

Chapter 7

Mary Grant

A BEACON OF HOPE AT A TIME OF CRISIS? PURSUIT OF AFFORDABLE PUBLIC WATER IN BALTIMORE

During the early months of the Covid-19 pandemic, the public water system in Baltimore City, United States, took steps to ensure water access for households in the short term, but the mayor, citing the pandemic, used his emergency powers to delay legislation that would have provided lasting protections. In the face of delay, a coalition of labour, environmental, legal aid, housing and religious groups continued to work with the city council to put in place a comprehensive water affordability program and water customer advocate's office, necessary safeguards to ensure long-term access to water service for every person in the city. The Baltimore Right to Water Coalition has worked to advance a model of water justice: banning water privatization, stopping water shut-offs and tax sales of homes over unpaid water bills, and setting up a percentage-of-income water affordability program and an independent dispute resolution process. If implemented, it could provide a progressive public water model for other US municipalities.

INTRODUCTION

In March 2020, as Covid-19 began to spread like wildfire across the United States, reaching every state by month's end, many towns and cities took action to suspend water service shutoffs for non-payment (see Warner et al, this volume). Public water providers recognized the importance of water access for public health, with proper sanitation and handwashing necessary to help slow the spread of disease.

Baltimore City, Maryland, was one of only a dozen US cities that had a pre-existing policy against water shutoffs (Food & Water Watch 2020a), and had not disconnected water services to any household for non-payment since 2017 (Clemmens 2017, 2018). As a result, Baltimore did not have to rush to reconnect water service to homes, and instead could focus on providing other forms of support. On March 13, Mayor Jack Young reaffirmed this policy, announcing a joint executive order with the Baltimore County Executive to retain the water shutoff moratorium for at least the duration of the crisis:

It is critical that we ensure residents have all the essential resources and services they need to safeguard themselves and their families. All residents in the Baltimore region can be assured that their services will continue regardless of their ability to pay, while we continue to work through this public health crisis (WJZ 2020).

The Department of Public Works of Baltimore City also announced on March 19 that it would perform no cutoffs for any utility work except in emergencies, it waived all late fees and offered repayment plans to residents falling behind on their bills (2020a).

Baltimore City has not always had this protective policy. In fact, in 2015 it faced community protests against planned mass water shutoffs to 25,000 customers, an estimated 60,000 people, who were

behind on their bills (Broadwater 2015). At the time, the city offered a discount to senior citizens but it provided no support to low-income residents to help prevent them from falling behind on their bills (Food & Water Watch 2015).

COMMUNITY-LED GROUNDWORK FOR PUBLIC PROTECTIONS

This affordability crisis stemmed from skyrocketing water rates due to the city investing billions of dollars in necessary water and wastewater infrastructure, with little in the way of financial support from state or national levels of government. From 2000 to 2017, typical household water bills more than quadrupled, and by 2017, water bills were unaffordable for roughly one-third of households. In 2015-16, the city disconnected more than 6,600 homes for non-payment, affecting an estimated 16,300 people. In addition, from 2015 to 2017, the city sold liens to about 1,700 owner-occupied homes at tax sale because of unpaid water bills, with these households facing foreclosure if they could not repay the investors that bought the liens, plus interest and fees (Food & Water Watch 2017).

In 2016, to address these deep challenges, Food & Water Watch convened the Baltimore Right to Water Coalition, bringing together groups working on water access, housing, labour and social justice issues. The members include Jews United for Justice, the Public Justice Center, the Community Development Clinic at the University of Baltimore, Maryland Volunteers Lawyers Service, Pro Bono Resource Center, 1199SEIU United Healthcare Workers East, AARP Maryland, Homeless Persons Representation Project, the Baltimore Chapter of the National Association for the Advancement of Colored People and more than 32 other groups. Since its formation the Coalition has worked with the Baltimore City Council to address the longstanding issues of the water billing system and has won several policy changes that protect the public's access to safe and affordable water.

In November 2018, Baltimore City also became the first major

US city to ban water privatization. Seventy-seven percent of voters went to the polls and approved Ballot Measure E to declare the water system to be an inalienable asset of the city (Biron 2018), shutting down the efforts of French multinational Suez to take control of the city's water system with a 40- to 50-year lease concession scheme (Broadwater 2017). By preserving local control, the city retained the flexibility to address the needs of its residents by stopping water shutoffs and creating new programs to address affordability and accountability concerns.

