



## CITY OF BEVERLY HILLS STAFF REPORT

**Meeting Date:** January 7, 2014

**To:** The Honorable Mayor & City Council

**From:** Daniel E. Cartagena, Senior Management Analyst

**Subject:** Report on the Recommendation of the Public Works Liaison Committee Regarding the Establishment of an Appeals Board to Arbitrate Disputed Water Charges

**Attachments:**

1. Policies Regarding Utility Service, Billing and Account Collection
2. Liaison Meeting Agenda for September 17, 2013

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### **INTRODUCTION**

This report transmits a recommendation of the Public Works Liaison Committee's meeting of September 17, 2013 regarding their recommendation to establish an Appeals Board to consider disputes over water-use billing. The committee consisted of Mayor John Mirisch, Councilmember Nancy Krasne, Public Works Commission Chair, Barry Pressman, MD, and Commission Vice-Chair Ron Shalowitz.

### **DISCUSSION**

The City of Beverly Hills provides water utility services to over 11,000 residential and commercial accounts throughout Beverly Hills and the western portion of the City of West Hollywood. Beverly Hills utility customers receive a bi-monthly invoice.

Utility billing statements are prepared, collected and posted by the City's Administrative Services Department. Customer complaints are directed to Administrative Services who have instituted procedures in compliance with the department's "*Policies Regarding Utility Service, Billing and Account Collections*" which were updated in 2013. A major element of the 2013 revisions delegated dispute resolution authority from ASD's executive staff to a new position; Customer Service and Utility Billing Manager. An important role of the Customer Service and Utility Billing Manager and his team is to soften the impact of leaks and unexplained spikes in use.

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In addition to above noted modification the Public Works Liaison Committee recommended that an Appeals Board be created to address complaints and disputes arising from unusual and unexplained water consumption.

Based on research of numerous cities and organizations, staff was unable to identify an existing model involving an Appeals Board. Staff contacted the cities of Santa Monica, Pasadena and the City & County of San Francisco. Though it is common practice for agencies to provide a billing dispute resolution process, typically, such a process stops short of escalating the process beyond an administrative decision and is done by City staff.

### **Current Process**

The City's billing dispute resolution is comprised of three parts:

#### City's Administrative Response

Customer inquiries are received by a customer service representative in the Administrative Services Department. The staff representative is authorized to apply City policies to bring about a resolution with the customer applying the City's current policies.

#### Investigating Complaints

When customers inquire on the accuracy of a City water meter or meter reading, Beverly Hills Water crews are dispatched to the property to conduct a field review of the customer's water meter and/or grounds in search of a leak, if permitted by the property owner.

Depending on the nature of the inquiry, one of three tests is performed or in some cases all three. They include:

- 1) **Informal meter read test:** Filling a 5-gallon bucket, this test determines if the meter is correctly registering the amount of water used to fill the bucket;
- 2) **Residential/Irrigation leak test:** Inspect for visible evidence that a leak exists, City crew members walks the grounds of the property watchful for soggy soil, wet concrete or pools of water;
- 3) **Color dye in toilet tanks:** If the customer permits, the technician will check for leaking faucets and use color dye tablets to identify toilets for leaks. If leaks are found, customers are encouraged to contact a plumber to perform repairs. Upon repair of the leak, customers are requested to provide a copy of the plumbers invoice.

The third and final option is used when a customer strongly believes the reading of high water consumption is the due to a faulty water meter. The process also includes:

- Removal of the water meter and sending to a testing facility to determine if the meter is working properly.
- The cost of this test for a Beverly Hills resident is \$900.90. Should the meter be found to work properly, the customer is responsible for paying for the cost of the test and also, the water-use registered by the meter.

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- Should the meter fail the test, the \$900.90 testing fee is refunded to the customer. Also, their account is adjusted by the amount of overcharge for up to the last six (6) billing cycles.

The majority of billing disputes are resolved at the administrative level. This process, along with the Water Division's daily effort of contacting customers registering large continuous flows reduces a customer's exposure to unintended large utility bills and provides a safeguard to the City's water supply to potential losses due to leaks.

