

MEMORANDUM

DATE: May 14, 2020
TO: Mayor White & City Council
VIA: Mercy Rushing, City Manager
FROM: Cindy Karch, City Secretary CK
SUBJECT: Utility fees and disconnections during COVID-19.
Council Meeting Agenda Item for May 18, 2020

Background Information:

On March 20th, when Mayor White issued the initial disaster declaration for COVID-19, he instructed staff to suspend late fees, cutoff fees and disconnections for all utility customers. Citizen health and safety was the primary motivating factor for this, along with the thought that many of our citizens may be not working and waiting to receive unemployment. We did not want to place additional burden on our citizens by disconnecting water service. Additionally, Governor Greg Abbott ordered that all utilities under the PUC (Public Utilities Commission) suspend disconnections during the disaster period. Municipal water supplies are not regulated by the PUC, but most followed the governor's direction.

The City of Mineola Emergency Management Plan does not specifically address utility services, but according to Chapter 418 of the Government Code, a mayor can suspend utility payments and waive disconnections during a declared local disaster. And, according to Tex. Loc. Gov't Code 552.001(b) a city has an inherent authority to regulate their utility in "a manner that protects the interest of" the city. This inherent authority arguably includes postponing utility bill payments and waiving disconnection of services and related fees. However, a mayor or city cannot waive payment of utility bills because the Texas Constitution prohibits a city from giving a gratuitous donation or gift. So, a city may delay or postpone payments, but cannot waive them.

Currently, as of 5/14 at 5:00PM the past due payments are as follows:

Aged	Number of Accounts	Total Amount
Current Due (Due May 10 th)	249	\$28,637.03
Aged 30-60 days (Due April 10 th)	53	\$4,293.83
Aged 60-90 days (Due March 10 th)	16	\$1,420.90
Aged 90+ days (Due February 10 th)	1	\$26.65
Total Past Due	249	\$34,378.41

The average past due amount is \$138.07. Median is \$102.65. Nineteen customers are commercial and the rest are residential. Customer bills are due on the 10th of each month. If not paid, a late fee of \$10 or 10% is assessed, whichever is higher. Past due bills not paid by the 20th are disconnected on the 21st and assessed a \$30 fee. March late fees had already been assessed on the 11th. Late fees for the year have averaged \$3,826 per month, including disconnect fees. April and May were not charged.

Front office staff, Judy and Martha, reached out to many of these customers after the April due date to offer assistance and set up payment plans. Some paid and some made payment arrangements. At this time, there are four customers with payment agreements on file, but have not made payments toward that agreement.

Staff is looking to the council on when to resume disconnection and fees, and what those procedures should be. While we don't want to place any more hardship on citizens, by allowing past due accounts to continue, the bill will just continue to grow and repayment will be all the more difficult. This is uncharted territory and many cities are in the same situation. I've attached an unofficial survey the City Secretaries have put together regarding this issue.

Recommendation:

Staff is looking to council for their suggestions and recommendations.

Mayor's suggestion is to send letters to all past due customers saying that if they pay at least ½ of their past due amount by June 15th, late fees will not be assessed. Then any not paid in full by July 6th (21 days) will be assessed fees. If by July 10th past due amounts (not current due for the 10th) are not paid, services will be disconnected.

Other options to include but not limited to:

1. Continue waiving fees and disconnects until stay-at-home orders are lifted or further relaxed
2. Start charging fees but continue suspending actual disconnection until stay-at-home orders are lifted/relaxed
3. Disconnecting all customers greater than 30 days past due without a fee
4. Start charging fees and disconnect all past due
5. Contact past due customers, set up payment arrangements, and if payment is not made as per arrangement, then disconnect and assess fee.

Note that none of the above will assess fees in arrears. Fees not assessed in March, April and May will not be assessed. Only fees going forward. However, late fees are 10% of past due amount, which for most customers are going to be high. The longer customers use water without payment, the higher the fees will be once the city starts imposing them again. Also, the water utility is an Enterprise Fund, meaning it must be able to sustain itself and cannot be supported by tax dollars.

Final Disposition: