After 7 years of waiving a franchise fee charged to every other PUC-regulated utility company operating in Shady Cove, the City Council unanimously decided to charge Shady Cove Waterworks/Hiland Water a 5% fee agreed upon by the City and Shady Cove Waterworks in their 2013 Right-of-Way Agreement.

As a result, Hiland Water has sent customer letters with misleading statements and retaliatory threats to turn off fire hydrants in the City. These letters are intended to trigger hostility toward City of Shady Cove and its elected officials. To answer questions posed by Hiland Water customers and provide clear, accurate information to the citizens, these are the facts concerning water availability in Shady Cove:

In November 2013, the City of Shady Cove signed a “Right-of-Way Occupation and Use Agreement” granting Shady Cove Waterworks, LLC, non-exclusive authority to occupy city right-of-way (ROW) and establishing conditions and compensations regarding right-of-way occupation, use, and construction.

* The agreement was for a period of 10 years.
* The compensation to the City was 0% of gross revenue derived from within the city limits. At any time during the term of the agreement, the City could elect to increase the franchise fee not to exceed 5%.
* The City is required to provide written notice to the Shady Cove Waterworks and notice is effective when a registered or certified mail receipt is returned indicating delivery.
* The fee increase becomes effective 60 days after the City has provided notice.

In 2016, City of Shady Cove **gave Hiland Water $13,000** to install fire hydrants in the downtown area. In 2017, City of Shady Cove **gave Hiland Water $84,000** to install larger water lines to accommodate fire hydrants and other uses in the downtown.

At the February 21, 2019 Shady Cove City Council Meeting attended by Silas Olson of Hiland Water, the Council directed staff to prepare an amendment to the ROW Agreement requiring Hiland Water to pay a 5% franchise fee. Shady Cove collects franchise fees from public utility companies who use City owned rights-of-way and who are regulated by the Public Utilities Commission of Oregon. These companies include Pacific Power, Avista Utilities, Southern Oregon Sanitation, Rogue Valley Sewer, communications companies and other utility companies who typically pay fees higher than 5%.

In January 2020, when Hiland Water sent a letter notifying customers of a rate increase, City Council became aware that no franchise fees had been paid by Hiland Water. When contacted regarding the matter, Hiland Water stated that the proper notification process was not followed. Hiland Water was then notified by registered letter and Shady Cove received a mail receipt dated March 12, 2020 making the franchise fee effective May 12, 2020.

The “other water utilities” that Hiland Water believes should “receive equal treatment” are *small, non-profit, cooperatively-owned* water systems with which the City *has no right-off-way agreements* and which *are not regulated by the Public Utilities Commission of Oregon.*

Water wells and river water are regulated by the Oregon Water Resources Commission who charges fees for drilling wells and for river water rights. Fees for yearly usage of river water are charged by the U. S. Bureau of Reclamation**. Shady Cove has no authority to charge for either well water or river water.**

Regarding construction of a municipal water system, in 2012, the City of Shady Cove proposed a water system to the voters who turned the initiative down for the third time. City Council, the City Administrator and a group of citizens worked for months to gather information and present a proposal to the citizens of Shady Cove. Funds were available from state and federal grants and low-interest loans with additional funds coming from property taxes and usage fees. The final vote was 65% no and 35% yes. After this third attempt, the City took that as a clear message that continuing to bring the opportunity for a municipal water system to the citizens of Shady Cove was wasted effort.

If you have additional questions or concerns, please feel free to contact me at lrichardson@shadycove.org.