



City of St. Helena
Special City Council Meeting
Tuesday, July 13, 2021 @ 9:00 AM
Published: Monday, July 12, 2021 7:16 AM

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "public comment" portion of the agenda may do so, but please observe the time limit of four minutes.

In accordance with Executive Order N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to publiccomment@cityofstheleena.org. All public comments must be emailed by 4:00 PM prior to the meeting. Emailed public comments will not be read out loud but will be publicly available and attached to the on-line City Council agenda.

In the event a quorum of the City Council loses electrical power or suffers an internet connection outage that is not corrected within 10 minutes, the meeting will automatically be adjourned. Any items noticed as public hearings will be continued to the next regularly scheduled evening meeting of the City Council. Any other items on the agenda that the Council has not taken action on will be placed on a future agenda.

Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions. Spanish translation for this meeting will be offered. To access Spanish translation, you will need to join the meeting using the Zoom app from a computer, iPad or Iphone. You will see an icon on the screen that will allow you to choose Spanish translation. To learn how to use Zoom, please see the instructions below.

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/89424396564>

Or One tap mobile :

US: +16699006833,,89424396564# or +12532158782,,89424396564#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099

Webinar ID: 894 2439 6564

International numbers available: <https://us02web.zoom.us/j/89424396564>

1. CALL TO ORDER

2. ROLL CALL

Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, Eric Hall and Lester Hardy.

3. ADOPTION OF THE AGENDA

4. PUBLIC COMMENT:

Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item. Each person's comments shall be limited to 4 minutes.

5. NEW BUSINESS:

- 5.1. Presentation of June 2021 Water Meter Reads and Penalty Overview; Discussion and Direction Regarding City Council Water Ad Hoc Committee Phase II Water Emergency Usage Penalties Recommendation (Staff report forthcoming Staff report provided 7-12-21)

7 - 15

CEQA Determination: Not a "project" as defined by State CEQA Guidelines Section 15378(a); Further, even if deemed a "project", otherwise exempt from CEQA under the common sense exemption set forth in Section 15061(b)(3).

Prepared By: Mark T. Prestwich, City Manager

Recommendation:

Consider Water Ad Hoc Committee recommendation to (1) suspend 75% of June 2021 water penalties and 50% of July 2021 water penalties with an opportunity for all customers with water penalties to receive a full waiver/reimbursement of any June and July 2021 penalties if their August 2021, September 2021, October 2021, and November 2021 water usage meets applicable conservation requirements in each of the designated months and (2) designate that the Water Advisory Board can hear/make a determination for reduction of penalties for those customers who received a penalty as a result of a water leak.

[Staff Report - Pdf](#)

[Public Comment.Mark Smithers](#)

[Public Comment.Tom Belt](#)

6. ADJOURNMENT

The next Regular City Council meeting is scheduled for July 27, 2021, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on July 12, 2021 at 7:15 a.m.



Cindy Tzaopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office

(707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC PARTICIPATION IN VIRTUAL CITY COUNCIL MEETINGS

St. Helena, CA– The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom’s Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena City Council will host a Virtual Council Meeting on Zoom; a free teleconferencing tool that enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City’s website after the adjournment of the meeting if technical difficulties occur: <https://sthelena.civicweb.net/Portal/>

The ZOOM web link, meeting ID, and phone number will be listed at the top of the City Council Meeting Agenda. You will be required to enter the meeting ID, but there will be no password or participant ID.

How to Watch or Listen to Council Meetings:

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City’s website
3. Watch and Listen on Zoom.us by clicking on the link in the Council Agenda
4. Listen only by calling the Zoom number listed on the Council Agenda

Watch Council Meeting by Joining the Zoom Meeting:

1. **By Computer, Tablet, or Smart Phone:**
 1. Before joining the virtual City Council Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit zoom.us/signup and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
 2. If you are logged into your account, Enter the **Meeting ID** listed on the City Council Agenda. If you have not created an account go to: <https://zoom.us/join> and enter the **Meeting ID**
 3. Select if you would like to connect audio and/or video and tap **Join Meeting**.
 4. For specific instructions for your device, go to: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>
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 1. **Dial** the number listed on the Council Agenda.
 2. At the prompt, enter the **Meeting ID** provided on the top of the City Council Meeting Agenda and **Press #**. **A participate ID is not required.**