### **Proposed Appeals Board**

Despite the City's best efforts to resolve each billing dispute, there are instances when a customer is not satisfied with the City's efforts. The Liaison recognized and discussed such cases of unexplained water loss. As a result, it was recommended that the City establish a secondary process to offer to its residents and customers. An appeals board would serve as the forum for cases with unusual circumstances or unexplained water use in which the original appeal is declined or an adverse determination is received. In order to establish an appeals board, the Municipal Code would need to be amended.

To establish an appeals board, staff requests direction from the City Council on the following:

- **Composition of the Board**
- **Jurisdiction**
- **Findings**
- **Relief**

#### Composition

The City's Public Works Services Department operates with two-forms of appeal panels in place. The first, involves parking enforcement citations; the appeals function is performed by the City's contractor. The second involves citations given to residents violating the City's Outdoor Landscape Watering Ordinance. In these cases, there is an appeals process to a board consisting of two Public Works commissioners and a staff member. Residents may challenge a citation by appealing their case to this board.

Familiar with the above noted process, the Liaison recommended the board to decide water utility bill disputes be composed of two Public Works Commissioners and the Public Works Services Director or his designee.

#### Jurisdiction

As a second level of appeal, a determination on the criteria a customer must meet to be eligible to pursue a secondary appeal must be decided.

The Liaison recommended this process be available to those customers whose dispute was denied under the administrative process.

Also, the number of appeals a customer can pursue in a calendar year is a matter that should be considered to minimize abuse of the process. It is uncommon for property-owners to encounter multiple leaks in their system within a 12 month period. In the unlikely event in which an accountholder attempts to use the appeal process to alleviate the responsibility to pay for water consumed, it is prudent to establish a limit on the number of

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times a property-owner may submit an appeal within a certain period. The current Administrative Policy allows for one appeal within a twelve month period.

### Findings

To allow for fair and balanced decision, findings must be developed to guide the Appeals Board towards a decision. Additionally, it is essential a timeline be developed detailing tasks and deadlines for customers and the City to adhere in the course of rendering determination.

### Relief

The City's administrative process already allows for the reduction of a customer's utility bill when increased water consumption is confirmed due to a water leak that has been repaired. In these cases, a customer will be charged the Tier-1 rate on water consumed above the account's 2 year average. By establishing an Appeals Board, the public may construe that the process offers higher relief to a customer than the administrative process.

If the program is offered to only those customers receiving adverse determination through the administrative process, the relief powers the appeals board may be required is to apply that relief offered through the administrative process.

Decision of the appeals board will be final.

### **Potential Impacts of Appeals Board**

It can be assumed that by creating an appeals board, the board may render favorable decisions for our customers. In these instances, responsibility shifts from customer to City for integrity of private plumbing and irrigation systems.

At this time it is unknown the number of appeals the City would receive. The establishment of this secondary process would require an allocation of staff time to prepare and schedule hearings, processing appeals and notify customers.

Depending on the relief options granted to the appeals board, sustaining an appeal is likely to result in loss of revenue which can adversely affect the health of Water Enterprise Fund. The Council may consider developing a General Fund account to off-set revenue losses experienced by the fund.

A loss of revenue to the Water Fund may also affect the Fund's bond rating.

### **Summary of Pros & Cons of Appeals Board**

#### Pros

- Provides a higher level of customer service.
- Offers customers an opportunity to present case to resident/commissioners
- Improves confidence and fairness in the utility billing system

#### Cons

- May discourage water conservation practice
- Possibly reduce customer's incentive to address or repair leak
- Likely to increase work of staff and commission

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### **FISCAL IMPACT**

The City, like all metered utility providers, bills for its services at the meter as required by BHMC section 6-1-203 Conditions of Service which in subsection I states as follows:

Water service is supplied to users subject to the following;

- *That the City's responsibility for delivery of water service shall terminate at the curb stop valve or the water meter and the city shall not be responsible in any way for damages or injuries caused by the escape of water from faucets, pipe connections, appliances or other facilities on the user's premises.*

At this time, staff estimates two to five billing disputes per month may meet the criteria to advance to an appeals board hearing. The disputed amount can range from small dollar amounts to thousands of dollars per case. Because the actual fiscal impact is difficult to estimate, staff recommends that the appeals board be established as a pilot program that may extend to twelve months with staff reporting on the board's activities six months after the pilot program is established.

