

From: [Jacob Patterson](#)
To: [Whippy, Isaac](#)
Cc: [City Clerk](#)
Subject: Public Comment 2 -- Re: Notice of Public Hearing for the Fort Bragg City Council Meeting on Monday, June 9, 2025, at 6:00 PM
Date: Tuesday, June 3, 2025 1:18:44 PM

City Council [via BCC],

After some back-and-forth, I was finally able to review the detailed calculations for the proposed monthly fiber rates--I am still waiting on more detail for the legacy MCN fees and rates. I am pleased to say that I find the documentation for the proposed new fiber rates to be both reasonable and adequate to proceed so please ignore my earlier comment even though it was accurate based on what I had access to at the time. (That said, in the future, it would behoove the City to have all the supporting documentation available and ready to provide to anyone who requests it before the public hearing notice goes out.) I assume that the legacy MCN rates and fees will probably be justified too since they are based on actual past data rather than projections from our business plan for the new services. I have high hopes for this exciting new service and will be an early subscriber to convert the legacy MCN services at my house to our new high-speed fiber (all the better to stream our City meetings from my home office).

Best regards,

--Jacob

On Mon, Jun 2, 2025 at 1:45 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Isaac (& City Clerk for the record),

Before I get into the substantive concerns, this public hearing notice is not accessible and violates the ADA because OCR has not been added to the PDF so screenreader software can't read its contents. The City is required to provide all documents for public meetings in an accessible manner, meaning anyone trying to access the document has a way to read the content (or listen to it through screen reader technology). I had to OCR the public hearing notice myself. This should be corrected and always implemented going forward.

Regarding the substance of the proposed fee updates, I've looked at the spreadsheets that purportedly support the proposed fees for the broadband utility and they don't contain any calculations, instead they are just numbers entered into the fields. These records are nothing more than a price list, not the underlying calculations, which are legally required, btw. I suspected this might not be handled properly based on the City's past issues with updates to the fee schedule and I wasn't wrong, this is concerning. Fees need to be based on something, not just be made up. The supporting documentation that is supposed to be available for public review must answer the following questions. How did we get to these numbers? How did the various amounts get calculated?

We are required to have more data than this to establish fees for services. The notice recognizes this but it was issued without what it says will be made available (aka "At [sic] Pursuant to applicable law, at least ten (10) days prior to the public hearing, data indicating the cost or estimated cost of providing the services for which the fee is proposed, along with

the anticipated revenue sources, will be made available to the public for review" but no such data has been provided. Is this an oversight or does it not actually exist? For example, the fee structure needs to show that the monthly different tiers are based on the cost of providing the service, not just our revenue targets (or however we came up with these numbers). Each tier doesn't need to directly correspond to the cost of providing that specific level of service to that tier's customers but the overall revenue projected to be collected from the ratepayers as a whole needs to not exceed the cost of providing the service. These projected costs should have been calculated when we developed the business plan and applied for the loans to pay for the project. We have ongoing operating costs, debt service costs, and reasonable capital reserves. Where is this data and where are these calculations? For our water and sewer rates, we literally run projected expenses over a rate study time period and then calculate the fees based on generating enough revenue to cover the operating expenses as well as reserves for maintenance and future capital projects. That involves a lot more analysis and calculation than simply writing a price list. A broadband utility is not a water or sewer service but it is still bound by similar legal requirements when it comes to establishing fees for service and utility rates. I expected to see those calculations as part of the information available for this scheduled fee hearing but, alas, it doesn't appear to be available. Did Isaac just accidentally omit the supporting calculations? If so, please forward the relevant documents ASAP. If they don't exist, then the City has a big concern that will likely prevent us moving forward with the proposed fee updates at this time.

