



AGENDA
CITY OF NORCO
SPECIAL MEETING
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE
NORCO, CA 92860
SEPTEMBER 7, 2011

1. CALL TO ORDER: 5:00 p.m.
2. ROLL CALL: Mayor Berwin Hanna
Mayor Pro Tem Kevin Bash
Council Member Kathy Azevedo
Council Member Greg Newton
Council Member Harvey C. Sullivan
3. PUBLIC COMMENTS OR QUESTIONS – THIS IS THE TIME WHEN PERSONS IN THE AUDIENCE WISHING TO ADDRESS THE CITY COUNCIL REGARDING MATTERS LISTED ON THE AGENDA MAY SPEAK.
4. CITY COUNCIL APPEAL HEARING:
 - A. Denial of Claim Requesting a Refund of Sewer Charges in the Amount of \$2,700 -- David and Shirley Henderson. **Recommended Action: That the City Council hear the evidence and arguments as presented and render a final and conclusive decision to the appellant.**
5. ADJOURNMENT:

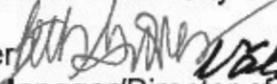
In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's office, (951) 270-5623. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

Staff reports are on file in the Office of the City Clerk. Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be available for public inspection at the Administration Counter in City Hall, located at 2870 Clark Avenue.

/bj-79239

CITY OF NORCO STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Beth Groves, City Manager 
Andy Okoro, Deputy City Manager/Director of Finance 
William R. Thompson, Director of Public Works 

PREPARED BY: Brenda K. Jacobs, City Clerk 

DATE: September 7, 2011

SUBJECT: **APPEAL HEARING:** Denial of Claim Requesting a Refund of Sewer Charges in the Amount of \$2,700 – David and Shirley Henderson

RECOMMENDATION: That the City Council hear the evidence and arguments as presented and render a final and conclusive decision to the appellant.

BACKGROUND/ANALYSIS: On March 28, 2011, the City received a *Claim for Money or Damages Against the City of Norco* from David Henderson and Shirley Henderson ("Claimants") (attached as Exhibit "A"). The Claim states as follows:

Date of Occurrence: Beginning 1996

Time of Occurrence: 15 Years

Circumstances giving rise to this Claim: I am not connected to the sewer system, but I have been charged \$15 per month.

General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the Claim:

Proposition 218: Text

"SEC. 5. *Effective Date.* Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article."

CALIFORNIA CONSTITUTION
ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

"SEC. 6. *Property Related Fees and Charges.* (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

"(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4."

Total amount claimed: \$180/year from date the charge was instituted; at least 180 months = \$2700.

On May 9, 2011, the Claimants were sent a letter from Andy Okoro, Deputy City Manager/Director of Finance, stating that under the administrative process, the Claim was being treated as a request for refund and he offered options for resolving the Claim (attached as Exhibit "B"). On May 12, 2011, the City's Third Party Risk Administrator, PERMA, sent a letter to the Claimants stating that the Claim was rejected because it was not timely (attached as Exhibit "C"). On May 19, 2011, the City Clerk received a letter from the Claimants requesting an appeal of the City's denial of the Claim (attached as Exhibit "D"). On August 4, 2011, a letter was sent to the Claimants scheduling the appeal hearing (attached as Exhibit "E"). On August 23, 2011, the Claimants submitted a document, as requested, which they wish to introduce at the hearing (attached as Exhibit "F").

City staff researched the history of the fees collected for persons not connected to the City's sewer system. On July 6, 1998, Ordinance No. 735 was adopted which first incorporated a sewer rate for those not connect to the sewer system, but who have sewer service available. Following the adoption of that Ordinance, a letter was sent out to Norco septic system users explaining the new charge for septic system users. On April 7, 1999, Ordinance No. 743 was adopted which clarified the sewer use rate, including the cost of construction of the regional wastewater treatment plant, for those not connected to the sewer system (attached as Exhibit "G"). A list of ordinances and resolutions has been prepared stating the non-connect fee charged since the inception date of July 6, 1998 (attached as Exhibit "H").

The Fiscal & Support Services Department has reviewed the payments received from the Claimants totaling an amount of \$2,451.64 from the inception of the collection of the non-connect fee through August of 2011.

The City Council is recommended to review the documents as submitted and hear the evidence and arguments as presented by the Claimants in order to render a final and conclusive decision to the appellants.

/bj-79264

Attachments: Exhibit "A" – Claim Received from Appellants

Exhibit "B" – May 9, 2011 Letter

Exhibit "C" – May 12, 2011 Letter

Exhibit "D" – May 19, 2011 Letter

Exhibit "E" – August 4, 2011 Letter

Exhibit "F" – Document Submitted by Claimants

Exhibit "G" – Documents Related to Ordinance Nos. 735 and 743

Exhibit "H" – List of Ordinances and Resolution Adopted Relating to Non-Connect Sewer Fees.

Exhibit "A"

RECEIVED
Y OF NORCO

*All pgs
back*

MAR 28 2011



File With:
Fiscal Services Department
City of Norco
2870 Clark Avenue
Norco CA 92860

TIME: *C. CM*
CITY CLERK

CLAIM FOR MONEY OR
DAMAGES AGAINST
THE CITY OF NORCO

RESERVE FOR FILING STAMP

CLAIM NO. _____

A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall show the following:

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.

1. Name and Post Office address of the Claimant:

Name of Claimant: DAVID HENDERSON & SHIRLEY HENDERSON
Post Office Address: 3010 CORONA AVENUE

2. Post Office address to which the person presenting the claim desires notices to be sent:

Name of Addressee: DAVID HENDERSON Telephone:
Post Office Address: 3010 CORONA AVENUE

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: BEGINNING 1996 Time of Occurrence: 15 YEARS
Location: _____
Circumstances giving rise to this claim: I AM NOT CONNECTED TO THE SEWER SYSTEM, BUT I HAVE BEEN CHARGED \$15 PER MONTH

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

SEE ATTACHED

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

N/A

SCANNED

ju 4/28

6. If amount claimed totals less than \$10,000: The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation: \$180/YEAR FROM DATE
THE CHARGE WAS INSTITUTED; AT LEAST
180 MONTHS = \$2700.

If amount claimed exceeds \$10,000: If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

Limited Civil Case

Unlimited Civil Case

You are required to provide the information requested above in order to comply with Government Code §910. Additionally, in order to conduct a timely investigation and possible resolution of your claim, the [CITY/AGENCY] requests that you answer the following questions.

7. Claimant(s) Social Security Number(s):

8. Claimant(s) Date(s) of Birth;

DAVID - SHIRLEY

9. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:

N/A

10. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:

N/A

If applicable, please attach any medical bills or reports or similar documents supporting your claim.

11. If the claim relates to an automobile accident:

Claimant(s) Auto Ins. Co.:	Telephone:
Address:	Insurance Policy No.:
Insurance Broker/Agent:	Telephone:
Address:	
Claimant's Veh. Lic. No.:	Vehicle Make/Year:
Claimant's Drivers Lic. No.:	Expiration:

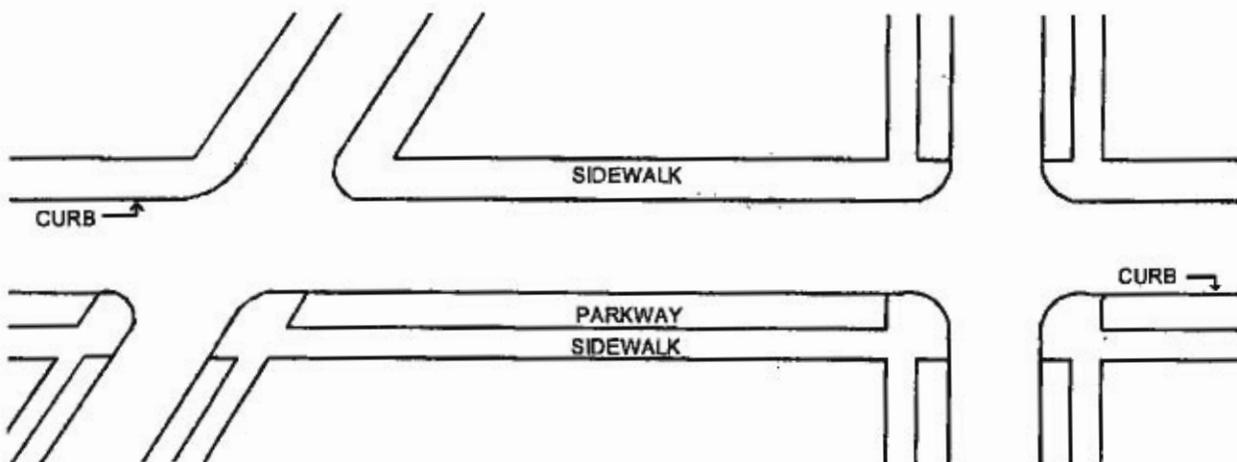
If applicable, please attach any repair bills, estimates or similar documents supporting your claim.