### **RECOMMENDATION**

Staff seeks direction from City Council on the following:

- Establish a pilot program creating a secondary appeals board to address billing disputes. Only customers who have completed the administrative review process may appeal their bill.
- Establish a Pilot program that may be extended to twelve months with staff to provide report to the City Council summarizing the activities of the board after six months.
- Appeals board will be composed of two Public Works Commissioners and the Director of the Department of Public Works Services or designee.
- Appeals board will accept cases involving customers receiving adverse determination from the City through the City's administrative process.
- Develop findings for the board's decision making process
- Direct Staff to work with the City Attorney's to identify measures of relief the board may award when an appeal is upheld.

George Chavez   
Approved By

# **Attachment 1**

**City of Beverly Hills**  
**Administrative Services Department**  
**Policies Regarding Utility Service, Billing**  
**and Account Collections (Updated 11/25/13)**

**Purpose:**

To develop a consistent manner and method for dealing with customer service issues related to the City's utility services.

**Who needs a security deposit? (Municipal Code Section 6-1.1-103)**

All applicants with credit history that does not meet standards set forth in this policy.

Also, applicants or active utility customers who have had service terminated due to non-payment or who have had four or more delinquencies within the most recent six (6) billing cycles are required to post a new deposit or increase an existing deposit to the current amount.

According to the City's Municipal Code (6-1.1-301), applicants who within the past two (2) years have had a City of Beverly Hills utility account in good standing **are not** required to have a deposit or have a credit check.

**Calculation of Required Deposit Amounts:**

When a security deposit is required for a customer's utility account, the amount of the security deposit shall be equal to twice the average bill for utility service to the location served. The average bill shall be calculated by averaging all bills to the location served during the most recent six bimonthly billing periods that utility service was rendered to that location. Staff shall have authority to make adjustments for anomalies (i.e. unusual usage during one billing cycle) to avoid excessive deposit requirements.

Customer Service staff is authorized to establish a payment schedule, not to exceed 180 days for new customers proving financial hardship. Payments may be extended for up to 180 days, from the date of service application and should be made in equal installments. The first deposit installment payment of at least 20% of the required deposit is to be made at the time of the application for service. Each subsequent payment is to be made at intervals of no more than thirty (30) days.

Requests for payment arrangements of greater than 180 days or less than 20% initial deposit payment can only be approved by the Director of Administrative Services/CFO or their designee.

**Use of Required Deposit:**

Customers who haven't had a delinquent payment within twelve (12) billing cycles will have their deposit applied to their outstanding utility bills until the deposit balance is zero.

**Credit History:**

The term "whose credit histories do not meet the standards set forth in the rules and regulations promulgated by the director of finance administration" in Municipal Code section 6-1.1-103 shall mean:

If the customer has had a City utility account within the prior two years:

Fewer than four (4) delinquencies on a prior City of Beverly Hills utility account within the most recent one year period of time. Utility service must not have been terminated for lack of payment during this period.

If the customer has not had a City utility account within the prior two years:

From a current credit report (TRW or comparable credit reporting agency), the customer shall demonstrate consistent on time payment of reported accounts with no incidence of account write off and fewer than four (4) incidents of late pays of more than thirty (30) days.

**Disputed Bills:**

When a customer calls Administrative Services and asks for an explanation of a billing, Administrative Services will endeavor to answer their questions immediately. In some cases, research is required to answer the customer's questions. Administrative Services will endeavor to answer all questions about billing within seventy-two (72) hours of receiving the call. If it is impossible to obtain an answer within that time period, the customer will be notified of the delay and the reason for the delay and will be provided with a reasonable estimate of when to expect resolution of their question.

If a customer claims a high reading, Administrative Services will schedule a rereading to verify the accuracy of the questioned reading. The customer will be notified of the results of the meter read within seventy-two (72) hours of their initial telephone call.

