



# STAFF REPORT

CITY COUNCIL OF THE CITY OF SAUSALITO

## AGENDA TITLE:

Public Hearing on Proposed SANITARY SEWER FEE EFFECTIVE FISCAL YEAR 2009-10

## RECOMMENDED ACTIONS:

- (1) Open Public Hearing and receive public comment and protests;
- (2) Close Public Hearing;
- (3) Waive full reading of Ordinance and read by title only;
- (4) Find that the adoption of the Ordinance is statutorily exempt from the California Environmental Quality Act; and
- (5) Give first reading to an Ordinance of the City Council of the City of Sausalito modifying Chapter 18.12 of the Sausalito Municipal Code, establishing sewer charges for any lawful purpose of the sewer utility, and continue item to regular meeting of June 23, 2009 for second reading and adoption.

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## INTRODUCTION

Because the health and safety of our residents and the quality of our Bay environment are fundamentally important to the City; at City Council direction staff has spent the last year working with consultants to prepare a plan to make essential repairs to our aging sewer system. Sausalito's current sewer fees were established by Ordinance No. 1169, adopted by unanimous vote of the City Council during its meeting of July 22, 2003. Recognizing the significant increases in regulatory compliance costs and higher community standards with respect to the quality of water in the Bay that have arisen since that time, the City Council (at its regular meeting of June 10, 2008) authorized Camp Dresser & McKee, Inc. (CDM) to prepare a Sanitary Sewer Fee Study Report recommending changes to sewer fees. A presentation of capital priorities during Council's January 27, 2009 meeting (from design consultant West Yost Associates) identified the need for more than \$7.6 million in capital improvements in order to comply with EPA Order requirements. On March 24, 2009 the City Council heard presentations regarding the draft findings of the Sanitary Sewer Fee Study and reviewed the Rate Analysis to determine appropriate fees to fund the required changes to the City's operations and capital program. At its special meeting of April 14, 2009, the City Council accepted CDM's report and adopted Resolution No. 5018 stating the City's intention to implement a Sanitary Sewer Fee effective fiscal year 2009-10 through 2014-15. Resolution No. 5018 proposed a rate structure for the City's proposed Sanitary Sewer Fee and scheduled this Public Hearing. Resolution No. 5018 also established the rules for tabulating and maintaining the confidentiality of protests against the fees.

In full compliance with the requirements of Section 6 of Article XIID of the California Constitution (a provision of Proposition 218), the City has given Notice by mail to each property owner of record as of the last equalized assessment roll. The Notice (as well as a toll-free telephone number, City website postings, and additional informational outreach) fully informed each recipient of his or her right to submit a written protest against the proposed charge and the date, time and place of the Public Hearing. At the Public Hearing this evening, the City will consider protests against the proposed charge. If written protests against the charge are presented by owners of a majority of the affected parcels, the City Council may not impose the proposed charges.

Pursuant to the California Revenue Bond Law of 1941, in order to adopt the proposed sewer charges for collection via the assessment roll, the City Council must adopt an Ordinance by a 2/3 majority (or by 4 votes).

## ISSUES

CEQA: As indicated to Council during its March 24, 2009 regular meeting, California Code of Regulations, GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ARTICLE 18, STATUTORY EXEMPTIONS, § 15273. Rates, Tolls, Fares, and Charges, provides that:

“(a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of:

- (1) Meeting operating expenses, including employee wage rates and fringe benefits,
- (2) Purchasing or leasing supplies, equipment, or materials,
- (3) Meeting financial reserve needs and requirements,
- (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or
- (5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.

...

(c) The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.”

Accordingly, adoption of these rates is exempt from CEQA. The capital improvements to be funded from this fee will be separately analyzed under CEQA and it is anticipated that most, if not all, of those projects will also be

exempt from CEQA as maintenance of existing facilities to serve existing development.

"Lifeline" Rates:

Staff contacted by PG&E and the Marin Municipal Water District (MMWD) to gather details of their fee subsidy programs. PG&E reported that 181 of its customers within the City of Sausalito receive some form of fee subsidy but declined to provide the details as to the magnitude of the subsidy or how the subsidy is tiered. MMWD reported that 14 of its customers within the City of Sausalito receive some form of fee subsidy.

At the 2009-2010 fee of \$360 per year per single family dwelling, a 100% subsidy to the 181 customers that qualify for PG&E's program would cost the General Fund \$65,160. Inasmuch as a "Lifeline" program is independent of the sewer fees proposed herein, Staff recommends that Council implement such a program through the budget setting process or direct Staff to prepare additional details for separate action at a future date.

**FISCAL IMPACT**

Approval of this action (by the required 2/3<sup>rd</sup>s vote) sets new sewer fees effective July 1, 2009. The revenue received will match the requirement for fiscal year 2009-10 for the proposed Sewer Fund Budget.