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw

City/Agency Vehicle; location of City/Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Warning: Presentation of a false claim is a felony (Penal Code §72). Pursuant to CCP §1038, the City/Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature: David J. Anderson Date: 3/25/2011

Attachment for #4: "General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim."

Proposition 218: Text

"SEC. 5. *Effective Date.* Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article."

CALIFORNIA CONSTITUTION

ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)

"SEC.6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

"(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4."

Exhibit "B"



CITY of NORCO

CITY HALL • 2270 CLARK AVENUE • NORCO CA 92860 • (951) 736-3950 • FAX (951) 270-5822

May 9, 2011

David and Shirley Henderson
3010 Corona Avenue
Norco, California 92860

Dear Mr. & Mrs. Henderson,

I am writing in response to your "Claim for Money or Damages Against the City of Norco" dated March 25, 2011 and received by the City of Norco on March 28, 2011. Based on the nature of your claim, the City is providing two options for resolving your claim.

First, your claim has been forwarded to the City's Third Party Risk Administrator to be handled in accordance to the provisions of the California Tort Claims Act. Secondly, through this letter the City is also providing an administrative option through which the claim can be resolved. Both of these options are independent of each other and could run concurrently.

The City's Third Party Risk Administrator will be providing you with an initial decision on your claim and directions on what you may need to do to pursue your claim further. Under the administrative process option, I am treating your claim as a request for refund. Sections 14.04.321 and 14.04.322 of the City's Municipal Code outlines the process for handling claims for overbilling. It is my intent to use this letter to meet the formal hearing requirements of Section 14.04.321 (meeting with the Finance Director). However, if you still desire a formal meeting with me, please contact me at (951) 270-5650 to arrange a face to face meeting.

In your claim, you stated that the City should not have charged you for sewer because your property is not connected to the City's sewer system. I have reviewed the information on your claim form as well as the additional information you provided via email. I have also reviewed the relevant provisions of the City's Municipal Code and Proposition 218. Based on my understanding of Proposition 218 and the provisions of Section 14.07.100 of the City's Municipal Code which states in part "At the time of the completion and operation of the Regional Wastewater Treatment Plant all property owners with access to the Treatment Plant will be required to pay their share of costs of the plant, whether or not they are hooked-up" it is my determination that the non-connect charge is proper, equitable and in compliance with Proposition 218. Consequently, I am formally denying your request for refund.

If you disagree with my determination and wish to pursue the administrative process further, please contact the City Clerk to request for an appeal to the City Council as provided under Section 14.04.322 of the City of Norco Municipal Code.

Sincerely,

Andy Okoro
Deputy City Manager/Director of Finance

Copy John Harper, City Attorney
Beth Groves, City Manager

CITY COUNCIL

BERWIN HANNA
Mayor

KEVIN BASH
Mayor Pro Tem

KATHY AZEVEDO
Council Member

GREG NEWTON
Council Member

HARVEY SULLIVAN
Council Member

Exhibit "C"



RECEIVED
MAY 16 2011
BY: _____

May 12, 2011

Mr. and Mrs. David Henderson
3010 Corona Avenue
Norco, CA 92860

NOTICE OF CLAIM REJECTION AND UNTIMELY CLAIM

Dear Mr. and Mrs. Henderson:

Notice is hereby given that the claim which you presented to the City Clerk of the City of Norco, California on March 28, 2011 is being returned because it was not timely.

A public

agency

since

1985

.

77-670

Springfield Lane

Suite 1A

Palm Desert

CA 92211

phone

760.360.4966

fax

760.360.3254

NOTICE OF UNTIMELY CLAIM

Some or all of the claim which was received by the City of Norco on March 28, 2011, failed to comply substantially with certain Government Code sections.

Only transactions taking place within six months of March 28, 2011 are timely pursuant to Government Code Section 911.2.

Notice is hereby given that to the extent that portions of the referenced claim are not timely presented pursuant to the requirements of Government Code Section 911.2, the claim is being returned without further action because it was not presented within six months after the event or occurrence as required by law. See Section 901 and 911.2 (a) of the Government Code.

WARNING

Concerning the untimely portion(s) of the claim, your only recourse at this time is to apply without delay to the City of Norco for leave to present a late claim. See Sections 911.4 to 912.2 inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.



David and Shirley Henderson v. City of Norco

Page 2

May 12, 2011

To the extent you contend that any portion of said claim is timely, under the delayed discovery rule or any other basis, notice is hereby given that any portion of the claim which is timely submitted is rejected pursuant to Government Code Section 913.

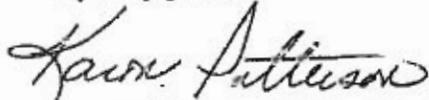
WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

This deadline applies to claims you may have under the California Government Claims Act. A different period to file may exist for any other claims, including any federal civil rights claims.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Very truly yours,



Karon Patterson CPCU; AIC; AIS
Claim Specialist

Enclosure

Andy Okoro,
City of Norco

Exhibit "D"

RECEIVED
CITY OF NORCO

MAY 19 2011
TIME: *Brenda Jacobs*
CITY CLERK

David and Shirley Henderson
3010 Corona Avenue
Norco, California 92850

May 19, 2011

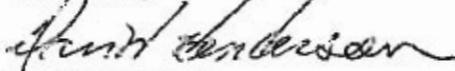
City Clerk
City of Norco
2870 Clark Avenue
Norco, California 92860

Ref: Ltr from Andy Okoro dtd 5/9/2011

Ms. Brenda Jacobs:

Per instructions in Mr. Okoro's correspondence we would like to request an appeal of Mr. Okoro's denial of our request for rebate of sewer charges per Section 14.04.322 of the City of Norco Municipal Code.

Thank You,



David Henderson

Exhibit "E"



CITY of NORCO

CITY HALL • 2870 CLARK AVENUE • NORCO CA 92860 • (951) 735-3900 • FAX (951) 270-5622

August 4, 2011

David and Shirley Henderson
3010 Corona Avenue
Norco, CA 92860

Dear Mr. and Mrs. Henderson:

This letter is in regards to your request to appeal Deputy City Manager/Director of Finance Andy Okoro's denial of your request for rebate of sewer charges per Section 14.04.322 of the City of Norco Municipal Code as follows:

14.04.322 Appeal to City Council.

Any customer who deems himself aggrieved by the decision of the Finance Director may appeal such decision to the City Council. Such appeal shall be in writing and shall be filed with the City Clerk within five days from the date of hearing with the Finance Director. The written appeal shall state briefly the grounds for appeal.

The City Clerk shall then set the appeal for hearing before the City Council and shall cause to be given to the appellant at least five days written notice of the date upon which such appeal will be heard. At such hearing, the appellant may give such evidence and arguments as he may deem proper in support of his appeal. The decision of the city council rendered after such hearing shall be final and conclusive.

The City is prepared to schedule the hearing on Wednesday, September 7, 2011 at 5 p.m. in the City Council Chambers. Please let me know at your earliest convenience if that date and time is acceptable. I will, at that time, schedule a special meeting of the City Council for that purpose.