If, after this review, the customer still believes the bill is wrong, the customer may send the bill and a letter explaining why they believe the bill is wrong, along with a deposit equal to the amount of the disputed bill to:

**City of Beverly Hills  
Utility Billing Division  
455 N. Rexford Drive  
Beverly Hills, CA 90210**

Administrative Services will review the case and either return the deposit to the customer or apply it to their account, depending on the results of the investigation. Administrative Services will notify the customer of the outcome of the investigation.

Administrative Services will not terminate an account or disconnect utility service for non-payment while the bill is being reviewed as long as the customer has posted a deposit equal to the disputed amount **and** all other utility bills (those not under investigation) are paid on-time.

If there is a penalty or interest charge on a customer account due to a City caused error in posting (payment was properly postmarked but payment wasn't processed until after the bill's due date), Customer Service staff is authorized to immediately make the proper adjustments to the account to reverse the related penalties and interest. A copy of the credit memo will be sent to the customer's address.

### **Water Conservation Appeals (Stage B):**

During a water conservation period, appealed surcharges will be credited while the appeal is considered. Once there is resolution to the appeal, the credit will either be upheld or removed from the account.

### **Meter Replacement and Testing:**

If an account holder requests, in writing, a meter test, the City will arrange to have the meter replaced and tested after the account holder has paid the current meter test fee as established by Council action in the City's schedule of fees and charges.

In cases where the City has reason to believe that a water meter is not accurately recording usage, the City will arrange to have the meter replaced and tested without charge.

Once the meter testing is complete, adjustments to customer accounts will be made as follows:

<b>Test Findings</b>	<b>Action</b>
1. Meter test accurate by industry standard	No account adjustment is made.
2. Meter tests undercharging customer	No account adjustment is made.
3. Meter tests overcharging customer	Account is adjusted by amount of overcharge for up to last six (6) billing cycles. No adjustment for charges over 1 year old can be made. The customer paid meter test fee will be refunded.

### **Water Leaks or Unexplained High Usage:**

The City of Beverly Hills, like all utilities, charges for service delivered at the meter or unit measuring device installed at the account location. The City's policy is that all usage

is to be charged to the account associated with the meter. The City will not waive usage charges in cases of detected leaks, unexplained high usage or other circumstances, other than proven meter faults as described above. However, the City may, upon receiving a written request from the account holder, reduce the amount charged per unit of consumption to a lower rate established by Council action in the City's schedule of fees and charges as follows:

In instances where a customer discovers **and has repaired** a leak within their plumbing system, submits proof of such leak and its subsequent repair and **requests in writing** relief from the City, Customer Service Staff is authorized to recalculate the billing period affected using the following method:

Staff will calculate the average usage for the service in question based on the prior 12 cycles (approximately 2 years) actual usage.

For all water usage up to the 12 cycle average, the customer's bill be calculated using the current rates and levels of usage, i.e. normal billing.

For all water usage above the 12 cycle average, the customer's bill will be calculated using the lowest current tier rate.

For accounts where sewer charges are based on water consumption, the customers' sewer charge will be limited to the 12 cycle average.

In instances of unexplained high water usage where no evidence of leak or meter error can be discovered, the Director of Administrative Services/CFO or their designee may direct Customer Service staff **in writing** to recalculate **one period** of water usage using the above described method once every twelve months.

### **Unpaid Bills:**

Utility bills are due and payable the date they are mailed. Utility bills become delinquent thirty (30) days after they are mailed if they remain unpaid. If Administrative Services does not receive payment within the thirty (30) days, Administrative Services will mail the customer a notice reminding them that their utility bill has not been paid and that their utility service could be discontinued. This notice gives the customer thirty (30) days from the date Administrative Services mails it to pay the bill.