The Baltimore Right to Water Coalition also supported efforts by State Senator Mary Washington and Delegate Nick Mosby to pass the Water Taxpayer Protection Act in 2019, stopping the practice of sending homes and places of worship to tax sale to collect unpaid water bills (Broadwater 2019). Later that year, the Baltimore city council passed the Water Accountability and Equity Act to establish a comprehensive water affordability plan and an Office of Water-Customer Advocacy and Appeals (Food & Water Watch 2020b). The groundwork laid through these efforts positioned the city well to handle the immediate water access concerns created by the Covid-19 public health and economic crisis.

COMMUNITY DEMANDS

As the Covid-19 crisis unfolded, the Baltimore Right to Water Coalition continued to work with the Baltimore city council to help create political space for the Department of Public Works to enact policies protective of water access. On April 1, 2020, the Coalition wrote to the mayor and the city council asking the city to take swift action to ensure universal access to safe and affordable water service during the emergency and beyond. In a letter signed by 43 labour unions, advocacy organizations, legal providers and religious organizations, the Baltimore Right to Water Coalition (2020a) asked that for the duration of state of emergency, and at least 120 days following its end, the city should:

- Continue to waive all late fees
- Eliminate certain fixed fees and waive usage charges for an essential amount of water consumption
- Delay a scheduled rate increase
- Allow all households that experienced lost income due to the pandemic and state of emergency to become eligible to apply for existing low-income assistance programs
- Ease the application process for low-income assistance programs
- Monitor for illegal utility shutoffs of renters by landlords
- Work to ensure timely implementation of the Water Accountability and Equity Act

On April 9, 2020, City Councilwoman Shannon Sneed urged the mayor's administration to go even further, calling for a water billing moratorium for 180 days. She recognized that water service was one of few essential services that were fully within the city's control, and as 15,000 Baltimore residents had already filed for unemployment at that time water bill relief would be the fastest way to provide financial help to residents. The letter was signed by eight of her colleagues, including City Council President Brandon Scott. In her announcement, she said:

Our neighbors are hurting. Our neighbors are not working. Baltimore residents have lost hours at work or lost their jobs altogether. Our business owners have lost sales or have completely closed down. It will take months for our families and businesses to recover, and we must look at every avenue possible we can to alleviate suffering. The city can provide water bill relief now and will help us focus on basic needs like food, medicine, and housing (Sneed 2020).

On April 15, the Baltimore Right to Water Coalition (2020b) delivered a second letter to the mayor, co-signed by 26 organizations, echoing the call of Councilwoman Sneed to provide water bill relief

and urging him to engage in a conversation with the city council about potential relief for Baltimore households.

ADDITIONAL STEPS TO PROTECT WATER ACCESS

A week after receiving the Coalition's second letter, the mayor announced additional protections for Baltimore households. On April 22, 2020, Mayor Young announced a new Emergency Covid-19 Discount, which extended existing water billing assistance to all water account holders who show proof of unemployment eligibility. This assistance, called BH2O Assists, reduced the water and sewer usage charges by 43 per cent and waived stormwater fees for a year (Department of Public Works 2020d).

The expanded assistance went into effect on May 8, 2020 and was scheduled to remain in effect through 90 days after the end of the state of the emergency, or December 31, 2020, whichever came first (Department of Public Works 2020d). The city also announced plans to make it easier to apply for its existing assistance program by launching an online application on May 8 (Department of Public Works 2020d).

Responding to the call of the Baltimore Right to Water Coalition, the city also announced a delay in a scheduled rate increase. Water bills were set to increase by roughly 10 per cent on July 1, 2020, but the mayor announced a three-month delay, pushing the effective date back to October 1, 2020 (Department of Public Works 2020g; Baltimore City Board of Estimates 2020).

SAFETY OF DRINKING WATER AND WORKPLACE PROTECTIONS

From March through June 2020, the Department of Public Works continued to assure residents about the safety of the city's drinking water. According to a March 19 announcement, the Department indicated that they had emergency plans in place to ensure high-quality water through the crisis, reassuring residents that the existing

filtration and disinfectant processes killed the coronavirus (Department of Public Works 2020a). The city emphasized the safety of the drinking water again in a frequently asked questions document released on March 25 (Department of Public Works 2020c). In June 2020, the city released its annual water quality report that informed residents that the drinking water met or exceeded all state and federal regulations (Baltimore City 2020).