In preparation for the hearing, the City Attorney has recommended that all documents, or anything written which you wish to introduce at that hearing, be provided to me at least 15 days prior to the hearing (August 23, 2011). To the extent that there is any reply to any written documents provided, it will be provided to you at least 5 days prior to the hearing (September 9, 2011).

Please contact me at 951.270.5617 if you have any questions regarding the hearing.

Sincerely,

Brenda K. Jacobs, CMC
City Clerk

- c. City Council
Andy Okoro, Deputy City Manager/Director of Finance
John Harper, City Attorney

CITY COUNCIL

BERWIN HANNA
Mayor

KEVIN BASH
Mayor Pro Tem

KATHY AZEVEDO
Council Member

GREG NEWTON
Council Member

HARVEY SULLIVAN
Council Member

Exhibit "F"

Appeal Hearing

David and Shirley Henderson

Set for September 7, 2011

Document Submitted

California Constitution

Article XIII D (Assessment and property-related fee reform)

SEC 3. Property Taxes, Assessments, Fees and Charges Limited.

(a) No tax, assessments, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article...

SEC 4. Procedures and Requirements for All Assessments.

(a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel....

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a

disclosure statement that the existence of a majority protest, as defined in subdivision (3), will result in the assessment not being imposed.

(d) Each notice mailed to the owners of identified parcels within the district pursuant to subdivision © shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support of opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protest against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment...

SEC 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article.

Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section. 4...

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the

property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

David Paland v. Brooktrails Township Community Services District Board of Directors No. A122640 July 31, 2009 “This appeal requires us to construe certain provisions in the taxpayer initiative Proposition 218 (Cal. Const., arts. XIII C, XIII D) distinguishing between what may properly be classified as a property-related fee, exempt from a requirement for ballot approval by a majority of affected property owners, and an assessment for which such a vote is mandated. We conclude that a minimum charge imposed on parcels with connections to a water district’s utility systems for the basic cost of providing water or sewer service, regardless of actual use, is a charge for an immediately available property-related service as defined in article XIII D, section 6, subdivision (b)(4), and consequently does not require ballot approval by affected owners.”

Abbott & Kindermann Land Use Law Blog (Land Use, Environmental, and Real Estate Law in California) re: Paland v. Brooktrails: “The Appellate Court eventually concluded that the phrase “immediately available” is to be resolved by looking at the agency’s behavior, not that of the consumer. Where the connection exists and the customer elects to not take service, the ongoing charge is a fee and not an assessment.”

Exhibit "G"

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Gerald F. Johnson, City Manager

PREPARED BY: Joseph S. Schenk, DPW/CE

DATE: May 20, 1998

SUBJECT: Continued Public Hearing: Code Amendment No. 98-06 (City of Norco) Ordinance No. ____, First Reading, An Ordinance of the City Council of the City of Norco, California, Amending Title 14.07 (Sewer Service Fees) and 14.14 (Sewage Facility Development Fee) of the Norco Municipal Code

RECOMMENDATION:

Community Services Commission: The Community Services Commission recommends that the City Council approve the sewer rate increase indicated in Option 2, which incorporates a bond principle pay down in FY 2000-01.

Staff: Staff recommends that Code Amendment No. 98-06, incorporating changes from the April 15, 1998, City Council meeting be approved, and recommends that City Council adopt with the following motion.

Motion: Move to introduce and subsequently adopt Ordinance No. ____, approving Code Amendment No. 98-06 for first reading.

BACKGROUND/ANALYSIS:

At the Council's April 15, 1998 meeting, action to approve the adoption of Code Amendment No. 98-06 was continued and direction given to staff to reevaluate variable costs in relation to fixed costs and the resulting monthly charges to both non-connects and connects. Council should recall since 1985, those connecting to the City sewer system have been paying a monthly charge to defray a portion of the construction costs for the wastewater treatment plant. When initially adopted, this enabling ordinance would have required all existing and future residential, commercial, and industrial buildings be charged; however, some years later this was changed so that non-connects would not pay until the wastewater treatment plant was constructed.

Agenda Item No. 10A.

Page 2
May 20, 1998
Continued Public Hearing

Since the May 6 City Council meeting, staff has developed three additional options that are included in your packet as Options X, Y, and Z. As a basis of comparison, Option 2 has also been included in your packet so that you can compare how monthly charges have changed.

The ordinance that is included in your packet is based on Option X; however, if Council chooses a different option it can be easily modified. Council's attention is directed to Section 14.07.620 Sewer Use Rate, Sections B and C, which have language to subsidize low income seniors by defraying a portion of the monthly sewer use fees, and also specifying that the sewer use rates would only be applied to those non-connects that have sewer service available at their property.

FISCAL IMPACT: NA
RELATED ITEMS: N/A
GOAL AND OBJECTIVE: N/A

GFJ/JSS/cka

Attachments

ORDINANCE ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA AMENDING TITLE 14.07 (SEWER SERVICE FEES) AND 14.14 (SEWAGE FACILITY DEVELOPMENT FEE) OF THE NORCO MUNICIPAL CODE -
Code Change 98-06

WHEREAS, the City has determined that the current schedule of Sewer User Service Fees does not provide adequate income to offset the City's costs to properly maintain and provide the sewer services currently rendered to the City's sewer customers; and,

WHEREAS, California Health and Safety Code Section 5471 authorizes the City to revise its Sewer User Service Fees by an ordinance approved by a two-thirds vote of the City Council; and,

WHEREAS, the City has duly noticed and conducted a public hearing on May 6, 1998 and on May 20, 1998, at which time the public was invited to make oral and written presentations as a part of the regularly scheduled meeting prior to the adoption of this Ordinance; and,

WHEREAS, the levying of the fees is statutorily and categorically exempt from the requirements of the California Environmental Quality Act (CEQA), since setting these fees fits within the statutory exemption for City decisions involving rates, tolls or other charges contained within Public Resources Code Section 21080(b) and Section 15273 of the CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Norco, California does hereby ordain as follows:

SECTION 1: Norco Municipal Code Title 14.07 entitled "Sewer Service Fees" is hereby amended as follows:

14.07.320 Sewer connection fees. Connection to the sewer system of the city shall not be made nor permit for such connection issued until the following connection fees have been paid unless the property has previously paid full assessment district collector unit charges:

(a) Schedule I: All applicants for residential sewer service shall pay a fee of two hundred fifty-five dollars per unit, paid as follows:

1998 - 99	no charge for existing single family residential connection permit. \$255.00 for newly constructed single family residential connection permit.
1999 - 00	\$63.75 for existing single family residential connection permit. \$255.00 for newly constructed single family residential connection permit.

2000 - 01	\$127.50 for existing single family residential connection permit.
	\$255.00 for newly constructed single family residential connection permit.
2001 - 02 - Thereafter	\$255.00 for all single family residential connection permits.

(b) Schedule II: All applicants for nonresidential sewer service shall pay a fee of two hundred fifty-five dollars per equivalent dwelling unit. Equivalent dwelling units shall be computed in the same manner as "service units" as set forth in Section 14.14.020 of this code.

(c) All applicants for sewer service, where property to be served is outside of a special benefit assessment district or development reimbursement area, shall pay a connection fee as established by City Council resolution to reimburse the City of Norco for capital costs and reimbursable expenses incurred by the City in providing sewer lines and sewer lateral improvements.

14.07.620 Sewer use rate.

(a) The sewer use rate for those connected to the sewer system shall be as follows:

1998 - 99	\$24.00 per service unit on a monthly basis.
1999 - 00	\$24.00 per service unit on a monthly basis.
2000 - 01	\$24.00 per service unit on a monthly basis.
2001 - 02	\$24.00 per service unit on a monthly basis.
2002 - 03	\$24.00 per service unit on a monthly basis.