I recommend the City cancel this public hearing until you can run a compliant rate study for the new utility. We have plenty of time before any services will be able to be provided anyway. Alternatively, you could proceed but just with the rates for the existing MCN customers we are taking on and wait in the broadband. I am not even sure this is the proper way to go about establishing our fees and rates. We don't have our water and sewer rates in our fee schedule, we have cursory fees for things like the physical water connections or inspections, special equipment use, and connection fees. The rates for water and sewer services are in a separate document that went through a different process. I assume that other process would also apply to broadband customer rates as well, although it would require some legal research for me to state that with any certainty. Our fee schedule should contain line items for tertiary fees like broadband connections fees (if any) or service calls for existing customers, as well as account deposits, etc. If we want it to also contain the monthly service charges for basic internet service, we need to have a rate study to establish those rates and no such study is yet available.

Actually, I don't think we have enough data yet to even run a rate study. For existing MCN customers, we should at least have their past rate studies that they used to come up with the existing rates and fees. Where is that and have we evaluated it for accuracy as well as legal adequacy? If not, we need to before trying to adopt it ourselves. The "existing" fees (at Mendo Unified) that I assume we are merely proposing to carry forward to our fee structure must have been calculated with something. (I should say they should have been; I don't know if their process was legally compliant and I wouldn't be surprised if it wasn't. We can't assume their work was justifiable and need to have the supporting calculations before we try to enact comparable fees for the customers we are taking on as part of the acquisition.) Even if the City hasn't evaluated Mendo Unified's calculations, I expect to be able to and that data should have been made available as part of my request to review the data mentioned in the public hearing notice.

If the City proceeds with this non-compliant effort, the entire utility's ability to operate and

bill for services will likely be undermined. As it stands now, this proposed fee update is not legally adequate, IMO, and the City is well-advised to correct the errors and omissions before proceeding. This cannot be done and still hold the public hearing on the 9th because the data and analysis need to be made available for the full ten-day public review period. As such, the hearing must be rescheduled until after the supporting data and analysis have been generated.

Regards,

--Jacob

On Mon, Jun 2, 2025 at 11:52 AM Whippy, Isaac <iwhippy@fortbraggca.gov> wrote:

Jacob,

Please see the attached spreadsheets for the Fees.

From: Jacob Patterson <jacob.patterson.esq@gmail.com>

Sent: Monday, June 2, 2025 10:13 AM

To: Whippy, Isaac <iwhippy@fortbraggca.gov>

Subject: Re: Notice of Public Hearing for the Fort Bragg City Council Meeting on Monday, June 9, 2025, at 6:00 PM

Thanks, that is easiest. I am surprised you even have the necessary data to be able to compute the fees and am not sure why there are fees associated with this anyway. Rates for utility services aren't included in the fee schedule and secondary costs for things like hookups are supposed to be covered by the utility. I guess there could be a customer service charge for unusual service visits or something.

On Mon, Jun 2, 2025 at 9:44 AM Whippy, Isaac <iwhippy@fortbraggca.gov> wrote:

Sure- i can email it over. Please look for an email before noon today.

From: Jacob Patterson <jacob.patterson.esq@gmail.com>

Sent: Monday, June 2, 2025 9:02 AM

To: Whippy, Isaac <iwhippy@fortbraggca.gov>

Subject: Re: Notice of Public Hearing for the Fort Bragg City Council Meeting on Monday, June 9, 2025, at 6:00 PM

You can't just email me the spreadsheet(s)? It would be easier to do that since I would need to review the electronic file and that requires a computer, which someone would have to set up in the conference room. If not, I will come in later this morning. Probably around 11:00 or 11:30.

On Mon, Jun 2, 2025 at 8:38 AM Whippy, Isaac <iwhippy@fortbraggca.gov> wrote:

Thank you for your email, Jacob. Please let me know when you would like to come in

to review the fees?

From: Jacob Patterson <jacob.patterson.esq@gmail.com>

Sent: Thursday, May 29, 2025 3:29 PM

To: City Clerk <cityclerk@fortbraggca.gov>; Whippy, Isaac <iwhippy@fortbraggca.gov>

Subject: Fwd: Notice of Public Hearing for the Fort Bragg City Council Meeting on Monday, June 9, 2025, at 6:00 PM

Isaac or Diana,

Pursuant to this public hearing notice, I would like to review the supporting calculations and analysis for the fee schedule update as is my usual practice. As noted, this information is required to be made available for 10 days prior to the meeting. Can it be emailed to me or do I need to come in and review it in person? I need the spreadsheets with the actual calculations so I can review any formulas, etc., not just a list of the proposed fees themselves or a PDF print of the calculations spreadsheet. I'd like to review these documents starting tomorrow.

