



City Council Agenda Item

City Council Meeting Date: May 21, 2019

TO: Jim Throop, City Manager

FROM: Brad Wilkie, Utility Director
b_wilkie@ci.lompoc.ca.us

SUBJECT: Hearing of (Former) Property Owner's Appeal of Ruling on Request for Reconsideration of Utility Director's Enforcement of Lompoc Municipal Code Section 13.16.040, Connection to Public Sewer Required, 209 West Pine Street – Sewer Lateral Service Protest

Recommendation:

Staff recommends the City Council:

- 1) Hear the former property owner's appeal of the Utility Director's requirement to make a separate attachment to the City's sewer system for a split lot; and
- 2) Make a ruling on the appeal.

Background:

Lompoc Municipal Code (LMC) section 13.16.040 requires each property to be connected to the City's public sewer.

"The owner or occupier of any property used for human occupancy abutting any street or easement in which there is located a sewer main, is required, at his or her expense, to construct a building sewer lateral serving waste discharge fixtures in or on said property, and **to connect said lateral to the sewer main** (Emphasis added) in accordance with the provisions of the applicable plumbing code, construction standards of the City, and provisions of this Chapter within 120 days after notice from the Director to do so, provided that such main is within 200 feet of the property. No person shall tap a building sewer lateral into a City sewer main unless advance written permission has been granted by the City." (LMC 13.16.040)

The purpose of that provision is to avoid installation and use of private sewer systems including septic tanks, outhouses, or other systems. The provision has been in effect since February 19, 1963 (Ordinance No. 688).

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In 2006 Gloria Sobhani, trustee of the Sobhani 2005 Trust, then owner of property commonly known as 209 West Pine Avenue and 204 Oak Street applied for, and was granted, a lot line adjustment to divide the property into two separate parcels. Following that lot split, on September 9, 2014, Ms. Sobhani, again on behalf of the Sobhani 2005 Trust, signed a Special Covenant for Common Use of Utility Services for Parcels “A” & “B”, LOM 563-P (Attachment 1), in which she agreed to provide separate water and sewer connections to each of Parcels A and B when either of those parcels were sold. The agreement was entered in lieu of requiring the separate water and sewer connections to each parcel at the time of the lot split.

Discussion:

On January 18, 2019, the Public Works Department received a voice mail message from Morris Sobhani requesting a meeting with the Engineering Division to consider using language in the Subdivision Act to accept the existing lateral used by the two parcels to connect to the City’s collection system. As the two parcels known as 209 West Pine Avenue and 204 Oak Street were not created in accordance with the Subdivision Act, utilizing it is not a valid option.

In addition, when discussing the matter with City staff, Mr. Sobhani suggested that the City should accept the 6” sewer lateral as a City collection main and all the associated maintenance responsibilities. While the City does have 6” lines acting as gravity collection mains, 4” and 6” sewer laterals are the common sizes for sewer laterals connecting a property’s sewer line to the City’s sewer collection mains. In addition, all City collection mains are either in the City’s right of way or in public utility easements. There is no such public utility easement on either the 209 West Pine or the 204 Oak Street property.

On January 29, 2019, Mr. Sobhani met with the Assistant Public Works Director/City Engineer and the Utility Director. During that meeting, Mr. Sobhani suggested the existing lateral used by the two parcels is equivalent to lateral installations in condominium complexes; and as such, the existing laterals for the two parcels should be allowed. The lot split executed in 2005 did not provide for a condominium to be created but rather it created two separate parcels. It was agreed that if this complex at 209 West Pine Avenue and 204 Oak Street had been made into a condominium in 2005, then the separate lateral for each parcel would not have been required. However, a condominium was not created in 2005.

The parcel identified as 209 West Pine Street has recently been sold by the Sobhani Trust to the Victory Outreach Church. As a result of that sale, and consistent with the Special Covenant, the separate water and sewer connection is now required. Mr. Sobhani was officially notified of that requirement by letter dated February 19, 2019, from the Utility Director (Attachment 2). In that letter, a separate sewer connection was required to be made within 120 days and the appeal provision of Lompoc Municipal Code (LMC) §13.16.140 was provided to Mr. Sobhani. Mr. Sobhani submitted a timely request for reconsideration, for which ruling was made on March 22, 2019, by the Utility Director (Attachment 3). The request for appeal to the City Council was timely submitted on April 5, 2019 (Attachment 4).

Fiscal Impact:

There is no fiscal impact to the City if the property owner abides by the recorded Special Covenant for Common Use of Utility Services for Parcels “A” & “B”, LOM 563-P. However, if the City assumes responsibility to connect both parcels to the City’s collection main, the City’s General Fund would be exposed to the construction cost anticipated to be between \$35,000 and \$65,000. If the City were to consider accepting the existing lateral as a City collection main, then the cost to create and record a public utility easement is currently unknown and would require the cooperation of both the owners of 209 West Pine and 204 Oak Street properties. The cooperation of the owner of 209 West Pine in creating such a public utility easement is unknown, and therefore, the cost is unknown. If an easement is secured, and the City accepts responsibility of the on-site lateral as a City collection main, then the ongoing maintenance and long term replacement costs for that section would be permanent and ongoing. An estimate of the 30-year overall cost of such services is unknown and would likely not be a cost that could be borne by all similar class of ratepayers. That is, the cost of maintaining the single lateral/main would be the responsibility of the two property owners and would not be spread across the class of customers similar to the property owner’s class.

Conclusion:

A ruling other than to uphold the clear requirement of LMC section 13.16.040 would expose the City to unnecessary costs, unknown but potentially significant long-term liabilities and would set a precedent for other similar lot splits, retroactively and prospectively, involving single sewer connections to the City’s collection system.

Respectfully submitted,

Brad Wilkie, Utility Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Jim Throop, City Manager

- Attachments:
- 1) Executed and Recorded Special Covenant – LOM 563-P dated 9-16-2014
 - 2) Letter dated February 19, 2019
 - 3) Letter dated March 22, 2019
 - 4) Request for Appeal received April 5, 2019