All residential units shall be charged as one service unit. The actual sewer use charge for non-residential users shall be determined by multiplying the number of service units times the sewer use rate. The sewer use rate for non-residential users shall be a minimum of Twenty-four Dollars (\$24.00) per month for domestic water account.

(b) Eligible low-income seniors may apply for a subsidy to defray a portion of the monthly sewer use fees.

(c) The sewer use rate for those not connected to the sewer system, but who have sewer service available, shall be as follows:

Current rate	\$0.00
1998 - 99	\$12.80 per month.
1999 - 00	\$12.80 per month.
2000 - 01	\$12.80 per month.
2001 - 02	\$12.80 per month.
2002 - 03	\$12.80 per month.

(d) If required by the City Engineer, any nonresidential user may be required on a yearly basis (on or before the first of July of every year) to submit a twenty-four-hour composite wastewater analysis from a certified laboratory for BOD, SS and any other parameter as may be required by ordinance, as codified in chapter 14.08 of this code.

(e) In the event the user believes the BOD, SS and flow assignment in this subsection is no longer applicable, the user may submit the results of a laboratory analysis of its wastewater from a certified laboratory to the city engineer for review. An adjustment may be made if deemed appropriate and consistent with the intent of this section. All laboratory work and monitoring must be arranged and paid for by the nonresidential user.

SECTION 2: Norco Municipal Code Title 14.14 entitled "Sewer Facilities Development Fee" is hereby amended as follows:

14.14.040 Rates. (a) The rate of the Sewage Facilities Development Fee hereby imposed shall be as follows:

(1) For property which has not previously been assessed capacity through City Assessment District 109; two thousand fifty eight dollars (\$2,058.00) per service unit for new residential dwelling units and commercial and industrial buildings for which building permits had not been issued as of December 31, 1971.

(2) For property which has been assessed sewage capacity charges through City Assessment District 109; one thousand seven hundred ninety-seven dollars (\$1,797.00) per service unit for new residential dwelling units and commercial and industrial buildings for which building permits had not been issued as of December 31, 1971.

(3) This section is deleted.

SECTION 3: EFFECTIVE DATE: This Ordinance shall become effective on July 6, 1998.

SECTION 4: SEVERABILITY: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases hereof be declared invalid or unconstitutional.

SECTION 5: POSTING: The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall cause the same within fifteen (15) days of its passage to be posted at no less than five (5) public places within the City of Norco.

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on June 3, 1998.

Mayor of the City of Norco

ATTEST:

City Clerk of the City of Norco, California

I, DEBRA MCNAY, City Clerk of the City of Norco, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Norco, California, duly held on the 20th day of May, 1998 and thereafter at a regular meeting of said City Council duly held on the 3rd day of June, 1998, it was duly passed and adopted by the following vote of the City Council, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California, this 3rd day of June, 1998.

City Clerk of the City of Norco, California

Non-Connects Pay 100% Fixed Fee and NO Increase for Connected Residences						
		Current	Restructured (1)		Amount Needed (2)	Shortage
		Monthly	Monthly	Annual		
Fixed/Usage:						
280	Commercial (Fixed)	14.07	16.66	55,977.60		
1,524	Non-Connect (Fixed)		16.66	304,678.08		
4,797	Connect (Fixed)	14.07	16.66 (3)	959,016.24		
4,797	Capacity	21.50 ← 3.19	0	0.00		
4,797	Usage	4.24	4.84	278,609.76		
Total				1,598,281.68	1,676,420.00	(78,138.32)

(1) Maximum Revenue, No Increase In Connected Fees and Total Fixed Costs Charged to Non-Connects.
 (2) Does Not include Commercial Usage, Penalties or Other Revenue.
 (3) Capacity Fee Changed to Service Charge.

Sewer Rate Increases:

	Non-Connects		Connects Rate	Annual Shortage	Total Aggregate
	Fixed Rates	Variable			
1st Yr	10.00	10%	21.98	(172,075.42)	(172,075.42)
2nd Yr	12.50	10%	22.52	(95,708.35)	(267,783.77)
3rd Yr	15.00	10%	23.10	33,723.43	(234,060.34)
4th Yr	16.66	0%	23.10	64,081.51	(169,978.83)
5th Yr (Full Cost)	16.66	0%	23.10	64,081.51	(105,897.32)

	Rate Increase	Effective Increase/ Total Fee	Revenue	(Short)/Excess	
				Amount	%
Overhead					
280	Commercial		55,977.60		
1,524	Non-Connect		182,880.00		
4,797	Connect		959,016.24		
4,797	Capacity	10% 2.25%	0.00		
4,797	Usage	10% 21.98	306,470.74	1,504,344.58	(172,075.42) -10.26%
Overhead					
280	Commercial		55,977.60		
1,524	Non-Connect		228,600.00		
4,797	Connect		959,016.24		
4,797	Capacity	10% 2.42%	0.00		
4,797	Usage	10% 22.52	337,117.81	1,580,711.65	(95,708.35) -5.71%
Overhead					
280	Commercial		55,977.60		
1,524	Non-Connect		274,320.00		
4,797	Connect		959,016.24		
4,797	Capacity	10% 2.60%	0.00		
4,797	Usage	10% 23.10	370,829.59	1,660,143.43	33,723.43 2.01%
Overhead					
280	Commercial		55,977.60		
1,524	Non-Connect		304,678.08		
4,797	Connect		959,016.24		
4,797	Capacity	0% 0.00%	0.00		
4,797	Usage	0% 23.10	370,829.59	1,690,501.51	64,081.51 3.82%
Overhead					
280	Commercial		55,977.60		
1,524	Non-Connect		304,678.08		
4,797	Connect		959,016.24		
4,797	Capacity	0% 0.00%	0.00		
4,797	Usage	0% 23.10	370,829.59	1,690,501.51	64,081.51 3.82%

Total Accumulated (Shortage) Exces (105,897.32)

Option X

City of Norco

Non-Connects Pay 100% Fixed Fee and NO Increase for Connected Residences						
Fixed/Usage:		Current Monthly	Restructured (1)		Amount Needed (2)	Short- age
			Monthly	Annual		
280	Commercial (Fixed)	8.53	12.78	42,949.20		
1,524	Non-Connect (Fixed)		12.78	233,766.36		
4,797	Connect (Fixed)	8.53	12.78 (3)	735,811.83		
4,797	Capacity	21.50 ← 3.19	0	0.00		
4,797	Usage	9.78	8.72	501,814.17		
Total				<u>1,514,341.56</u>	<u>1,676,420.00</u>	<u>(162,078.44)</u>

(1) Maximum Revenue, No Increase in Connected Fees and Total Fixed Costs Charged to Non-Connects.
 (2) Does Not include Commercial Usage, Penalties or Other Revenue.
 (3) Capacity Fee Changed to Service Charge.

Sewer Rate Increases:

	Non-Connects		Connects	Annual	Total
	Fixed Rates	Variable	Rate	Shortage	Aggregate
1st Yr	12.80	29%	24.00	(17,959.21)	(17,959.21)
2nd Yr	12.80	0%	24.00	(17,959.21)	(35,918.42)
3rd Yr	12.80	0%	24.00	32,040.79	(3,877.63)
4th Yr	12.80	0%	24.00	32,040.79	28,163.16
5th Yr (Full Cost)	12.80	0%	24.00	32,040.79	60,203.95

