



# Board Agenda Item 12

DATE: March 1, 2016

TO: Board of Supervisors

SUBMITTED BY: Bernard Jimenez, Interim Director  
Department of Public Works and Planning

SUBJECT: Protest Hearing on Increasing Water Service Fees and Increasing  
Sewer Service Fees for County Service Area 34 Zone A Brighton Crest

RECOMMENDED ACTION:

1. **Conduct hearing and receive written protests from County Service Area 34, Zone A, Brighton Crest, property owners on a proposal to increase water service fees, as required under California Constitution Article XIII-D, and, upon completion of the public protest hearing, approve item A or B.**
  - A. If there is not a majority protest, adopt a resolution increasing water service fees for County Service Area 34, Zone A, Brighton Crest (4/5 vote).
  - B. If there is a majority protest, abandon proceedings to increase the water service fees, and direct staff to hold a public meeting announcing immediate cost savings steps which could include a reduction of services to avoid further deficit spending for County Service Area 34, Zone A.
2. **Conduct hearing and receive written protests from County Service Area 34, Zone A, Brighton Crest, property owners on a proposal to increase sewer service fees, as required under California Constitution Article XIII-D, and, upon completion of the public protest hearing, approve item A or B.**
  - A. If there is not a majority protest, adopt a resolution increasing sewer service fees for County Service Area 34, Zone A, Brighton Crest (4/5 vote).
  - B. If there is a majority protest, abandon proceedings to increase the sewer service fees, and direct staff to hold a public meeting announcing immediate cost savings steps which could include a reduction of services to avoid further deficit spending for County Service Area 34, Zone A.

Recommended action number one will allow the Board to undertake the proceedings necessary to increase water service fees for County Service Area 34, Zone A (CSA 34A) to fund the operations and maintenance of CSA 34A water services. If there is a majority protest, there will be insufficient funds to pay for the operations and maintenance of the CSA 34A water system, and water services will need to be immediately reduced. Recommended action number two will allow the Board to undertake the proceedings necessary to increase sewer service fees for CSA 34A to fund the operations and maintenance of CSA 34A sewer services. If there is a majority protest, there will be insufficient funds to pay for the operations and maintenance of CSA 34A sewer system, and sewer services will need to be immediately reduced.

ALTERNATIVE ACTION(s):

Staff has not identified any viable alternative action.

FISCAL IMPACT:

There are no net County costs associated with the recommended actions. All costs associated with CSA 34A, including those associated with the protest hearing, are paid with revenue from the CSA 34A water fees and sewer assessments. All costs for the operations and maintenance of the water services will be paid from the fees and assessments charged to the CSA 34A water customers. All costs for the operations and maintenance of the sewer services will be paid from the fees and assessments charged to the CSA 34A sewer customers. The current revenues are not sufficient to cover the existing operations and maintenance costs.

If there is not a majority protest for the proposed water fees, the fees will be implemented on July 1, 2016, and be billed on the July/August billing which is mailed in September. If there is a majority protest, there will be insufficient funds to meet the operations and maintenance costs of the water system, as well as any unforeseen costs that may occur.

If there is not a majority protest for the proposed sewer fees, the fees will be implemented on July 1, 2016, and be billed on the July/August billing which is mailed in September. If there is a majority protest, there will be insufficient funds to meet the operations and maintenance costs of the water system, as well as any unforeseen costs that may occur.

DISCUSSION:

CSA 34A was formed in 1989 to provide community services for the development of Brighton Crest. The zone consists of 442 acres. Currently, CSA 34A provides services to a 159 recorded lots, which includes a golf course, a clubhouse, a guard shack, a restroom, and 154 recorded residential lots, of which 93 are developed, or under development. CSA 34A, lying on the south side of Millerton Road, was formed to provide water, sewer, street sweeping and street lighting services to the residents of the community.

Due to the wide variety of services that the County provides in various parts of County Service Area 34 (CSA 34, also known as Millerton New Town), a variety of fees and benefit assessments are necessary to fund all of those services. The situation is further complicated by the fact that some facilities for providing water and sewer services are local to CSA 34A and Zone C of CSA 34 (CSA 34C, also known as Bella Vista), while other facilities and administrative work necessary to provide those services are shared in both of those areas and more broadly within CSA 34.