With regard to workplace protections, in March 2020, following the advice from the US Occupational Safety and Health Administration and the Center for Disease Control, the Baltimore City Department of Public Works said that it provided personal protective equipment to all workers, encouraged good handwashing and reduced the number of staff working at the water treatment plants to help with social distancing. The department moved the additional workforce reserve to ensure sufficient staffing of the critical functions in the event of an outbreak (Department of Public Works 2020c).

Effective March 23, 2020, to protect the health of the public and its workers, the acting director of the Department of Public Works ordered all staff to work remotely and suspended in-person customer service, moving all payments to online and mail. It closed public access to the customer support and services walk-in centre, and suspended all water maintenance, construction and engineering projects except emergency and essential work (Department of Public Works 2020b).

The transition to telework was not without its problems. The city had to create a new process to bill customers and provide customer service remotely, which took several weeks to establish. As a result, water bills were delayed for part of March and all of April 2020. When billing resumed in May 2020, the water bills were larger than typical because they covered several months (Department of Public Works 2020d). In addition, many households likely saw increased water usage at home because of the state of Maryland's stay-at-home order. Because of the billing delay, the city mailed a

postcard to all city water customers to announce when water bills would resume and provide information that assistance is available (Department of Public Works 2020f).

Notably, in June 2020, although the water system workforce was unaffected, a serious outbreak of Covid-19 affected the Department of Public Works' workers at a recycling centre in the city. Fifteen sanitation workers tested positive, causing the city to suspend recycling for three weeks (Wenger 2020).

LONG-TERM SAFEGUARDS

“Clean and affordable water should have never been an issue for any Baltimorean. Period,” said Baltimore City Council President Brandon Scott at a city council hearing on April 30, 2020. “That is why the city council fought so hard, hand-in-hand, side-by-side, with the community, to get this piece of legislation passed. We know that we must do better” (Baltimore City Council 2020).

During the pandemic, the Baltimore Right to Water Coalition continued to call on the Department of Public Works to fully and promptly implement the Water Accountability and Equity Act, groundbreaking legislation which offered comprehensive solutions to the city's longstanding water billing and affordability problems, but needed to be put into action. The act had passed unanimously through the city council on November 18, 2019, and had been signed into law by Mayor Jack Young on January 13, 2020.

The Water Accountability and Equity Act had two key features:

1. The Water-for-All Affordability Program, which provides credits to cap water bills of low-income households at a level they can afford to pay based on their income on a sliding scale of 1 per cent of income to 3 per cent based on the federal poverty line.
2. The Office of Water-Customer Advocacy and Appeals, which provides a fair, neutral and accountable process for all customers to resolve their water billing problems.

Once put into action, the legislation would build on the Department of Public Works' existing assistance program by expanding coverage and credits to ensure that water service is affordable for all low-income households, and that credits matched the need of the household, making it a progressive model that dedicates larger credits to households most in need.

It will also provide a pathway out of water debt for low-income households. During this period of economic devastation, with record-breaking unemployment, many households will struggle to pay their bills even with assistance. And although the Department of Public Works has taken the progressive stance of suspending late fees and shutoffs, some customers are still falling into potentially crushing water debt. The department therefore also offers installment plans that allow households to repay their late bills over six to 12 months, depending on the size of the down payment (Department of Public Works 2020h). These repayment plans, however, can be a sizable burden for customers already struggling to pay their regular monthly bills. The Water Accountability and Equity Act addresses this issue by creating a pathway for households to resolve their existing water debt. When enrolled in the program, water debts will be deferred, so households will not have to make additional payments to repay the debt, and each on-time payment of their water bill will count toward repayment of their existing debt.

The new program will also provide support to far larger numbers of residents. The Department of Public Works' BH2O Assists program fails to reach a majority of city residents – that is, those who rent their accommodation. The existing program requires landlords to add tenants to the water account, which has been a significant barrier to assistance for many renters in the city (Shah 2020). The Coalition therefore continued to call for prompt implementation of the Water Accountability and Equity Act to address these outstanding problems and ensure that renters receive equal access to protections and assistance: “Even in this pandemic crisis, DPW [the Department of Public Works] has not lowered the hurdles

for renters,” said Zafar Shah of the Public Justice Center during a city council committee hearing on April 30, 2020.

The new emergency provisions for the BH2O was announced last week and all the language in DPW’s outreach and press for this emergency discount is about account holders.... Renters make up over half of households in Baltimore City and African Americans make up nearly two-thirds of those renter households, so let’s be forthright about who among us is going to be continued to be treated as second class when DPW doesn’t meet the July 13 deadline [to implement the Water Accountability and Equity Act] (Shah 2020).