	Rate Increase	Effective Increase/ Total Fee		Revenue	(Short)/Excess	
					Amount	%
Overhead						
280			12.78	42,949.20		
1,524			12.80	234,086.40		
4,797			12.78	735,811.83		
4,797	29%	11.62%	0.00	0.00		
4,797	29%	24.00	11.22	645,613.36	1,658,460.79	(17,959.21) -1.07%
1.02						
Overhead						
280			12.78	42,949.20		
1,524			12.80	234,086.40		
4,797			12.78	735,811.83		
4,797	0%	0.00%	0.00	0.00		
4,797	0%	24.00	11.22	645,613.36	1,658,460.79	(17,959.21) -1.07%
Overhead						
280			12.78	42,949.20		
1,524			12.80	234,086.40		
4,797			12.78	735,811.83		
4,797	0%	0.00%	0.00	0.00		
4,797	0%	24.00	11.22	645,613.36	1,658,460.79	32,040.79 1.91%
Overhead						
280			12.78	42,949.20		
1,524			12.80	234,086.40		
4,797			12.78	735,811.83		
4,797	0%	0.00%	0.00	0.00		
4,797	0%	24.00	11.22	645,613.36	1,658,460.79	32,040.79 1.91%
Overhead						
280			12.78	42,949.20		
1,524			12.80	234,086.40		
4,797			12.78	735,811.83		
4,797	0%	0.00%	0.00	0.00		
4,797	0%	24.00	11.22	645,613.36	1,658,460.79	32,040.79 1.91%

Total Accumulated (Shortage) Excess 60,203.95

City of Norco

Non-Connects Pay 100% Fixed Fee and NO Increase for Connected Residences						Amount Needed (2)	Shortage
		Current Monthly	Restructured (1)				
			Monthly	Annual			
Fixed/Usage:							
280	Commercial (Fixed)		12.78	42,949.20			
1,524	Non-Connect (Fixed)		12.78	233,766.38			
4,797	Connect (Fixed)		12.78 (3)	735,811.83			
4,797	Capacity	21.50 ←	3.19	0	0.00		
4,797	Usage		8.72	501,814.17			
Total				1,514,341.56	1,676,420.00	(162,078.44)	

- (1) Maximum Revenue, No Increase in Connected Fees and Total Fixed Costs Charged to Non-Connects.
- (2) Does Not include Commercial Usage, Penalties or Other Revenue.
- (3) Capacity Fee Changed to Service Charge.

Sewer Rate Increases:

	Non-Connects		Connects	Annual Shortage	Total Aggregate
	Fixed Rates	Variable	Rate		
1st Yr	10.00	23%	23.50	(98,123.18)	(98,123.18)
2nd Yr	10.00	6%	24.00	(68,812.23)	(166,935.41)
3rd Yr	12.80	0%	24.00	32,394.17	(134,541.25)
4th Yr	12.80	0%	24.00	32,394.17	(102,147.08)
5th Yr (Full Cost)	12.80	0%	24.00	32,394.17	(69,752.91)

		Rate Increase	Effective Increase/ Total Fee			Revenue	(Short)/Excess	
							Amount	%
Overhead								
280	Commercial			12.78	42,949.20			
1,524	Non-Connect			10.00	182,880.00			
4,797	Connect			12.78	735,811.83			
4,797	Capacity	23%	9.28%	0.00	0.00			
4,797	Usage	23%	23.50	10.71	616,655.79	1,578,296.82	(98,123.18)	-5.85%
			1.02					
Overhead								
280	Commercial			12.78	42,949.20			
1,524	Non-Connect			10.00	182,880.00			
4,797	Connect			12.78	735,811.83			
4,797	Capacity	6%	2.17%	0.00	0.00			
4,797	Usage	6%	24.00	11.22	645,966.74	1,607,607.77	(68,812.23)	-4.10%
Overhead								
280	Commercial			12.78	42,949.20			
1,524	Non-Connect			12.80	234,086.40			
4,797	Connect			12.78	735,811.83			
4,797	Capacity	0%	0.00%	0.00	0.00			
4,797	Usage	0%	24.00	11.22	645,966.74	1,658,814.17	32,394.17	1.93%
Overhead								
280	Commercial			12.78	42,949.20			
1,524	Non-Connect			12.80	234,086.40			
4,797	Connect			12.78	735,811.83			
4,797	Capacity	0%	0.00%	0.00	0.00			
4,797	Usage	0%	24.00	11.22	645,966.74	1,658,814.17	32,394.17	1.93%
Overhead								
280	Commercial			12.78	42,949.20			
1,524	Non-Connect			12.80	234,086.40			
4,797	Connect			12.78	735,811.83			
4,797	Capacity	0%	0.00%	0.00	0.00			
4,797	Usage	0%	24.00	11.22	645,966.74	1,658,814.17	32,394.17	1.93%
Total Accumulated (Shortage) Excess							(69,752.91)	

City of Norco

Non-Connects Pay 100% Fixed Fee and NO Increase for Connected Residences							
		Current		Restructured (1)		Amount Needed (2)	Shortage
		Monthly	Monthly	Monthly	Annual		
Fixed/Usage:							
280	Commercial (Fixed)		8.53	12.80	43,008.00		
1,524	Non-Connect (Fixed)			12.80	234,086.40		
4,797	Connect (Fixed)		8.53	12.80 (3)	736,819.20		
4,797	Capacity	21.50 ←	3.19	0	0.00		
4,797	Usage		9.78	8.70	500,806.80		
	Total				<u>1,514,720.40</u>	<u>1,676,420.00</u>	<u>(161,699.60)</u>

(1) Maximum Revenue, No Increase in Connected Fees and Total Fixed Costs Charged to Non-Connects.
 (2) Does Not include Commercial Usage, Penalties or Other Revenue.
 (3) Capacity Fee Changed to Service Charge.

Sewer Rate Increases:

	Non-Connects		Connects	Annual	Total
	Fixed Rates	Variable	Rate	Shortage	Aggregate
1st Yr	10.00	8%	22.20	(172,841.46)	(172,841.46)
2nd Yr	10.00	8%	23.00	(126,693.55)	(299,535.00)
3rd Yr	12.80	5%	23.50	3,288.17	(296,246.83)
4th Yr	12.80	5%	24.00	32,350.98	(263,895.85)
5th Yr (Full Cost)	12.80	0%	24.00	32,350.98	(231,544.86)

	Rate Increase	Effective Increase/		Revenue	(Short)/Excess			
		Total Fee	Total Fee		Amount	%		
Overhead								
280	Commercial		12.80	43,008.00				
1,524	Non-Connect		10.00	182,880.00				
4,797	Connect		12.80	736,819.20				
4,797	Capacity	8%	3.24%	0.00				
4,797	Usage	8%	22.20	9.40	540,871.34	1,503,578.54	(172,841.46)	-10.31%
			1.02					
Overhead								
280	Commercial		12.80	43,008.00				
1,524	Non-Connect		10.00	182,880.00				
4,797	Connect		12.80	736,819.20				
4,797	Capacity	8%	3.61%	0.00				
4,797	Usage	8%	23.00	10.20	587,019.25	1,549,726.45	(126,693.55)	-7.56%
Overhead								
280	Commercial		12.80	43,008.00				
1,524	Non-Connect		12.80	234,086.40				
4,797	Connect		12.80	736,819.20				
4,797	Capacity	5%	2.17%	0.00				
4,797	Usage	5%	23.50	10.70	615,794.57	1,629,708.17	3,288.17	0.20%
Overhead								
280	Commercial		12.80	43,008.00				
1,524	Non-Connect		12.80	234,086.40				
4,797	Connect		12.80	736,819.20				
4,797	Capacity	5%	2.15%	0.00				
4,797	Usage	5%	24.00	11.20	644,857.38	1,658,770.98	32,350.98	1.93%
Overhead								
280	Commercial		12.80	43,008.00				
1,524	Non-Connect		12.80	234,086.40				
4,797	Connect		12.80	736,819.20				
4,797	Capacity	0%	0.00%	0.00				
4,797	Usage	0%	24.00	11.20	644,857.38	1,658,770.98	32,350.98	1.93%

Total Accumulated (Shortage) Excess (231,544.86)

CRA/City Council Minutes
May 20, 1998
Page 4

NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

7 FROM THE EXECUTIVE DIRECTOR:

- A. CRA Minutes, Regular Meeting of May 6, 1998 - **Approved the Minutes of the Regular Meeting of May 6, 1998.**
- B. CRA Demands - **Approved Demands for Payment Dated May 20, 1998, in the Amount of \$62,188.77.**

8 OTHER MATTERS: **None.**

9 ADJOURNMENT: **7:25 p.m.**

REGULAR CITY COUNCIL AGENDA AS FOLLOWS:

Next Ordinance No. 735
Next Resolution No. 98-35

10 **PUBLIC HEARING:**

- A. **CONTINUED PUBLIC HEARING: CODE AMENDMENT NO. 98-06 (CITY OF NORCO) ORDINANCE NO. ___, First Reading**, An Ordinance of the City Council of the City of Norco, California, Amending Title 14.07 (Sewer Service Fees) and 14.14 (Sewage Facility Development Fee) of the Norco Municipal Code. (Director of Public Works/City Engineer)

The Director of Public Works/City Engineer reported that this item was continued from the last meeting so that staff could reevaluate the variable costs in relation to fixed costs and the resulting monthly charges to both non-connects and connects. As a result, the Director identified three additional options, Options X (\$24.00 connect/\$12.80 non connect), Y (\$23.50-\$24.00 connect/\$10.00-\$12.80 non connect), and Z (\$22.20-\$24.00 connect/\$10.00-\$12.80 non connect), noted that the draft Ordinance has been drafted to address Option X but can easily be changed and noted that Option 2 was also included so that the Council can compare how the monthly charges have changed.