On July 25, 2013, staff met with the CSA 34A Citizens Advisory Committee (CAC), Brighton Crest Home Owners Association Members, property owners of CSA 34C, and the Developers of CSA 34, 34A and 34C, to discuss the catastrophic events that had occurred over the last year. The current financial status and financial outlook of the districts were also discussed, and those in attendance agreed that the current fees and assessments were not sufficient to build a reserve for unexpected repairs and to cover all of the operations and maintenance costs of the growing system.

With the support of the communities affected, on September 24, 2013, the County entered into Agreement 13-594 with Edward J. Wilson, Consulting Engineer, Wilson & Associates, to develop a consolidated master engineer's report (Engineer's Report). The purpose of the Engineer's Report was to determine all of the fees and benefit assessments that would be necessary to ensure that CSA 34 is fully funded, and to provide the documentation necessary under Proposition 218 to support the imposition of those fees and assessments. Staff received the completed Engineer's Report on September 1, 2015.

The Engineer's Report supports the proposed water and sewer fees in CSA 34A, as well as benefit

assessments for services and facilities local to all CSA 34, benefit assessments for services and facilities shared by CSA 34, CSA 34A and CSA 34C, and water and sewer fees for CSA 34A and CSA 34C. The water and sewer fees for CSA 34C are before the Board in a separate item, and protest hearings on the proposed benefit assessments will occur on March 15, 2016 for CSA 34 and its Zones A and C.

On September 2, 2015, staff made the Engineer's Report available to CSA 34A and CSA 34C residents and property owners. Since then, staff has held several meetings with residents, property owners, and the CACs for CSA 34A and CSA 34C.

Due to the complexity of the Engineer's Report, the consulting engineer did not complete the report in time to allow the CSAs to use the initial year (FY 2014-15) of the report as year one of the proposal. Additionally, due to the complexity of the Engineer's Report and the sensitive nature of the proceedings, staff decided to extend the public outreach to effectively gain consensus or support of the proposal in the affected communities. Therefore, the proposed fees will be based on fees that the Engineer's Report provides for FY 2015-16. Subsequent years will follow in sequence with the Engineer's Report and inflation adjustments.

The consulting engineer analyzed the average cost of the water system operations and maintenance, and administration over the past three years to develop the first component of the new water fee structure, a flat fee. The second component is the tiered fees for the water itself, to be charged based on actual monthly water usage starting on July 1, 2016, at rates that increase by tier for increased costs to deliver water. Subsequent years will follow in sequence with the Engineer's Report and inflation adjustments. The Engineer's Report developed a flat and tiered water rate to adjust the rates for water services, and a flat sewer fee to adjust the rate for sewer services, according to CSA 34A actual increased costs.

From September 9, 2015 through December 9, 2015, Department of Public Works and Planning staff met with CSA 34A CAC and property owners at five separate County hosted meetings, and discussed the reasoning behind the proposal to adjust the water and sewer service fees. County staff explained that the proposal for the adjusted water and sewer service fees is comprised of a flat monthly fee for operations and maintenance and administration, in an amount equal to average costs for those services over a three year period. In addition, staff explained that the water fees also include a component of water usage-based tiers, the Proposition 218 process and the ramifications of a majority protest against increasing the water and sewer service fees.

On January 15, 2016, as required by California Constitution Article XIII D, Section 6 (Proposition 218) requirements, notifications (Attachment A) for the protest hearing were mailed to record owners of real property within CSA 34A subject to the proposed increased water and sewer fees. The notification letter explained the procedure for submitting a protest to the proposed increase in water and sewer service fees. Additionally, the notice explained how the proposed increased water and sewer service fees were calculated and will provide funding for the operations and maintenance, and administrative costs for CSA 34A. The notice also explained that if less than a majority of property owners submit a written protest to the proposed increased water and sewer fees, the Board may implement the fees effective July 1, 2016, but the adjusted fees will not be reflected until the September 2016 billing.