3. To disconnect from the meeting, hang up the phone.

Ways to Provide Public Comment:

While attending the virtual City Council Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

1. **Send a Public Comment in by 4:00 PM Prior to the Meeting to:**
publiccomment@cityofsthelena.org

The easiest way to provide public comment is to email your public comment. Public comments may be emailed to publiccomment@cityofsthelena.org. Please include in the subject line "COMMENT TO COUNCIL and the AGENDA ITEM". Any public comment is required to be submitted no later than 2 hours before the scheduled meeting and will be included as an attachment to the agenda. All public comments will be made publicly available and attached to the agenda item and will not be read out loud. All public comments that are received after 4:00 PM will be attached to the agenda the following day.

2. **Provide Comment through Zoom meeting from a computer, tablet, or smart phone**

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the "**raise hand**" feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the '**raise hand**' button again.

3. **Call in to the ZOOM meeting from a cell phone or landline phone only**

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial ***9** on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press ***9** again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.



Report to the City Council
Special City Council - 13 Jul 2021

Agenda Section: NEW BUSINESS:

Subject: Presentation of June 2021 Water Meter Reads and Penalty Overview; Discussion and Direction Regarding City Council Water Ad Hoc Committee Phase II Water Emergency Usage Penalties Recommendation

CEQA Determination: Not a “project” as defined by State CEQA Guidelines Section 15378(a); Further, even if deemed a “project”, otherwise exempt from CEQA under the common sense exemption set forth in Section 15061(b)(3).

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On June 23, 2020, City Council adopted a resolution establishing Phase I Water Emergency. At the time, the City had concluded a low rainfall (20") season, was forecasting a potential multi-year drought, and Bell Canyon Reservoir was at 60% capacity.

At the October 27, 2020, City Council Meeting, the City Council adopted Resolution No. 2020-107 enacting a Phase II Water Emergency. Establishment of the Phase II Water Emergency limited residential water use to 65 gallons per person per day, and provided a 2,500 gallon monthly allocation for outdoor irrigation during the months of April through November (for most single family residential parcels).

The City Council adopted an Urgency Ordinance on April 27, 2021, to update the regulatory requirements for commercial, industrial, and institutional users due to the seasonal nature of their water use. The resulting updated Phase II allocation for a commercial, industrial, and institutional user beginning in June 2021 is 10% less than that user's average water use during the three preceding non-shortage years by month. For

the current calculations the following years are being used: 2017, 2018, and 2019. This baseline for determining allocations for commercial, industrial, and institutional users also applies in Phase III.

The Urgency Ordinance also updated the basis for which a Phase I, Phase II, or Phase III water emergency is determined from whether the City has sufficient volume of water to meet its needs through November 1st, to whether the City has sufficient volume to meet its needs through the subsequent May 1st, after making reasonable assumptions regarding rainfall during the rainy season based on recent data. The change to the standard allows the City to take into account potentially very low rainfall during the rainy season, and less than full replenishment of the City's water supply.

Water Penalties

The City's adopted water rate structure did not have an associated penalty structure for use during water emergency phases prior to the City's water emergency. As a result, the City utilized local government and utility advisor Raftelis to analyze and present options/recommendations for a City of St. Helena water penalty structure designed to ensure vital conservation efforts were met. Based on an evaluation of the City's water supply constraints and customers, Raftelis recommended the City adopt a penalty structure with a strong price signal that would dissuade water use and reach those for whom a modest penalty would not register financially.

After a series of public policy discussions, the City Council adopted a tiered volumetric penalty structure at their April 13, 2021 meeting as noted in Table 1 below. The adopted penalty structure was designed to:

- Provide a strong price signal and message without using a big stick approach at average water use;
- Minimize penalties for those bills just exceeding the allocation where accounts could reasonably reduce below the allocation in subsequent billing periods; and
- Maximize penalties for wasteful water use/egregious water users and for those accounts that require financial compulsion to reduce use.