The Director also noted that the Ordinance contains provisions for subsidizing low income seniors by defraying a portion of the monthly sewer use fees, and pointed out that the revised Ordinance also specifies that the sewer use rates would only be applied to those non-connects that have sewer service available at their property.

CRA/City Council Minutes
May 20, 1998
Page 5

In response to Mayor Sorensen, staff noted that the fund balance is approximately \$231,000.00. Mayor Sorensen thanked Mr. Henderson for raising questions at the last meeting, noted that he met with staff and Mr. Henderson last week in order to resolve these issues, and noted that he has no cards on this matter.

Mayor Pro Tem Carmichael noted that she prefers Option 2 as the connects would still be shouldering the burden on the other options. She noted that the connects have been paying for this system for a long time and now it is time for the non-connects to share the burden. In response, the City Manager noted that we shifted the system fixed cost of the treatment plant to the system column so that fixed cost is assigned to the connects only, which is why the proposed charge for the non-connects is lower in that option. There was some discussion on which option is preferable.

Mayor Sorensen suggested that the idea proposed by Mr. Henderson be used, i.e., that the nexus between what we are spending now and what we will be spending be divided equally between the connects and the non-connects. Therefore, he suggested Option Y in order to soften the impact to the non-connects and noted that the more people who use the system will lower the cost of the system to everyone.

Council Member Hall noted that staff has done a good job on developing these recommendations, and felt that Option X is fair. He noted that the cost of maintaining the plant was addressed in Option X, and felt that this cost should be charged equally to the non-connects and the connects.

M/S Hall/Clark to adopt Option X.

Mayor Sorensen questioned the \$60,203.95 surplus as a result of imposing Option X and felt that it would be better to not charge people the additional fee if it was not needed. Council Member Hall noted that if we get an excess, we could lower the sewer rate, which Mayor Sorensen felt was not likely.

In response to the City Attorney, Council Member Hall clarified his motion, which was to read by title only and waive further reading of Ordinance No. 735 using Option X. Motion was seconded by Council Member Clark and was carried by the following roll call vote:

AYES: CARMICHAEL, CLARK, HALL, KOZIEL, SORENSEN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA AMENDING TITLE

CRA/City Council Minutes
May 20, 1998
Page 6

14.07 (SEWER SERVICE FEES) AND 14.14 (SEWAGE FACILITY DEVELOPMENT FEE) OF THE NORCO MUNICIPAL CODE - Code Change 98-06

M/S Hall/Clark to adopt Ordinance 735 using Option X for first reading.

Council Member Koziel felt that the non-connects are being burdened for all the other development yet to come, as the treatment plant was sized for Norco's ultimate growth. In response, the City Engineer noted that new development will be required to pay the impact fees and the connection fees. As Council Member Koziel pointed out that if future development does not occur as planned, we will be at a surplus in five years, the City Attorney noted that Proposition 218 prohibits charging standby charges.

In response, Council Member Koziel noted that the connects are only paying a \$2.50 increase, with the non-connects paying a \$10-\$12.00 increase, felt that the non-connects should pay their portion of the shortfall, and noted that a majority of the Council are connected to the system. He noted that the sewer plant is needed for those people who are currently connected, and felt that the non-connects should pay their fair share, not 3/4 of the shortfall. In response, Council Member Clark noted that for 13 years the connects have shouldered the burden.

Council Member Carmichael noted that people on sewer have always had service, noted the original intent of the Council to impose a fee on the non-connects when the plant was built, and agreed that the Council could have chosen a different path when this matter was initially discussed. However, at this time, she felt that the non-connects should be charged. In response, Council Member Koziel suggested that the shortfall should be split equally among the connects and non-connects, with everyone paying \$5.00. Mayor Sorensen noted that the Council could take the position to outlaw septic systems and force the non-connects to hook up to the system.

Council Member Hall noted that there we have identified fixed costs as well as variable processing costs, noted that all the citizens of Norco need to contribute towards that plant. He noted that the proposed pricing structure shares the costs fairly and equally. Mayor Sorensen noted the City Attorney had just pointed out that there is an added value to property that is non-connected, as there is a possibility now to hook up to the system. There was some discussion.

Motion carried by the following roll call vote:

AYES: CLARK, HALL, SORENSEN
NOES: CARMICHAEL, KOZIEL
ABSENT: NONE
ABSTAIN: NONE

ITEMS FOR ACTION

ORDINANCE 735

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA AMENDING TITLE 14.07 (SEWER SERVICE FEES) AND 14.14 (SEWAGE FACILITY DEVELOPMENT FEE) OF THE NORCO MUNICIPAL CODE - **Code Change 98-06**

WHEREAS, the City has determined that the current schedule of Sewer User Service Fees does not provide adequate income to offset the City's costs to properly maintain and provide the sewer services currently rendered to the City's sewer customers; and,

WHEREAS, California Health and Safety Code Section 5471 authorizes the City to revise its Sewer User Service Fees by an ordinance approved by a two-thirds vote of the City Council; and,

WHEREAS, the City has duly noticed and conducted a public hearing on May 6, 1998 and on May 20, 1998, at which time the public was invited to make oral and written presentations as a part of the regularly scheduled meeting prior to the adoption of this Ordinance; and,

WHEREAS, the levying of the fees is statutorily and categorically exempt from the requirements of the California Environmental Quality Act (CEQA), since setting these fees fits within the statutory exemption for City decisions involving rates, tolls or other charges contained within Public Resources Code Section 21080(b) and Section 15273 of the CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Norco, California does hereby ordain as follows:

SECTION 1: Norco Municipal Code Title 14.07 entitled "Sewer Service Fees" is hereby amended as follows:

14.07.320 Sewer connection fees. Connection to the sewer system of the city shall not be made nor permit for such connection issued until the following connection fees have been paid unless the property has previously paid full assessment district collector unit charges:

(a) Schedule I: All applicants for residential sewer service shall pay a fee of two hundred fifty-five dollars per unit, paid as follows:

1998 - 99	no charge for existing single family residential connection permit. \$255.00 for newly constructed single family residential connection permit.
1999 - 00	\$63.75 for existing single family residential connection permit. \$255.00 for newly constructed single family residential connection permit.

2000 - 01	\$127.50 for existing single family residential connection permit. \$255.00 for newly constructed single family residential connection permit.
2001 - 02 - Thereafter	\$255.00 for all single family residential connection permits.

(b) Schedule II: All applicants for nonresidential sewer service shall pay a fee of two hundred fifty-five dollars per equivalent dwelling unit. Equivalent dwelling units shall be computed in the same manner as "service units" as set forth in Section 14.14.020 of this code.

(c) All applicants for sewer service, where property to be served is outside of a special benefit assessment district or development reimbursement area, shall pay a connection fee as established by City Council resolution to reimburse the City of Norco for capital costs and reimbursable expenses incurred by the City in providing sewer lines and sewer lateral improvements.