Thanks,

--Jacob

----- Forwarded message -----

From: City of Fort Bragg, CA <CityofFortBragg@public.govdelivery.com>

Date: Thu, May 29, 2025 at 2:59 PM

Subject: Notice of Public Hearing for the Fort Bragg City Council Meeting on Monday, June 9, 2025, at 6:00 PM

To: <jacob.patterson.esq@gmail.com>

Notice of Public Hearing for the Fort Bragg City Council Meeting on Monday, June 9, 2025, at 6:00 PM

Post Date: 05/29/2025 2:57 PM

NOTICE IS HEREBY GIVEN that the Fort Bragg City Council will conduct a public hearing at a regular meeting to be held at 6:00 p.m., or as soon thereafter as the matter may be heard, on Monday, June 9, 2025, at Town Hall, southwest corner of Main and Laurel Streets (363 N. Main Street), Fort Bragg, California 95437. The public hearing will concern the following item:

- **Proposed Resolution Adopting Revisions to the City's Fee Schedule for Municipal Broadband Utility** [Public Hearing Notice can be found here](#)

SE NOTIFICA que el Ayuntamiento de Fort Bragg celebrara una audiencia publica en sesion ordinaria a las 18:00 h, o tan pronto coma se trate el asunto, el lunes 9 de junio de 2025 en el Ayuntamiento, esquina suroeste de las calles Main y Laurel (363 N. Main Street), Fort Bragg, California 95437. La audiencia publica tratara el siguiente tema:

- **Propuesta de Resoluci6n que adopta revisiones a la escala de tarifas de la ciudad para el servicio municipal de banda ancha** [El aviso de audiencia pública se puede encontrar aquí.](#)

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This email was sent to jacob.patterson.esq@gmail.com using govDelivery Communications Cloud on behalf of: City of Fort Bragg, California · 416 North Franklin Street Fort Bragg, CA 95437



Paoli, Diana

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Saturday, June 7, 2025 10:48 AM
To: City Clerk
Cc: Whippy, Isaac
Subject: Public Comment -- 6/9/25 CC Mtg., Item No. 7D, Broadband Fees

City Council & Staff,

Not to bang on a familiar drum, but updates to the fee schedule, particularly brand new fees that didn't exist before, require a lot of supporting analysis. For the most part, that analysis exists for the proposed fees, including for the fees and rates associated with our new fiber internet service that is being built out now. However, some of the legacy MCN rates and fees do not appear to have adequate support. Moreover, the issue is not a lack of analysis, the issue is the analysis provided demonstrates that a subset of the proposed fees and rates are excessive and thus not legally justified. As a public entity, we cannot charge fees and utility rates that far exceed the cost of providing those services. Basically, we can't make excess profits from these fees and rates but the analysis shows that is exactly what we expect to happen related to two service lines: email accounts and web-hosting.

I reviewed all worksheets in all of the documents Issac provided to me during the public review period leading up to this public hearing and, although there is adequate and appropriate support for the new fiber monthly rates, there isn't comparable support for all of the legacy MCN fees and rates. In particular, the Email and WebHost Domain worksheets show huge excess profits and all the other service lines have modest net profits per customer, which supports the rates and fees associated with those services. The list of proposed fees associated with legacy MCN services using existing infrastructure includes 21 line items associated with email accounts and 48 line items associated with WebHost domains (assuming the two Wifrost line items are web-hosting related). IMO, none of those fee line items have adequate support for us to adopt them without significantly reducing the proposed fees. The Email worksheet shows the projected revenues but there is no cost information other than a single annual line item of \$6,600.00 that isn't explained. Based on the revenues for email, there are \$6,600.00 in costs and net profits of \$186,012.00. If that is accurate, any email-related fees MCN is charging that generate all that profit are obviously excessive and not tied at all to the cost of providing the services so we can't just carry them forward as our own fees and rates. (You don't need to be a lawyer to understand that is legally problematic.) The WebHost Domain worksheet is similar, showing huge excess profits of \$123,960.00 (or \$10,330.00 monthly).