A successful protest, or approval by less than 2/3<sup>rd</sup>s, would prevent setting of the proposed new fees and the proposed fiscal year 2009-10 Sewer Fund Budget would not be feasible. Unless revised fees could be adopted within 30 days, federal stimulus funds applied for could be lost inasmuch as a November 1, 2009 construction start date is a requirement for that funding.

Approval of fees lower than those proposed would become effective July 1, 2009 but any fees imposed must be proportionate to the cost of serving each class of customers. The fiscal impact of lower fees would depend upon the actual fees approved.

**STAFF RECOMMENDATIONS**

- (1) Open Public Hearing and receive public comment and protests;
- (2) Close Public Hearing;
- (3) Waive full reading of Ordinance and read by title only;
- (4) Find that the adoption of the Ordinance is statutorily exempt from the California Environmental Quality Act; and
- (5) Give first reading to an Ordinance of the City Council of the City of Sausalito modifying Chapter 18.12 of the Sausalito Municipal Code, establishing sewer charges for any

lawful purpose of the sewer utility, and continue item to regular meeting of June 23, 2009 for second reading and adoption.

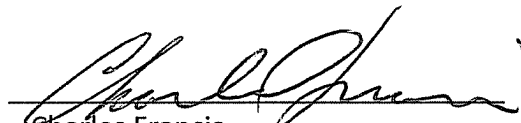
**ATTACHMENTS**

- A. ORDINANCE NO. \_\_\_\_ AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO SETTING FEES FOR SEWER SERVICES PROVIDED BY THE CITY EFFECTIVE FISCAL YEAR 2009-10
  - (i) EXHIBIT "A" CITY OF SAUSALITO SANITARY SEWER FEE SCHEDULE


PREPARED BY:  
Director of Public Works

REVIEWED BY:  
Administrative Services Director/Treasurer

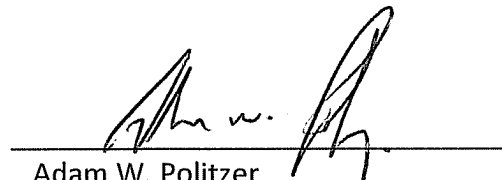
  
\_\_\_\_\_  
Jonathon Goldman

  
\_\_\_\_\_  
Charles Francis

REVIEWED BY:  
City Attorney

  
\_\_\_\_\_  
Mary Anne Wagner, Esq.

SUBMITTED BY:

  
\_\_\_\_\_  
Adam W. Politzer  
City Manager

**ORDINANCE NO.**  
**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO**  
**SETTING FEES FOR SEWER SERVICES PROVIDED BY THE CITY**  
**EFFECTIVE FISCAL YEAR 2009-10**

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**WHEREAS**, the quality of our local wastewater system is fundamentally important to our community's health and safety; and

**WHEREAS**, in recent years, there have been several hazardous spills of raw sewage into the Bay which present a real environmental concern; and

**WHEREAS**, the City's sewer infrastructure is old, and portions of the 27 miles of pipes in our City have deteriorated; and

**WHEREAS**, now, like surrounding jurisdictions, the City of Sausalito must make significant capital and infrastructure improvements to our aging sewer system in order to ensure the health and safety of our community; and

**WHEREAS**, State or Federal funds are being pursued, but will not be sufficient to meet our urgent needs; and

**WHEREAS**, the City is proposing an equitable rate system that ensures all rate payers share equally and in proportion to the cost of serving each class of customers in cost of necessary upgrades and their maintenance; and

**WHEREAS**, the City Council desires to impose a new Sanitary Sewer Fee to fund these necessary expenses; and

**WHEREAS**, in January 1994 the City Council of the City of Sausalito did duly pass and adopt Ordinance No. 779 adding Chapter 18.12 to the Sausalito Municipal Code and thereby established sewer charges for services and facilities furnished by the City in connection with its sewage disposal system; and

**WHEREAS**, on July 22, 2003 the City Council of the City of Sausalito did duly pass and adopt Ordinance No. 1169 establishing Revenue Program Rates for 2003-04, 2004-05, 2005-05, 2006-07 and 2007-08 effective July 1, 2003; and

**WHEREAS**, on June 10, 2008, recognizing the significant increases in regulatory compliance costs and higher community standards with respect to the quality of water in the Bay that have arisen since the passage of Ordinance No. 1169, the City Council authorized the City Manager to retain a consultant with the specialized training and expertise to prepare a Sanitary Sewer Fee Study Report recommending changes to sewer rates; and