14.07.620 Sewer use rate.

(a) The sewer use rate for those connected to the sewer system shall be as follows:

1998 - 99	\$24.00 per service unit on a monthly basis.
1999 - 00	\$24.00 per service unit on a monthly basis.
2000 - 01	\$24.00 per service unit on a monthly basis.
2001 - 02	\$24.00 per service unit on a monthly basis.
2002 - 03	\$24.00 per service unit on a monthly basis.

All residential units shall be charged as one service unit. The actual sewer use charge for non-residential users shall be determined by multiplying the number of service units times the sewer use rate. The sewer use rate for non-residential users shall be a minimum of Twenty-four Dollars (\$24.00) per month for domestic water account.

(b) Eligible low-income seniors may apply for a subsidy to defray a portion of the monthly sewer use fees.

(c) The sewer use rate for those not connected to the sewer system, but who have sewer service available, shall be as follows:

Current rate	\$0.00
1998 - 99	\$12.80 per month.
1999 - 00	\$12.80 per month.
2000 - 01	\$12.80 per month.
2001 - 02	\$12.80 per month.
2002 - 03	\$12.80 per month.

(d) If required by the City Engineer, any nonresidential user may be required on a yearly basis (on or before the first of July of every year) to submit a twenty-four-hour composite wastewater analysis from a certified laboratory for BOD, SS and any other parameter as may be required by ordinance, as codified in chapter 14.08 of this code.

(e) In the event the user believes the BOD, SS and flow assignment in this subsection is no longer applicable, the user may submit the results of a laboratory analysis of its wastewater from a certified laboratory to the city engineer for review. An adjustment may be made if deemed appropriate and consistent with the intent of this section. All laboratory work and monitoring must be arranged and paid for by the nonresidential user.

SECTION 2: Norco Municipal Code Title 14.14 entitled "Sewer Facilities Development Fee" is hereby amended as follows:

14.14.040 Rates. (a) The rate of the Sewage Facilities Development Fee hereby imposed shall be as follows:

(1) For property which has not previously been assessed capacity through City Assessment District 109; two thousand fifty eight dollars (\$2,058.00) per service unit for new residential dwelling units and commercial and industrial buildings for which building permits had not been issued as of December 31, 1971.

(2) For property which has been assessed sewage capacity charges through City Assessment District 109; one thousand seven hundred ninety-seven dollars (\$1,797.00) per service unit for new residential dwelling units and commercial and industrial buildings for which building permits had not been issued as of December 31, 1971.

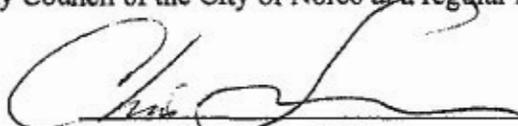
(3) This section is deleted.

SECTION 3: EFFECTIVE DATE: This Ordinance shall become effective on July 6, 1998.

SECTION 4: SEVERABILITY: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases hereof be declared invalid or unconstitutional.

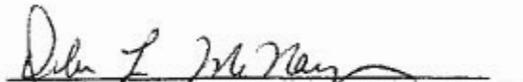
SECTION 5: POSTING: The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall cause the same within fifteen (15) days of its passage to be posted at no less than five (5) public places within the City of Norco.

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on June 3, 1998.



Mayor of the City of Norco

ATTEST:

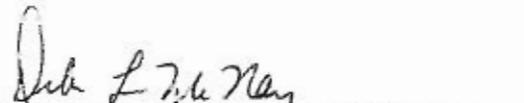


City Clerk of the City of Norco, California

I, DEBRA MCNAY, City Clerk of the City of Norco, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Norco, California, duly held on the 20th day of May, 1998 and thereafter at a regular meeting of said City Council duly held on the 3rd day of June, 1998, it was duly passed and adopted by the following vote of the City Council, to-wit:

AYES: Clark, Hall, Koziel, Sorensen
NOES: Carmichael
ABSENT: None
ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California, this 3rd day of June, 1998.



City Clerk of the City of Norco, California

Dear Norco Septic System User:

November 9, 1998

Recently you began receiving a bill for \$12.80 per month for capacity in the new regional sewage treatment plant. Although the City Council held several widely publicized and well attended public hearings and workshops before adopting this new fee, we have nevertheless received a number of inquiries about the new fee following the first billings. This letter will hopefully explain the options that were available to the City Council and the deliberative process they went through before they adopted the new fee.

In 1976, faced with a growing demand for sewage treatment services, and a limited quantity of treatment capacity, the City imposed a moratorium on new sewer connections. Since then it has negotiated agreements with the City of Corona and the Santa Ana Watershed Project Authority to accept and treat Norco sewage. Both of these agreements were temporary arrangements. To provide a permanent cost effective solution, Norco joined with the Jurupa Community Service District, the Home Gardens Community Service District, and the Western Municipal Water District to construct a regional sewage treatment plant.

When arrangements were made to construct the new plant in 1985, the City Council had to decide how much treatment capacity they wanted in the new treatment plant. Ultimately they decided that the plant should be sized to accommodate all future planned growth, including those then on septic systems. Sewer rates for current users of the sewer system were immediately raised to cover their share of the cost to construct the new plant. Builders and developers of new homes were also charged for their share of the new plant. But the Council took the position that those not then connected to the sewer system would not have to pay for their share of the new plant until it became operational, which it did in May of 1998.

In May the City had to start paying debt service payments on the new plant. To reduce the impact on everyone, the Council applied all the money the City had received since 1985 from current system users and new home builders to reduce the outstanding debt for the new treatment plant. The remaining debt for the new treatment plant was then distributed between current users, builders of future homes and businesses, and people currently on septic systems. The monthly debt on that portion of the plant reserved for current septic system users amounts to \$12.80 per month per septic system user. Qualified low income seniors, not currently connected, will only be charged \$2.80 per month (the balance of \$10 per month for these individuals will be paid by our Redevelopment Agency's Low Income Housing Program). Current users of the sewer system are also billed \$12.80 per month for their share of the capital cost of the new treatment plant, plus \$11.20 per month for the cost of actually treating their

Page 2

sewage.

In making its decision on the fees, the Council had to decide how the capacity in the new treatment reserved for current septic system users would be paid for. There are approximately 1,524 septic system users and 4,797 sewer system users. To ask the current sewer system users to pay for the capacity reserved for septic system users did not seem fair. To do so would have increased their bills an additional \$4.50 per month.

Some septic system users have indicated that they don't think it's fair that they pay for something they are not using. The problem the Council was faced with back in 1985 was that treatment capacity had to be available for anyone on a septic system whenever they choose to connect to the sewer system. With the previous Council having made the decision back in 1985 that the capacity would be available, the current Council was faced with having to decide who would pay for this capacity. After much public comment and debate, they decided that septic system users should be responsible for the cost of the new sewage treatment plant that is reserved for their future use.

To encourage people to connect to the sewer system the City Council has waived connection fees for this year. There will be a 75% waiver next year; a 50% waiver the following year; and a 25% waiver the fourth year. You may continue to use your septic system as long as it continues to function adequately. In the future, if the underground aquifer is adversely impacted by septic systems this policy may change.

We understand that no one wants to pay a new fee, but we hope you can understand the necessity of doing so in this particular case. **If you have additional questions about this fee and how it affects you, you are invited to attend an informational meeting in the City Council Chambers (behind Norco City Hall, 2870 Clark Avenue) on Friday evening, November 20th beginning at 7:00 p.m.**

Sincerely,

Gerald F. Johnson
City Manager

/11724

ORDINANCE 743

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA, AMENDING TITLE 14, "WATER AND SEWER", CHAPTER 14.07, "SEWER USE" AND CHAPTER 14.14 "SEWER FACILITIES DEVELOPMENT FEE", OF THE NORCO MUNICIPAL CODE, REQUIRING CONNECTION TO THE SEWER SYSTEM WHEN PROPERTY OWNERSHIP IS TRANSFERED, PROVIDING FOR AN OPTIONAL ONE TIME PAYMENT FOR THE REGIONAL WASTEWATER TREATMENT PLANT COSTS AND CLARIFYING THE SEWER FACILITIES DEVELOPMENT FEES TO BE IMPOSED (CODE CHANGE 99-01).

