

# Judge Rules Austin Drainage Fee Invalid

By Bill Oakey – June 28, 2014

In a stunning court decision Friday, a State district judge ruled Austin’s monthly drainage utility fee invalid. The lawsuit was brought against the City back in 2009 by three citizens who claimed that the fee is unfair to condo and apartment dwellers, who pay the same amount as owners of large residential homes.

Judge Amy Clark Meachum did not address the question of whether the City will have to refund some of the fees, but plaintiff’s attorney Robby Alden thinks they will have to do some level of refunds for fees paid over five years. And he expects the City to have to alter the fees.

City staff are weighing their legal options. The drainage utility fee is one of many add-on fees that grace our monthly utility bills. Some folks characterize these as “only” fees, noting that each fee in the ever-growing list is “only” a few dollars per month. If you just add up the increases in these fees that are planned for the upcoming budget, the total comes to \$6.19 per month. (not counting the two new fee increases that have evolved since the budget forecast was released in May).

Austin has become quite creative over the years in dreaming up new fees with clever sounding names. We used to have an anti-litter fee. That has been changed to a two-part “clean community service fee,” made up of a \$3.55 “resource recovery fee” and a \$3.10 “code compliance fee.” I have no earthly idea what those are for or which City department does what with the money.

The plaintiffs in the lawsuit contend the drainage fee penalizes people with low incomes in small housing units who can least afford to pay. The chart below shows that the City has plans to increase the drainage fee from its current rate of \$9.20 per month to \$11.60 over the next five years. And that does not include the extra 75 cents that was recently added in the proposed 2015 budget to pay for buyouts of flooded homes in Onion Creek.

## DRAINAGE UTILITY FUND (in millions)

	2014 Amended	2014 CYE	2015	2016	2017	2018	2019
<b>Beginning Balance</b>	6.2	7.5	7.0	4.3	4.2	4.4	4.7
<b>Total Revenues</b>	72.4	72.9	78.3	85.4	89.9	94.5	98.2
<b>Total Expenditures</b>	74.1	73.4	81.1	85.5	89.7	94.1	97.9
<b>Ending Balance</b>	4.5	7.0	4.3	4.2	4.4	4.7	5.1

---

## Monthly Residential Fee

---

Equivalent Residential Unit	\$9.20	\$9.20	\$9.80	\$10.55	\$10.95	\$11.35	\$11.6
-----------------------------	--------	--------	--------	---------	---------	---------	--------

---

Another surprise that awaits utility ratepayers is the hidden “urban rail utility relocation charge” that will be added to water and electric bills if the rail bonds pass in November. I just happened to hear about that while watching a joint City Council and Capital Metro Board meeting. In order to trim the cost of the rail and road bonds to an even \$1 billion, they announced a plan to “reduce the cost” of relocating utility pipes and lines along the route by “sharing” those costs with the Water Utility and Austin Energy.

As for the drainage utility fee, it is important to note that it adds up to really big dollars. The City’s Watershed Protection Department is funded by that fee. You can read the details about that department and its funding [in this report, on pages 55-57](#). Before the lawsuit, its revenues were projected to surge from \$72.4 million to \$98.2 million over the next five years.

If anyone doubted whether affordability is a legitimate issue in Austin, just stay tuned. There are only so many ways that the City can shift money around in the budget and inch up fees before the public absorbs all that they can afford to pay. That’s because every other kind of tax and fee besides the ones in Austin are also going up, while salaries, wages, and pensions remain flat for tens of thousands of Austinites. Retired teachers and State employees have not received a cost of living increase since 2001.

Some of the older folks might be thinking that they’ll kick the bucket one of these days and no longer have to worry about it. They should have some sympathy for the family members they will leave behind. Last year the City Parks & Recreation Department jacked up the cemetery fees 30% or higher, depending on the type of burial that you have in mind. [You can check out those fee increases here](#).

---

---