Raftelis noted the City should expect many bills to fall into the first and second exceedance bins (e.g. <25% over, and 25-50% over).

Table 1: Adopted Penalty Structure for a Phase II and Phase III Water Emergency

Bin	Volume Exceeded	\$ per HCF Exceeded	\$ per Gallon Exceeded
1	<25% Over (up to 24.999%)	\$10	\$0.013
2	25-50% Over (25-49.999%)	\$25	\$0.033
3	50-100% Over (50-99.999%)	\$100	\$0.134
4	>100% Over	\$250	\$0.334

June 2021 Water Meter Reads and Penalty Overview

The penalty structure for water use in excess of required conservation measures took effect on June 1, 2021. Meter reads for the month of June 2021 usage have been completed and the first bills with penalties are planned to be distributed this week. Based on meter reads, approximately 63% of residential and non-residential customers have met the required Phase II water conservation measures. Approximately 900 customers (37%) have exceeded their water allocations, resulting in penalties. However, 77% of customers have either no penalties or penalties below \$100. Additionally, water leaks account for 136 of the approximately 900 customers exceeding water allocations.

Table 2 below summarizes the penalties associated with excess water usage, number of accounts affected, total penalties, and the associated percentage of customer penalties by amount.

Table 2: June 2021 Water Penalties

Penalty Range	# of Accounts*	Total Penalties	%
\$0	1,525	\$0	62.89%
\$0.01 - \$100	337	\$10,921.51	13.90%
\$100.01 - \$500	154	\$40,841.28	6.35%
\$500.01 - \$1,000	80	\$57,741.75	3.30%
\$1,000.01 - \$2,000	77	\$113,622.65	3.18%
\$2,000.01 - \$3,000	46	\$114,756.40	1.90%
\$3,000.01 - \$4,000	28	\$98,998.45	1.15%
\$5,000.01 - \$10,000	72	\$489,783.95	2.97%
\$10,000.01 - \$20,000	42	\$618,721.00	1.73%
\$20,000.01 - \$30,000	13	\$338,767.65	0.54%
\$30,000.01 - \$40,000	5	\$163,949.50	0.21%
\$40,000.01 - \$50,000	1	\$48,844.90	0.04%
\$50,000.01 - \$100,000	4	\$280,043.25	0.16%
\$100,000+	2	\$421,023.10	0.08%
Total	2,425	\$2,972,613.84	

*136 of the above accounts with associated penalties are on the June Leak Alarm List and account for \$1.031 million in penalties. Three of the accounts are in the \$50,000.01+ category and account for \$379,735 in penalties.

Water Forecast

During the month of June 2021, there was a 23% reduction in water produced and about a 17% reduction in water delivered (customer water usage) vs. June 2020. The 6% differential between water produced and delivered relates to several factors including timing of meter reads and system loss. Current modeling forecasts the City is not likely to enter a Phase III water emergency before the end of the calendar year if conservation efforts are sustained or improved. However, if conservation efforts decline or the City experiences very low rainfall during the next rainy season, the City may enter a Phase III

water emergency which will significantly increase conservation requirements that could last all the way through next summer, and possibly beyond.

How Much Volume Was Exceeded?

Table 3 below identifies the number of accounts which exceed their allocation per volumetric category and Table 4 provides the same breakdown by user category.

Table 3: June 2021 Water Penalties by Volumetric Category

Volume Exceeded	Number of Accounts
0-24.9%	206
25-49.9%	149
50-100%	174
100%+	371
Total	900

Table 4: June 2021 Water Penalties by Volumetric and User Category

Non-Residential	# in Category	% of Total Accounts*	% of Accounts in Category	% of Penalties Total Accounts	% of Penalties in Category	# of Accounts with Leak Letters
No Penalty	184	8%	65%			
0-24.9%	36	1%	13%	4%	37%	5
25-49.9%	15	1%	5%	2%	15%	2
50-100%	15	1%	5%	2%	15%	4
100%+	31	1%	11%	3%	32%	9
Total	281	12%		11%		20