The proposed increased water fees are comprised of a flat monthly water service fee and water usage tier fees. The proposed flat monthly water service fee is calculated by averaging annual costs to operate, maintain and administer the water delivery facilities and services for CSA 34A over three years, and is projected to increase to account for inflation, but does not include the water itself. It should be noted that the County has a water contract to supply 1.05 acre feet (AF) per parcel per year to CSA 34A, but the water treatment capacity available to CSA 34A is only about 0.5 AF per parcel per year. That difference made it necessary for the consulting engineer to include the cost to expand the plant's treatment capacity to accommodate any treated water use over the water treatment plant's capacity and any water use over the contracted water supply limit. The tier structure has been designed by the engineer to capture the cost to expand the water treatment plant capacity and has also been designed to capture the cost to purchase water on the open market, if needed for the water use over the contracted supply of 1.05 AF per parcel per year.

The notice provided an example residential fee amount for usage of 13,500 gallons per month, which is approximately the treatment capacity of 0.5 AF per year for CSA 34A.

### **WATER FEE PROPOSAL**

The proposed increased water fee is broken down into four components and is detailed on Exhibit A of this Board Agenda Item, and is described below:

#### **Table 1 - Flat Monthly Water Fee**

The first component is a flat monthly water service fee, which includes all operations, maintenance and administrative costs to maintain the water system over a five year period starting on July 1, 2016, but does not include the water itself.

#### **Table 2 - Base Tier Monthly Water Fee**

The second component is the Base Tier, a metered fee for water purchase, to be charged based on actual monthly water usage.

#### **Table 2 - Tier I Water Fees**

The third component is Tier I, a metered fee designated to build reserves to add 0.5 AF of water treatment capacity for delivery of finished water to each one of the existing lots of record in CSA 34A.

#### **Table 2 - Tier II Water Fees**

The fourth component is Tier II, a metered fee designated to build reserves to purchase water on the open market, if needed for the total annual volume of projected water usage in excess of the approximately 1.05 AF annual usage per water service in CSA 34A.

#### **Table 3 - Example Total Monthly Metered Water Fee**

Totals in this table include the flat fee plus the Base Tier for 13,500 gallons of water usage.

### **SEWER FEE PROPOSAL**

The proposed increased sewer fee is comprised of a flat sewer service fee that includes all of the cost to provide sewer services, operation and maintenance of the sewer system and for sewage collection services.

The proposed sewer fee is detailed on Exhibit A and is described below:

#### **Table 4 - Monthly Flat Sewer Fee For Sewer Services**

The engineer analyzed the average cost of the sewer system operations and maintenance, and administration over three years to develop and establish a flat fee for sewer services. The sewer service fee includes the cost to provide sewer services, operation and maintenance of the sewer system and for sewage collection services.

Under Agreement and Guaranty # 12-057, in the first two years of the fee the developers who are responsible for the excess capacity in the sewer plant have agreed to subsidize the sewer fee by \$21.53 per connection, per month, reducing the proposed fee to \$107.12 per month in the first year and reducing the proposed fee to \$102.66 per month in the second year.

The proposed water and sewer flat fees also include inflation increases of 1.026% annually over a five-year period (effective July 1st of each year beginning on July 1, 2017, with the last increase to occur on July 1, 2020).

#### **Conclusion:**

If the County does not receive properly submitted written protests from property owners representing a majority of the properties receiving water service in CSA 34A, the Board may approve the proposed monthly water

service fees. If a majority protest occurs, staff will schedule a public community meeting to discuss strategies to reduce water services to avoid further deficit spending. For there to be a majority protest, the County must receive properly submitted written protests representing at least 49 properties receiving water service from the County in CSA 34A.

If the County does not receive properly submitted written protests from property owners representing a majority of the properties receiving sewer service in CSA 34A, the Board may approve the proposed monthly sewer service fees. If a majority protest occurs, staff will schedule a public community meeting to discuss strategies to reduce sewer services to avoid further deficit spending. For there to be a majority protest, the County must receive properly submitted written protests representing at least 49 properties receiving sewer service from the County in CSA 34A.

REFERENCE MATERIAL:

BAI #19, January 29, 2008

BAI #25, January 31, 2012

BBR, January 22, 2016

Attachments Included and/or on file:

Location Map

Exhibit A

Attachment A

On file with Clerk - Resolution (Water Service Fees)

On file with Clerk - Resolution (Sewer Service Fees)

On file with Clerk - Engineer's Report

CAO Analyst:

John Hays