WHEREAS, the City Council, at their regular meeting of March 17, 1999, determined that connection to the City's sewer system must be made whenever property ownership is transferred, provided that a public sanitary sewer is available within 200 feet of any lot; and,

WHEREAS, at their meeting, the City Council also agreed that provisions should be included in the Municipal Code to allow homeowners to make a one-time payment for their share of the regional wastewater treatment plant and related fixed costs; and,

WHEREAS, the fee structure for all sewer-related fees was reviewed and Chapter 14.14 was amended to clarify that the Sewer Facilities Development Fee would be imposed only on new residential dwelling units and new commercial and industrial units. Chapter 14.07 reflects the fee structures for existing residential, commercial and industrial units.

NOW, THEREFORE, the City Council of the City of Norco does hereby find, determine, order and resolve as follows:

SECTION 1: Chapters 14.07.100 and 14.07.620 of the Norco Municipal Code Title 14.07 entitled "Sewer Use" are hereby amended as follows:

14.07.100 - Required Connection

(1) Cesspools, septic tanks and other private disposal systems within the city are declared to be a nuisance. It is unlawful for any person, firm, or corporation to construct, replace, expand or upgrade any cesspool, septic tank, or similar apparatus on a lot within a distance of two hundred feet from any public sewer.

(2) **Upon the transfer of property ownership, those properties that house cesspools, septic tanks and other private disposal systems must be connected to the City's sewer system, provided the property is within 200 feet of a sanitary sewer. This requirement will be recorded as an exception to title for each property not**

connected to the City's sewer system on the effective date of this Ordinance.

Nothing in this Chapter shall be deemed to prevent the city from commencing administrative or civil proceedings to ensure connection to the sanitary sewer in the event that the property is transferred and connection is not made.

(3) At the time of the completion and operation of the Regional Wastewater Treatment Plant all property owners with access to the Treatment Plant will be required to pay their share of costs of the plant, whether or not they are hooked-up.

14.07.620 Sewer Use Rate.

(A) The sewer use rate, including the cost of construction of the regional wastewater treatment plant, for those connected to the sewer system shall be as follows:

1998-99	\$24.00 per service unit on a monthly basis.
1999-00	\$24.00 per service unit on a monthly basis.
2000-01	\$24.00 per service unit on a monthly basis.
2001-02	\$24.00 per service unit on a monthly basis.
2002-03	\$24.00 per service unit on a monthly basis.

Those connected to the sewer system may, prior to December 31, 1999, make an up-front one time payment for their share of the cost of the construction of the sewer treatment plant and related fixed costs, in the amount of \$2,685. After this payment is made, their sewer use rate shall be as follows:

1998-99	\$11.20 per service unit on a monthly basis.
1999-00	\$11.20 per service unit on a monthly basis.
2000-01	\$11.20 per service unit on a monthly basis.
2001-02	\$11.20 per service unit on a monthly basis.
2002-03	\$11.20 per service unit on a monthly basis.

All residential units shall be charged as one service unit. The actual sewer use charge for non-residential users shall be determined by multiplying the number of service units times the sewer use rate. The sewer use rate for non-residential users shall be a minimum of Twenty-four dollars (\$24.00) per month for domestic water accounts.

(B) Eligible low-income seniors may apply for a subsidy to defray a portion of the monthly sewer use fees.

(C) The sewer use rate, including the cost of construction of the regional wastewater treatment plant, for those not connected to the sewer system, but who have sewer service available, shall be as follows:

1998-99	\$12.80 per service unit on a monthly basis.
1999-00	\$12.80 per service unit on a monthly basis.
2000-01	\$12.80 per service unit on a monthly basis.
2001-02	\$12.80 per service unit on a monthly basis.
2002-03	\$12.80 per service unit on a monthly basis.

Those not connected to the sewer system may, prior to December 31, 1999, make an up-front one time payment of their share of the cost of the construction of the regional wastewater treatment plant and related fixed costs, in the amount of \$2,685. After this payment is made, they will not be charged a regional wastewater treatment plant construction fee, but they will be charged the sewer use rate of \$11.20 per month upon connection to the sanitary sewer.

(D) If required by the City Engineer, any non-residential user may be required on a yearly basis (on or before the first of July of every year) to submit a twenty-four-hour composite wastewater analysis from a certified laboratory for BOD, SS and any other parameter as may be required by ordinance, as codified in Chapter 14.08 of this code.

(E) In the event that the user believes the BOD, SS and flow assignment in this subsection is no longer applicable, the user may submit the results of a laboratory analysis of its wastewater from a certified laboratory to the city engineer for review. An adjustment may be made if deemed appropriate and consistent with the intent of this section. All laboratory work and monitoring must be arranged and paid for by the non-residential user.

SECTION 2: Chapter 14.14.040 of the Norco Municipal Code Title 14.14 entitled "Sewage Facilities Development Fee" is hereby amended as follows:

14.14.040 - Rates. The rate of the Sewage Facilities Development Fee hereby imposed shall be as follows:

(1) For property which has not previously been assessed capacity through City Assessment District 109; two thousand fifty eight dollars (\$2,058) per service unit for new residential dwelling units and new commercial and industrial buildings.

(2) For property which has been assessed sewage capacity charges through City Assessment District 109; one thousand seven hundred ninety-seven dollars (\$1,797) per service unit for new residential dwelling units and new commercial and industrial buildings.

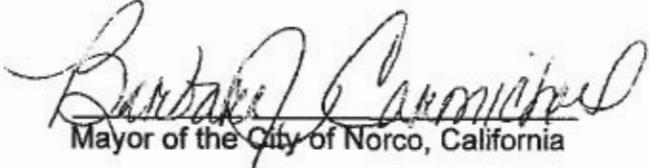
SECTION 3: EFFECTIVE DATE: This Ordinance shall become effective thirty (30) days after final passage thereof.

SECTION 4: SEVERABILITY: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the

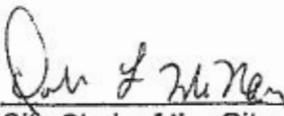
decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases hereof be declared invalid or unconstitutional.

SECTION 5: POSTING: The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall cause the same within fifteen (15) days of its passage to be posted at no less than five (5) public places within the City of Norco.

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on the 7th day of April, 1999.


Mayor of the City of Norco, California

ATTEST:


City Clerk of the City of Norco, California

I, DEBRA L. MCNAY, City Clerk of the City of Norco, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Norco, California, duly held on the 17th day of March, 1999, and thereafter at a regular meeting of said City Council held on the 7th day of April, 1999, it was duly passed and adopted by the following vote of the City Council to-wit:

AYES: Clark, Hall, Koziel, Sorensen, Carmichael
NOES: None
ABSENT: None
ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California this 7th day of April, 1999.

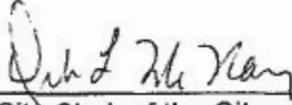

City Clerk of the City of Norco, California

Exhibit "H"

Ordinances/Resolution
Adopted
Regarding Non-Connect Fees:

Ordinance No. 735 – Effective July 6, 1998
Non-Connect Fee set at \$12.80/Month

Ordinance No. 809 – Effective September 1, 2003
Non-Connect Fee set at \$12.80/Month

Ordinance No. 828 – No change -- \$12.80/Month

Ordinance No. 897 – Effective August 2, 2008
Non-Connect Fee set at \$14/Month

Effective July 1, 2009
Non-Connect Fee set at \$15/Month

Resolution No. 2011-18 – Effective March 16, 2011
Non-Connect Fee set at \$15/Month

Effective July 1, 2011
Non-Connect Fee set at \$17/Month

Effective July 1, 2012
Non-Connect Fee set at \$19/Month