Residential	# in Category	% of Total Accounts*	% of Accounts in Category	% of Penalties Total Accounts	% of Penalties in Category	# of Accounts with Leak Letters
No Penalty	1,342	55%	63%			
0-24.9%	169	7%	8%	19%	21%	18
25-49.9%	134	6%	6%	15%	17%	18
50-100%	159	7%	7%	18%	20%	15
100%+	340	14%	16%	38%	42%	61
Total	2,144	88%		89%		112

*Total number of City water accounts - 2,425

DISCUSSION

The initial estimate of water penalties for customer use in excess of prescribed allocations equates to approximately \$2.9 million spread over 900 customers. Given the scale of the calculated penalties, City staff has reviewed June 2021 water use and calculated penalties with the City Council Water Ad Hoc Committee of Mayor Geoff Ellsworth and Council Member Lester Hardy.

As stated above, the adopted penalty structure was designed to:

- Provide a strong price signal and message without using a big stick approach at average water use;
- Minimize penalties for those bills just exceeding the allocation where accounts could reasonably reduce below the allocation in subsequent billing periods; and
- Maximize penalties for wasteful water use/egregious water users and for those accounts that require financial compulsion to reduce use.

Given this is the first time penalties have been imposed and the scale of penalties and, balanced against the policy goal of the adopted penalty structure, the Ad Hoc Committee and City staff are recommending implementation of a Penalty Forgiveness Program that would allow any customer to eliminate 100% of their existing June usage penalties and July usage penalties.

The recommendations in Table 5 below would apply across the board for all customers who experience penalties for water usage in the months of June and July. Penalties for June and July 2021 will be forgiven if the customer does not exceed their allocation in August, September, October, and November 2021. The customer must meet this target in all four months for the penalties to be forgiven (the City would issue a refund for any penalties paid for June and July usage) for eligible customers. If a customer does not keep usage below targets in August, September, October and November 2021, then any suspended amount would become payable to the City. Suspended penalties will be applied to customer accounts immediately following the month in which the target was not met (e.g. if a customer does not meet the target reduction in October 2021 then suspended penalties for June and July would be applied with the October meter read penalty).

Table 5: Ad hoc Committee Penalty Forgiveness Program Recommendations for Assessing and Suspending Penalties

Month	Description	Penalty Charge	Penalty Temporarily Suspended	Example
June 2021*	Customer will be charged a percentage of their assessed penalty for being over their allocation. All penalties can be forgiven if a customer meets	25%	75%	If a customer's penalty is \$100, they will only be

	conservation targets in August, September, October and November 2021.			charged \$25
July 2021*	Customer will be charged a percentage of their assessed penalty for being over their allocation. All penalties can be forgiven if a customer meets conservation targets in August, September, October and November 2021.	50%	50%	If a customer's penalty is \$100, they will only be charged \$50
August 2021	Beginning in August and for all future months, customers will be assessed full penalties	100%	0%	If a customer's penalty is \$100, they will be charged \$100

Out of the 900 customers who are receiving penalties – 136 had a leak alarm triggered in June 2021. In addition to the penalty recommendation above, the recommendation is being made that the Water Advisory Board can hear/make a determination for reduction of penalties for those customers who received a penalty as a result of a water leak.

FISCAL IMPACT

If adopted, the fiscal impact for June 2021 would be an initial reduction in penalties from \$2.9 million to \$734,153. This does not include any reduction of penalties granted by the Water Advisory Board for those customers who received leak letters for June 2021 usage. However, the total fiscal costs are unknown at this time as future penalties will be based on actual customer use.

RECOMMENDED ACTION

Consider Water Ad Hoc Committee recommendation to (1) suspend 75% of June 2021 water penalties and 50% of July 2021 water penalties with an opportunity for all customers with water penalties to receive a full waiver/reimbursement of any June and July 2021 penalties if their August 2021, September 2021, October 2021, and November 2021 water usage meets applicable conservation requirements in each of the designated months and (2) designate that the Water Advisory Board can hear/make a determination for reduction of penalties for those customers who received a penalty as a result of a water leak.