Based on the fact that we need a significant subsidy from the legacy MCN revenues to even break even for the new fiber service, there is an issue because we are collecting far in excess of the costs to provide the legacy MCN services even if the rates for the new fiber services are justified and have a reasonable relationship to the costs of providing that service. Clearly, the legacy MCN fees and rates for email and web-hosting are excessive based on the detailed cost breakdowns. Think of it this way--this is just a hypothetical, not the real scenario--we can't make a huge profit from our sewer enterprise to cover the revenue shortfalls from the water enterprise even though we bill them together. That is not perfectly analogous because water and sewer are two different enterprises and the legacy MCN services will be in the same enterprise as the new fiber services but there still has to be a reasonable relationship between the broadband enterprise's particular rates and fees to the cost of providing the relevant service. When looking at the available data for the different service lines in legacy MCN, that reasonable relationship is only demonstrated for the service lines and their fees, not all of them... hence the significant excess revenue (aka profit) that we would need to use to subsidize the new fiber services. This is problematic because there is little connection between these two service lines. They are offered to different customers as alternatives to each other and use completely different infrastructure. In fact, only management overhead costs will be connected between the legacy and new service lines.

In general, permissible revenue generation beyond direct operating expenses can only cover depreciation expenses and develop reasonable reserves for future maintenance and capital improvements. That is in a normal situation where a service is going to be an ongoing concern in the long term. Here, we have a legacy service that is going to be phased out in the near term and it won't involve significant additional capital investments or even significant maintenance expenses. (Even the depreciation expenses arguably aren't fully justified because the depreciated equipment isn't going to be replaced.) Basically, the legacy MCN services other than the email and web-hosting, coincidentally the two service lines that would generate excessive revenues and profits, have no significant future capital needs and the web-hosting and email don't either so there is no justification to charge exorbitant fees and rates to try to build up capital reserves that won't be used for anything.

To summarize, if the documents provided to me are all we have, I think there is an issue with the proposed rates and fees associated with email and web-hosting and the relevant/corresponding rates and fees should be recalculated before we try to adopt them. Unfortunately, that may create financial issues for the utility overall since we wouldn't have the full surplus \$309,972.00 to help subsidize the early year shortfalls for the new fiber services but that isn't a reason to try to ignore the legal requirement that fees and utility rates cannot generate excess revenues and profits and must be limited to the cost of providing the particular services. I wonder if staff even got a legal opinion regarding carrying forward the legacy rates and fees that involved this level of specificity. I suspect not. The legality of government operated utility rates and fees is not necessarily anything the M&A legal counsel or underwriters would have considered as part of the due diligence process and Jones & Mayer frequently doesn't appear to dig into the weeds when we have agenda items like this one, which implicate complex areas of public law and a lot of detailed fact-dependant analysis--I had to go through many workbooks and data fields in the supporting spreadsheets and I suspect none of these documents have been reviewed by legal counsel for the purposes of reviewing the legal adequacy of the proposed fees. Frankly, it would be extremely expensive to pay for the number of billable hours necessary to do that but my time is my own so I had the time to do so.

Regards,

--Jacob

Fort Bragg Internet Users Against Excessive Fees

Comment on Fee Schedule Public Hearing, Item # 7D, 6/9/25 City Council Meeting

Date: June 9, 2025

To: Fort Bragg City Council

From: David Childs, President

CC: Isaac Whippy, Fort Bragg City Manager; Jacob Patterson

City of Fort Bragg
Received

JUN 9 2025

2:10 pm

Fort Bragg Internet Users Against Excessive Fees is an unincorporated association of local internet users who are customers of MCN or expect to be customers of the new fiber internet utility being created by the City of Fort Bragg. While we support your effort to bring gigabit-speed internet services to Fort Bragg, we are concerned that the proposed monthly rates and fees for existing MCN customers who are being transitioned over as part of your acquisition of MCN will be overcharged for some of those services. As noted in other comments, the fees for email and webhosting services appear to far exceed the cost of providing those services with a projected annual surplus of over \$300,000 from those two service lines!