The Water Accountability and Equity Act provides a clear legal process for tenants to receive assistance from the affordability program and to dispute their bills with the customer advocate’s office. It has forward-thinking protections, which proactively ensure that water bills will remain affordable for all households based on their income into the future, regardless of the expected annual rate increases. It will ensure that households across the city have access to affordable and accountable water service for generations.

“This law is designed to turn this agency around. It requires affordable rates, new ways to solve high-bill problems, a people’s advocate, and a public process for reforming DPW [the Department of Public Works],” said Jaime Lee, Associate Professor at the University of Baltimore School of Law and Director of its Community Development Clinic in January 2020 when the bill was signed into law. “Now, we need strong new leadership at DPW to robustly implement the law and to rebuild public trust” (Food & Water Watch 2020b).

KICKING THE CAN DOWN THE ROAD

The legislation gave the Department of Public Works and the mayor’s administration six months for full implementation – drafting

rules and regulations by April 13 and implementing the program fully by July 13 – but they failed to meet both deadlines, citing the pandemic as the cause. By the end of July 2020 (at the time of writing this paper), the Department had not even produced the draft rules and regulations. It did however release drafts for the customer advocate’s office on May 4 (Department of Public Works 2020e).

Following an implementation oversight hearing in April 2020, the acting director of the department sent a letter to the city council formally requesting a delay and change in implementing the bill (Garbark 2020). On June 22, 2020, the mayor’s administration filed an ordinance seeking to delay the bill by nearly a year. On July 9, 2020, Mayor Young signed an executive order to officially delay the implementation of the bill until 30 days after the end of the Maryland Covid-19 state of emergency, invoking emergency powers granted by the state governor (Young 2020).

“A decision to completely kick the can down the road is immoral and unnecessary,” said Molly Amster, Baltimore Director for Jews United for Justice, in response to this decision. “Many of the law’s requirements can and should be implemented right now. Baltimoreans need action from our Mayor and DPW [Department of Public Works] to have affordable and just water access during this pandemic – immediate implementation where possible and diligent work toward full implementation” (Food & Water Watch 2020c).

CONCLUSION

The Baltimore Right to Water Coalition recognized that proper implementation of the legislation was more crucial than ever because of the financial hardship of the pandemic. They continued to work with the Baltimore City Council on a timeline to implement the legislation so that the new programs will be strong and effective at meeting the needs of residents in the city.

Baltimore is not alone in facing a water affordability crisis. Across the United States, water bills are rising beyond what house-

holds can afford to pay. Other cities should meet this challenge by adopting the Baltimore model of water justice:

1. Ban water privatization
2. Stop the punitive collection measures of water shutoffs and tax sales of homes over unpaid water bills
3. Set up lasting protections through a comprehensive water affordability program with percentage-of-income payment plans and debt forgiveness, and through an independent customer advocate's office.

American towns and cities have the means to act quickly to address the needs of their residents, but the scale and scope of the water crises in the United States require nothing short of federal action. The United States Congress should act to address the dual threats of the nation's water affordability crises and the Covid-19 pandemic through relief legislation that centres on the needs of people. This relief bill should require a national water shutoff moratorium with restoration for all during the pandemic and for 180 days following its end, and it should provide financial help to publicly owned water providers and local and state governments.

For long-term economic stimulus and water security, the US Congress should pass the Water Affordability, Transparency, Equity and Reliability Act (HR 1417, S 611), which would create a \$35 billion-a-year water trust fund to fully fund publicly run water and wastewater systems across the country. It would help systems improve water quality, stop sewage spills, remove lead pipes from homes and schools, expand support for indigenous communities, remove toxic PFAS chemicals and create up to one million jobs across the economy.

Baltimore provides a beacon of hope. The city "is shattering antiquated water billing inequities, setting a new benchmark for billing fairness and government accountability, and rising up as a water justice champion in this country," said Rianna Eckel, Senior Organizer with Food & Water Action and convener of the Baltimore Right to Water Coalition, on January 13, 2020 when the Water Ac-

countability and Equity Act was signed into law. “Baltimoreans can now rest easy knowing they will be able to afford to turn on the tap, but the rest of America is still far behind. We need federal action to make sure the rest of the country catches up to Baltimore and all Americans have access to safe, clean, and affordable public water.” As tragic as it is, Covid-19 might be the stimulus needed to generate such a national campaign.

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