If the customer does not respond by paying their account balance within sixty (60) days from the date the original bill is mailed, a final notice of service termination will be mailed to the customer. This notice provides the customer with ten (10) days in which to pay their bill. Eight (8) days after the mailing of the final termination notice, if the account balance remains unpaid, a forty-eight (48) hour notice will be posted on the property. If the customer fails to make payment by close of business on the shut-off date, service will be discontinued. The account will be considered terminated at close of business on the shut-off date. Physical termination of service by closing of the service valve will occur within seventy two (72) hours of the shut-off date as the schedule of the Public Works service personnel permits. All requirements for service reinstatement

charges and deposits take effect at close of business on the shut-off date, regardless of the current state of the water valve.

If the customer is unable to pay their utility bill before the final date shown on the notice, Administrative Services will discuss payment arrangements to keep the utility account open.

Administrative Services utility collection staff is authorized to make payment provisions not to exceed 180 days and should be made in equal installments. The first installment payment of at least 20% of the current balance (includes past due and current due amounts) is to be made immediately. Each subsequent payment is to be made at intervals of no more than thirty (30) days.

Once a payment plan is in place, Customer Service staff is authorized to stay future penalty and interest charges on the outstanding balance.

Past penalty and interest charges can be waived with Customer Service Supervisor approval.

Payment provisions are made to accommodate customers experiencing financial hardship. Proof of financial hardship may be required.

The customer must keep their current usage paid for in a timely manner **in addition to** making their arranged payments on time.

Requests for payment arrangements of greater than 180 days or less than 20% initial deposit payment can only be approved by the Director of Administrative Services/CFO or their designees.

If Administrative Services makes payment arrangements and the customer misses these deadlines or fails to make payments for their current usage in a timely manner, the entire unpaid balance will become immediately due and payable. Service will be discontinued after posting of a forty-eight (48) hour shut-off notice.

#### **Returned checks:**

When a customer writes a check to pay a utility account and the check is subsequently not honored by the bank, the customer's account will be assessed a returned check fee.

When a customer writes a check to reestablish utility service which had been discontinued for non-payment, and the bank subsequently does not honor the check, the customer's utility account will be assessed a returned check fee and service will immediately be discontinued without additional notice.

Returned checks must be cleared through payment by cash, money order or cashiers check only. The City will not accept a check to clear a returned check.

**Vital Service:**

Administrative Services will not discontinue or terminate utility service for non-payment if the customer can prove to the City's satisfaction that being without the utility service would be especially dangerous to the health of a member of the household. The customer must, however, make a partial payment and agree to pay the past due bill in reasonable installments while paying other utility bills on time. Administrative Services will ask the customer to show certification from a licensed physician, public health nurse or social worker.

# **Attachment 2**

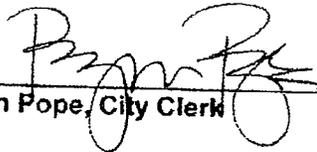


Beverly Hills City Council/Public Works Commission Liaison Committee and the Public Works Commission will conduct a Special Meeting, at the following time and place, and will address the agenda listed below:

**CITY HALL**  
455 North Rexford Drive  
4th Floor Conference Room A  
Beverly Hills, CA 90210  
Tuesday, September 17, 2013  
6:15 p.m.

### AGENDA

- 1) Public Comment
  - a. Members of the public will be given the opportunity to directly address the Committee on any item listed on the agenda.
- 2) Water Billing and Usage
  - a. New Administrative Appeal Policy, Including Appeal Panel  
– Mark Brower and Daniel Cartagena
  - b. Interim Leak Detection Strategies  
– Trish Rhay
  - c. Long Term Software Solution for Detecting Leaks  
– Trish Rhay and David Schirmer
- 3) Discussion of the \$1.8 Million Loan from Solid Waste to Clean Water  
– Don Rhoads
- 4) Commission's Role in Utility Bill Redesign upon Munis Implementation  
– Don Rhoads
- 5) Revision of Municipal Code Section 2-2-107E to Allow a Commissioner to Serve More than One Year During a Term  
– George Chavez
- 6) Adjournment

  
Byron Pope, City Clerk

Posted: September 13, 2013

  
In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Manager's Office at (310) 285-1014. Please notify the City Manager's Office at least twenty-four hours prior to the meeting so that reasonable arrangements can be made to ensure accessibility.