditure of \$11 million dollars in necessary capital improvements on the City's sewer system over the next ten years, with a minimum annual operation and maintenance budget of \$250,000.

Council directed staff to return with a proposed sewer fee structure to fund the \$8 million over twenty years or thirty years for comparison of the bond term. Also, Council decided that condominiums are similar in nature to single family homes in Hermosa Beach. Therefore, both are to be assigned one (1) Equivalent Sewage Unit (ESU).

At the April 28, 2015 Council meeting, Council set the level of proposed charge at \$115 per ESU, and agreed to a range of annual operation and maintenance (O&M) costs from \$250,000/year to \$450,000/year. This range will pay for all anticipated O&M expenditures for the year as well as allow for a gradual buildup of reserves to be spent on future sewer capital projects after the initial ten year program, estimated at a cost of approximately \$11 million, is completed. Staff informed Council that the bond term would be reviewed and options brought back to Council after the June 23, 2015 protest hearing.

Prior to adopting any new (or increased) sewer charge, the City must conduct a majority protest hearing in accordance with Proposition 218 (Article XIID of the California Constitution). Proposition 218 requires the City to provide mailed notice at least 45 days before the public hearing to each property in the City that may be affected by the new charge. The notice advises the property owner (or tenant) that if he or she objects to the new charge, the individual must file a written protest with the City. Only one protest is counted per parcel.

At the April 28, 2015 Council meeting, Council also adopted the Engineer's Report, setting the majority protest hearing for June 23, 2015 and directed the City Clerk to mail all notices required under Proposition 218. A copy of the notice to property owners is enclosed as Attachment 1.

On May 27, 2015, staff and the City's sewer fee consultant held a community presentation for the proposed sewer service charge at City Council Chambers. The presentation covered an overview of the condition of the sanitary sewer system; a comparison of other sewer charges in neighboring cities; use of funds from the proposed charge; the protest process; a reminder of the public hearing/protest hearing on June 23, 2015; and finished with an open question and answer session from the community. Minutes of the question and answer session are enclosed as Attachment 2.

### **Analysis:**

The sewer service charge is based on the direct cost of providing maintenance, operation, servicing, and improvements to the sewer collections system. These costs include staff, contracting service, material, and other costs as described in the Engineer's Report (enclosed as part of Attachment 3). The \$115 charge per ESU for 2015/2016 as adopted by the City Council on April 28, 2015 is multiplied by the ESUs for each residential parcel and by water consumption for non residential to determine the charge for each parcel. The proposed 2015/2016 revenue for the sewer services will be funded by the total of the charges from the parcels.

As mentioned, the City must conduct a majority protest hearing in accordance with Proposition 218 (Article XIID of the California Constitution) prior to adopting any new (or increased) sewer charge. A majority protest exists if, at the end of the public hearing, there are valid written protests submitted by a majority of the properties subject to the proposed charge. Should the number of written protests received not be sufficient to constitute a majority protest of the affected properties, then the Council may adopt the proposed new sewer charge. Only one protest is counted per parcel. There were 6,919 parcels notified within the City. Therefore, a minimum of 3,460 protests are needed for a majority protest to exist.

It is recommended that City Council hold a majority protest hearing at the June 23, 2015 Council meeting, confirm the number of written protests received at the close of the public hearing, and if a majority protest is not received, adopt attached Resolution (Attachment 3), adopting the annual sewer service charge and authorizing the charge for Fiscal Year 2015-16 to fund maintenance, operation, servicing, and improvements to the City's sewer collection system; and introduce on first

reading attached Ordinance (Attachment 4), adding a new Chapter 13.12 to the Municipal Code regarding the sewer service charge. The ordinance will codify the charge, the process for collection, and the permissible use of the funds. The resolution also adopts the updated Engineer's Report, which reflects the decisions made by the City Council on April 28<sup>th</sup>.

**Attachments:**

1. Notice to Property Owners
2. May 27, 2015 Community Presentation Minutes
3. Draft Resolution w/ revised Engineer's Report
4. Draft Ordinance
5. Objection from Roberta Moore dated May 14, 2015

**Fiscal Impact:**

Approval of the staff recommendations will authorize a sewer service charge of \$115/year per ESU for fiscal year 2015-16 plus an annual increase beginning fiscal year 2016-17 not to exceed 2% per year for a maximum period of five years, and allow operation and maintenance activities to be funded by this charge.

**Respectfully Submitted by:** Andrew Brozyna, P.E., Public Works Director/City Engineer  
**Noted for Fiscal Impact:** Viki Copeland, Finance Director  
**Legal Review:** Michael Jenkins, City Attorney  
**Approved:** Tom Bakaly, City Manager