

"I know of no safe depository of the powers of society but the people themselves." ... Thomas Jefferson

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### ROSEVILLE HELD IN CONTEMPT OF COURT

*Roseville  
guilty*

Judge Joe O'Flaherty, Placer County Superior Court, on August 5, 2003, ruled that the City of Roseville was guilty of contempt of court. Roseville collects a 4 percent in-lieu of franchise fee on each ratepayer's monthly water, sewer, and refuse collection service which was held to be illegal. The city, by a prior ruling, was ordered to cease the imposition and collection of the fee as of July 1, 2000. Judge O'Flaherty determined that the city had violated the court's writ of mandate by continuing to impose and collect the fee.

*Bad legal  
advice.*

Upon advice of the city attorney, the city council was told that collection of the fee was permitted and the fee continued to be collected. That was bad legal advice. Notwithstanding the bad advice, members of the council should have known that the fee could be collected only if it was part of the cost to provide the service.

*Hiding money*

To hide the money from the public, the city renamed the fee Right-of-Way Rehabilitation fund in the Fiscal Year 2002-2003 budget and in the Fiscal Year 2003-2004 budget named it Utility Impact Reimbursement fund. When the fund names changed, the charge stayed the same -- 4%, embedded in the rates and hidden from ratepayers. The fee is not for utility services.

*Utility  
study?*

City staff maintains that it has a study that will show the need for the fee as part of providing utility services because garbage trucks impact the roads and streets are torn up to replace/repair water and sewer pipes. The study has been in process for years and is yet to be produced. Of course, the city will get the best study money can buy. Intuitively, the study will show that our utilities -- water, sewer, and refuse collection -- impact the road system. The question is: Does each utility impact the roads to the same degree? The answer should be: They do not! The fee charged should then be part of the utility bill and placed in the appropriate fund, not in one fund. The city should bill the utility for the cost of road repair it damaged.

*Looking at  
four walls.*

What the city cannot do is to collect a fee hoping that the money collected will coincide with the study outcome. The court ruled that the city CEASE imposing and collecting the fee as of July 1, 2000. The city did not comply with the order. The court will determine an appropriate remedy on September 15, 2003. As Judge O'Flaherty said during the court hearing, "...this is a serious matter. Someone could be looking at four walls".

### HOWARD JARVIS TAXPAYERS ASSOCIATION -- YOUR THREE-TIME WINNER

*Fighter in  
your corner.*

A wonderful non-profit organization, the Howard Jarvis Taxpayers Association (HJTA) has won three lawsuits on your behalf. The In-Lieu Franchise Fee, April 2000; utility User's Tax October, 2001; and In-Lieu Franchise Fee contempt of court, August 2003. They were long hard fights with the city employing the best attorneys your taxpaying money could buy. They drug out the suits with numerous court filings and postponements getting paid to do so while the city collected

*Roseville entered into a bad state retirement program without adequate research and must pay \$7 million to cover the huge salary increases given management staff. A real eye opener since it is not the Utility User's Tax that will reduce services.*