Cindy Tzaopoulos

From: Mark Smithers <msmithers@tfewines.com>
Sent: Monday, July 12, 2021 10:36 PM
To: Geoff Ellsworth; Paul Dohring; Anna Chouteau; Eric Hall; Lester Hardy; Mark Prestwich
Cc: Cindy Tzaopoulos; Tom Belt; Pam Smithers
Subject: Re: [External] Reduction of Water Penalties

To our Mayor, City Council, and City Manager,

I wholeheartedly agree with Tom Belts comments included below. Most of us took the City's water restrictions seriously. Our lawn is dead. Our small vineyard will soon die. We have pulled out plants and shut off irrigation. We have conserved water to benefit all St Helena residents.

Apparently there are a relatively small number of water customers that have not considered that we may have no water next spring! I've heard second hand of residents that consciously knew they would pay penalties above \$5,000 and they were OK with it. To some degree you are pitting the wealthy against the poor; the poor that conserved. Now you are preparing to benefit the wealthy. Are you paying attention to any of the inequality discussions going on in our country?

Further, if you go forward and approve the large eliminations of these penalties, you are telling us that our water enterprise doesn't need the money. You're saying it's OK to forego this revenue that we need to fix our porous and aging water system while at the same time saying you are OK raising rates in the future to pay for many projects...to benefit the wealthy that don't care about water conservation. If you proceed, you will never be able to pass revenue bond financing for our much needed water infrastructure projects; rates will be raised and they will most affect those in difficult financial positions and there will be less water conservation.

Finally, it is unconscionable that you have scheduled such an important issue with one day's notice and continue to not allow in person participation at City Council meetings.

I ask my comments to be included with the City Council agenda and read aloud.

Mark Smithers

Mark Smithers | Senior Vice President, Finance
Trinchero Family Estates
 Office: 1-707-302-3027 | Ext. 2612 | Mobile: 1-707-290-4508
 msmithers@tfewines.com

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On Jul 12, 2021, at 6:03 PM, TOM BELT <tmbelt@comcast.net> wrote:

Hello City Council Members,

I just read the staff meeting notes for tomorrow's city council meeting and the city manager's recommendation to reduce or in some cases forgive some water customer's water penalties for exceeding their allotments.

Like the majority of St. Helena water customers, my wife and I have stayed within our allotments. During the months of May, June and half way through July we're sitting day by day (often in excess of several 100 degree plus daily temperatures) trying to stay within our 2-person residential allotment watching our landscaping dry up and die. This is landscaping we have lovingly cared for for over 44 years. My wife and I are doing everything we can possibly do to help keep our city from entering Phase 3 water restrictions.

I can't believe with all the notice and warnings the city has provided to water customers that forgiveness or reduction of penalties is even being considered. The June's penalties add up to almost \$3 million which will be added revenue in our water enterprise. With the exception of customers who sustained an accidental leak, I can't think of a good reason to excuse or reduce any one's penalties. Its a slap in the face to the customers who have complied with the city's restriction requirements. SHAME on the water customers who have exceeded their allotments. They need to pay their penalties!

As a reminder, I applied for a 130 gallon/day additional allotment and went through 3 months waiting to be approved by the city only to be told the justification I applied for was for commercial customers only. As a result, I withdrew my application instead of appealing to city council.

Back pedaling on these penalties at this late date is sending the wrong message to the community. I hope you will all vote to disapprove the city manager's recommendation tomorrow morning.

By coping this to the city clerk, I'm requesting this letter be added to tomorrows city council agenda under public comment.

Tom and Margot Belt

Cindy Tzaopoulos

From: TOM BELT <tmbelt@comcast.net>
Sent: Monday, July 12, 2021 6:03 PM
To: Ellsworth, Geoff; Paul Dohring; Anna Chouteau; Lester Hardy; Eric Hall
Cc: Cindy Tzaopoulos
Subject: [External] Reduction of Water Penalties

Hello City Council Members,

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