**WHEREAS**, at a Special Meeting of April 14, 2009, the City Council accepted said consultant's report (hereinafter the "Report" incorporated by reference herein) and (in full compliance with the requirements of Section 6 of Article XIII D of the California Constitution (a provision of Proposition 218)) adopted Resolution No. 5018 stating the City's intention to implement a Sanitary Sewer Fee effective fiscal year 2009-10 through 2014-15 and establishing the rules for tabulating and maintaining the confidentiality of protests against the fees; and

**WHEREAS**, in full compliance with the requirements promulgated in Section 6 of Article XIII D of the California Constitution (a provision of Proposition 218) and Resolution No. 5018, the City has given Notice by mail to each property owner of record as of the last equalized assessment roll informing each recipient of his or her right to submit a written protest against the proposed change in charges and the date, time and place of the Public Hearing; and

**WHEREAS**, at the time, date and place for said Public Hearing the City Council did hear and consider any and all objections or protests to the proposed change in charges.

**NOW, THEREFORE**, the City Council of the City of Sausalito does hereby ordain as follows:

1. The City Council finds that protest to the change in charges proposed in the Report has not been made by the owners of a majority of separate parcels of property of record as of the last equalized assessment roll and that a majority protest does not exist within the meaning of Article XIII D, Section 6(a) of the California Constitution.
2. The City Council of the City of Sausalito does hereby overrule all objections or protests to said Report and does hereby adopt the same and does determine that each charge as described in said Report is fair and equitable and is computed in conformity with the charges prescribed by all applicable provisions of State law and the City's Municipal Code.
3. The City Council of the City of Sausalito does hereby adopt the SANITARY SEWER FEE SCHEDULE for 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14, attached hereto as Exhibit "A" and incorporated herein by reference pursuant to all applicable provisions of State law and Section 18.12.020 of the Sausalito Municipal Code.
4. The effective date of the change is July 1, 2009.
5. The City Clerk of the City of Sausalito is hereby directed to file a copy of said SANITARY SEWER FEE SCHEDULE for 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 on or before July 7, 2009, with the Auditor-Controller of the County of Marin, said copy to contain a statement endorsed thereon by the City Clerk over her or his signature that said document has been finally adopted by the City Council of the City of Sausalito. Thereafter, the Auditor-Controller of the County of Marin shall enter the amounts of the charges set forth in said document (and attachments to be prepared under the direction of the Administrative Services Director/Treasurer) against the respective lots of parcels of land as they appear on the current assessment roll, and if the property is not described on the roll, the Auditor-Controller is authorized to enter the description thereon together with the amounts of the charges as shown in said document and attachments.

- 3 The City Council hereby finds that the change in the sewer rates adopted pursuant to this Ordinance is statutorily exempt from the California Environmental Quality Act, California Public Resources Code Section 21000, *et seq.*, ("CEQA") under § 15273 (a)(1), (a)(2), (a)(3) (a)(4) and (a)(5), and the City Clerk, or her or his designee, is directed to cause a Notice of Exemption to be posted in accordance with CEQA.
- 4 At least five days prior to its adoption and within fifteen days after its adoption, a summary of this Ordinance, the latter summary to include the names of those City Council members voting for and against the Ordinance, shall be published once in a newspaper of general circulation printed and published in the County of Marin and circulated in the City of Sausalito. At the time of the publication of each summary, the City shall post in the Office of the City Clerk a copy of the full text of this Ordinance in compliance with Government Code Section 39633(c)(1).

**PASSED AND ADOPTED** at a special meeting of the City Council of the City of Sausalito on the 16th day of June, 2009 by the following vote:

<b>AYES:</b>	Councilmembers:
<b>NOES:</b>	Councilmembers:
<b>ABSTAIN:</b>	Councilmembers:
<b>ABSENT:</b>	Councilmembers:

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MAYOR OF THE CITY OF SAUSALITO

ATTEST:

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CITY CLERK

**EXHIBIT "A"**  
**CITY OF SAUSALITO SANITARY SEWER FEE SCHEDULE**

Description	FY 2009-10	2010-11	2011-12	2012-13	2013-14
<b>Residential Rates</b> (\$/year-dwelling unit)					
Single-family Dwelling	\$360	\$422	\$422	\$456	\$492
Single-family Attached	\$260	\$260	\$280	\$303	\$327
Multi-family Residential	\$193	\$193	\$209	\$225	\$243
<b>Non-Residential Rates</b> (Allocated Capacity based on Historic Maximum Water Use)					
Commercial (\$/yr-parcel)	\$242	\$242	\$262	\$282	\$305
Unit Rate (\$/Ccf-annual water use <sup>a</sup> )	\$1.94	\$1.94	\$2.10	\$2.27	\$2.45

<sup>a</sup>. The Unit Rate (\$/hundred cubic feet or Ccf) for commercial users is based on the maximum use in the previous five years. The goal is to estimate the peak demand a business places on sewer system capacity, as the City must be prepared to serve peak demand even if those peaks occur infrequently.