

STAFF REPORT

F-11



THE CITY OF
NOVATO
CALIFORNIA

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MEETING
DATE: May 8, 2007

TO: City Council

FROM: Joseph M Kreins, Chief of Police

SUBJECT: **AMENDMENT TO THE FEE RESOLUTION**

REQUEST

Consider adopting resolution to amend Fee Resolution #48-06 and approve the following proposed fee changes:

- a. eliminate fee for release of crime reports
- b. increase fee for release of collision reports from \$15 to \$20.

RECOMMENDATION

Adopt resolution.

DISCUSSION

The Police Department currently charges \$15 for crime and collision reports. Fees were increased from \$10 to \$15 for both types of reports, as part of the citywide fee study that went into effect in September 2006. The Citywide fee study gave us the 'actual' cost of providing a report; however the California Public Records Act and case law provides only for the 'direct' cost.

California Government Code Section 6254(b) applies to fees charged for crime reports and states the fee should cover the *direct costs of duplication*. Recovering the 'direct' cost of providing a crime report is negligible. Collecting small change would require Police Department to make receipts for miniscule amounts and to maintain and manage vast amounts of coin change. Our Records Supervisor estimates the average length of crime report information released to victims is two (2) pages. The direct cost is less than one cent per page (or one 16th of a cent) computed below:

- .01035 per page - includes: service, parts, labor, and supplies (excluding paper and staples)
- .006 cents per sheet of paper.

It is possible the Department could charge ten cents (.10) a page, citing precedence in *North County Parents Organization vs. Department of Education*; however, the same issues with providing change

pertain. In the 1990's, *North County Parents Organization vs. Department of Education*, parents went to court claiming the Department of Education's twenty-five cents (.25) per page fee was excessive and that Section 6253(b) GC permits a fee only for the 'direct' costs of duplication. The court ruled that 6253(b) GC excludes 'indirect' costs of duplication and set the reasonable fee at ten cents (.10) per page. This decision has been adapted sporadically throughout the state and not at all in Marin County. However, if Police Department fees were legally questioned, direct costs would prevail in a court of law.

California Government Code Section 6254(f) says that police investigations (crime reports) are confidential but provides an exemption for crime victims. Therefore, almost 100% of the crime reports we release are to victims or their representatives. Suspects have no statutory entitlement, as their reports are confidential police investigations and arrested persons get their reports from the District Attorney, as part of the legal process.

The Department does not charge victims of ID Theft and Domestic Violence, as proscribed by statute; next-of-kin in death reports and people claiming indigence, as compassionate gestures; 'Counter Reports' (people self-reporting); and those who report electronically. Continuing to charge the victims who cannot report electronically appears inequitable. Since almost 100% of requested crime reports are released to victims, eliminating the fee is both sensible administratively (does not significantly reduce revenue) and is good public relations (avoids re-victimizing the victim). Because police record release procedures have been the recent focus of public scrutiny, we recommend eliminating the crime report fee.

A different statute, Vehicle Code Section 20012, governs collision reports. It specifies information be 'released without prejudice,' (meaning all parties receive the same information) and a fee *shall not exceed the actual cost of providing the copy*. The Citywide fee study determined our 'actual' cost is \$31.67. The Department recommended a smaller five-dollar increase from \$10 to \$15. The City set the fee at \$15. The Department recommends another incremental increase, from \$15 to \$20. This is closer to the actual cost of collision reports and will offset the revenue loss for crime reports.

FISCAL IMPACT

By increasing collision report fees to \$20 and eliminating crime report fees, projected 07/08 revenue would be \$15,000, which is a slight decrease from projected 06/07 revenues of \$16,395. Prior to FY 06/07 the revenue for police reports averaged \$10,930.

We do not have an exact breakdown of collision versus crime report requests but we estimate 740/343 respectively, a ratio of 4 to 1.

Last 4 Years	All Requests	Cost of Report	Revenue
2003	1,208	\$10	\$12,080
2004	1,193	\$10	\$11,930
2005	1,080	\$10	\$10,800

Last 4 Years	All Requests	Cost of Report	Revenue
2006	891	\$10 (9months)	\$11,137
Past Average	1,093	\$10	\$10,930
Current Average	1,093	\$15	\$16,395
07/08 Projections	Request Types		
Collision Requests	750	\$15	\$11,250
Collision Requests	750	\$20	\$15,000
Crime Requests	343	\$0.20	\$68.60

ATTACHMENTS

1. Resolution
2. California Government Code Sections 6254(f) and 6253(b)
3. Vehicle Code Section 20012

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1.