We must object to the proposed fee schedule items for email and webhosting because of those excessive fees and rates. As MCN email account holders, we don't think we should be paying too much for our email accounts so you can subsidize your new fiber start-up when we won't benefit at all from that other service. This is particularly true for those of us who live outside the city limits and won't have the option of switching over to the new fiber internet and are stuck with our current MCN services. The same is true for webhosting customers. Why should email and webhosting customers effectively subsidize the lucky customers who get to access this new gigabit-speed internet when we don't have any related benefits? Please remove these excessive fees before you adopt the other updates to the fee schedule.

Stop the Steal!

Paoli, Diana

From: Annemarie <aweibel@mcn.org>
Sent: Monday, June 9, 2025 3:37 PM
To: Paoli, Diana; Peters, Lindy; Albin-Smith, Tess; Rafanan, Marcia; Godeke, Jason; Hockett, Scott; Whippy, Isaac
Subject: please vote no on the MOU with the railway, public comment item 8A

Dear City Council members,

I am involved with another meeting at the same time that is why I am writing to you. It took me all this time to read all the documents and highlight them, but now I am running out of time to respond to all the issues that were brought up.

I have attended City meetings off and on and commented on issues all along for the last 20 years.

This agenda item lists: Consider Adopting a Resolution Accepting the Mill Site Development Strategy Report and Directing City Manager to Initiate Phase 2 of the Master Development Agreement Planning Program; CEQA Exemptions 15265 and 15061(b)(3)

Looking up CEQA Exemptions 15061(b)(3) I understand that 15061(b)(3) The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

I understand that voting in favor of a MOU with the Skunk Train without giving the public enough time (5 days) to study the agenda, resolution, 59 pages EPS draft report and not truly listening to the public that has been involved with this project for 20 plus years is premature. it should not be exempt from CEQA as the issue about the toxins has not been addressed. To move on now without having any guarantees that the toxin issue will be properly addressed does not give the community hope that it will ever be addressed. And shipping it to Kettleman City where babies of undocumented Hispanic workers die due to the toxins is not a solution either.

I agree with all the public comments you received so far and also agree with the comments by Peter McNamee of Fort Bragg addressed to the editor of the AVA which questions the legality of making land use decisions in closed session (abbreviated version). "The full justification for the Fort Bragg City Council putting off resolution of its lawsuit with Mendocino Railway in the courts, in order to negotiate a master development agreement for the Fort Bragg headlands with the railway, was never transparently vetted with the public. And while its legal for city councils to make decisions about litigation in closed session, it is not legal or morally acceptable to make land use planning decisions in closed session.

The City Council's decision to make decisions in closed sessions has exposed the City on multiple fronts to added risk of legal & financial liability.

Equally troubling, hiding the deliberations regarding land use planning from the public, undermines the public's faith in the integrity of City Officials and the Council. Land use decision making must be done in public with full transparency, and determinations of law should be made by the courts. More than six months into these secret discussions and the public has no way of knowing what is being discussed or what the impacts may be on the community".

In your resolution you write that "Appropriate environmental studies will be completed when the binding Development Agreement is presented to the Council at a future public hearing". This is not what the public wants to hear.

I attended the DTSC meeting when they wanted to pull out as their senior scientist was retiring. The community will not allow you to postpone the key issue now. The EPS draft report did not mention the dam. Not all wetlands are mapped now.

That needs to be done now. On page 39 there was only mention of "Allow for daylighting of Maple Creek. (2019)" Why not Alder Creek?

Please vote no on the MOU with the railway and if you can not agree to that, ask for an extension to allow that the public to tell you their reaction to all this information. Please schedule a meeting with the public. 5 days is not enough time!

Sincerely, Annemarie Weibel