CITY COUNCIL OF THE CITY OF NOVATO

RESOLUTION NO. _____

RESOLUTION AMENDING THE FEE SCHEDULE OF
RESOLUTION NO. 48-06, FOR CITY PUBLICATION, PERMITS,
SERVICES AND FACILITY USE

WHEREAS, the City of Novato desires to have all charges for publication, permits and services reflect the current actual cost of providing those services and to update these charges annually; and

WHEREAS, the California Government Code authorizes the Cit to levy fees for services, provided that the fees do not exceed the estimated reasonable cost of the service; and

WHEREAS, the City Council adopted Resolution No. 48-06 setting various fees for various activities, services and permits; and

WHEREAS, for reasons stated below, the Police Department crime and collision report set at \$15 each by Resolution No. 48-06 need to be amended; and

WHEREAS, the Police Department currently charges \$15 for crime and collision reports. The 2006 Citywide fee study gave us the **'actual'** cost of providing a report; however the California Public Records Act and case law provides only for the **'direct'** cost; and

WHEREAS, California Government Code Section 6254(b) applies to fees charged for crime reports and states the fee should cover the *direct costs of duplication*. Recovering the **'direct'** cost of providing a crime report is negligible. Collecting small change would require Police Department to make receipts for miniscule amounts and to maintain and manage vast amounts of coin change. The average length of crime report information released to victims is two (2) pages. The direct cost is less than one cent per page (or one 16th of a cent) computed below:

- .01035 per page - includes: service, parts, labor, and supplies (excluding paper and staples)
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WHEREAS, California Government Code Section 6254(f) states that police investigations (crime reports) are confidential but provides an exemption for crime victims. Therefore, almost 100% of the crime reports we release are to victims or their representatives. Suspects have no statutory entitlement, as their reports are confidential police investigations and arrested persons get their reports from the District Attorney, as part of the legal process; and

WHEREAS, a different statute, Vehicle Code Section 20012, governs collision reports. It specifies information be 'released without prejudice,' (meaning all parties receive the same information) and a fee *shall not exceed the actual cost of providing the copy*. The Citywide fee study determined our **'actual'** cost is \$31.67. The Department recommended a smaller five-dollar increase from \$10 to \$15. The City set the fee at \$15. The Department recommends another incremental

increase, from \$15 to \$20. This is closer to the actual cost of collision reports and will offset the revenue loss for crime reports.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Novato does hereby resolve as follows:

The fee schedule is hereby amended to:

- a. eliminate fee for release of crime reports
- b. increase fee for release of collision reports from \$15 to \$20.

The increase in fees as stated above shall become effective 60 days after the date this resolution is adopted by the City Council.

Other than as expressly amended herby, Resolution 48-06, and its appendices as adopted, shall remain in full force and effect.

Furthermore, the City Council establishes as City policy that all fee increases, with the exception of those fees which have set escalator per a separate agreement, shall be indexed to a percentage increase in Citywide expenses or labor costs.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the ____ day of _____, by the following vote, to wit:

AYES: Councilmembers
NOES: Councilmembers
ABSTAIN: Councilmembers
ABSENT: Councilmembers

City Clerk of the City of Novato

RELATED CODE SECTIONS:

Section 6253 CGC. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of **fees** covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

Section 6254(f) CGC Records of complaints to, or investigations conducted by, ... local police agency, ... shall disclose ... **to the victims of an incident**, or an authorized representative thereof, ... unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Section 20012 CVC. All required accident reports, and supplemental reports, shall be **without prejudice** ... to, the driver or drivers involved, or the guardian or conservator thereof, the parent of a minor driver, the authorized representative of a driver, or to any named person injured therein, the owners of vehicles or property damaged thereby, persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident, and any attorney who declares under penalty of perjury that he or she represents any of the above persons. A request for a copy of an accident report shall be accompanied by payment of a fee, provided **such fee shall not exceed the actual cost of providing the copy.**

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