

TO: James L. App, City Manager

FROM: Mike Compton, Director of Administrative Services

SUBJECT: Nacimiento Water - Proposition 218 Protest Ballot Public Hearing and Ordinance Modifying Water Rates

DATE: July 17, 2007

Needs: For the City Council to hold a Proposition 218 protest ballot hearing and at the close of the hearing introduce for first reading an ordinance modifying Nacimiento Water Fees.

Facts:

1. On July 20, 2004, the City executed the Nacimiento Project Water Delivery Entitlement Contract with the County of San Luis Obispo Flood Control & Water Conservation District.
2. The entitlement contract provided for the delivery of 4,000 acre feet from the Nacimiento Water Pipeline Project (Project).
3. Based upon engineer's cost estimates of \$150 million, it was determined that a water rate adjustment of \$36 per customer per month would be required to provide \$4.8 million annually beginning July 1, 2010. This rate did not include the cost of a local water treatment facility.
4. On August 3, 2004, the Council introduced an ordinance to adjust water user fees to pay for the Project and adopted the ordinance on August 17, 2004. Rather than implement the fee adjustment in a single lump sum, the Council choose to phase the increase in annual increments of \$6.
5. On August 3, 2004, the Coucil also amended the City's water development impact fees (connection fees) to include the cost of the Project and the water treatment facility.
6. Updated engineer's cost estimates now put the Project cost at \$190 million and the estimated cost for the operation and maintenance of the treatment facility is \$1.5 million.
7. In order to provide an adequate ongoing revenue stream to cover the cost for the Project and treatment facility, the cost per customer per month must be increased from \$36 to \$60 by July 1, 2010.
8. The Council appointed the Mayor Mecham and Councilman John Hamon to serve as their Nacimiento water rate ad hoc committee.
9. The ad hoc committee has recommended implementing the rates as proposed.
10. Due to the Bighorn Desert Water Agency v. Beringson State Supreme Court case, water user fees are now subject to Proposition 218 which calls for a protest ballot hearing.

11. The required public hearing notice including the method of the protest balloting process was included in the June 1st City utility bills that were sent to all customers.
12. If insufficient written protests are received (50% or fewer) the Council may proceed with introduction and first reading of the ordinance to modify fees for Nacimiento Water.

Analysis &
Conclusion:

The County of San Luis Obispo Flood Control & Water Conservation District will be issuing water revenue bonds to finance the Project. Per the entitlement contract, agency participants are responsible for the debt service payments and the operation & maintenance of the Project. This cost is estimated at \$5.6 million annually. Using the City of San Luis Obispo's cost for operating their water treatment facility as a guide, the City will need an additional \$1.5 million annually to operate our facility. The pipeline and treatment facility together require a fixed revenue stream totaling \$7.1 million annually. To generate sufficient revenues, the fixed rate needs to be \$60 per customer per month. The reasoning for a fixed rate rather than variable initially is as follows:

1. The \$7.1 million annual cost is a fixed cost that must be adequately covered without fluctuations that accompany variable rate structures; and
2. The City has a long history of using fixed rate structure to cover fixed costs; and
3. It needs to be shown to the bond rating agencies that the City has in place a rate schedule that will generate the needed revenues to cover debt and operating costs.
4. Bond contract covenants will require that the City has 125% debt coverage ratio. This means that operational revenues must exceed all operational costs, existing City water operations, the pipeling project and the treatment facility by 25%.

Once the Project is constructed and operational, the Council may wish to consider converting the fixed rate to a component of the existing consumption-based rate structure.

Meetings with the rating agencies to present the financial condition of the City's Water Operations Fund as well as the proposed rate schedule have already been held. Supplemental questions from the rating agencies are expected while they complete their analysis of the project participants and issue a bond rating. While it is expected that they will issue an "A" category rating, we will not know until after the bids are received and the the opt out period has concluded.

With regard to the construction cost of the City's water treatment facility, a plan has been developed that projects sufficient resources to pay cash rather than finance it with long-term debt. It is projected that impact and user fees already collected and to be collected until July 1, 2010 will generate \$17.5 million to fund the treatment facility. The accumulated resources do not include the additional resources that will be generated from increasing the total monthly user fee from \$36 to \$60 per customer. These funds would be held in contingency to be used for overages (if any). Any funds left in this special fund plus all impact fees collected after the pipeline and treatment facilities are constructed would be used as a "rate mitigation" resource to mitigate future water rate increases.

Due to the Desert Water Agency v. Beringson State Supreme Court case, the normal public hearing process for establishing utility rates no longer applies. The Court ruled that utility rates are subject to Proposition 218. Proposition 218 requires a protest balloting process concluding

in a public hearing. Rate payers or property owners must receive notification of the public hearing and protest balloting procedures forty-five (45) prior to the public hearing. Rate payers may protest the rate adjustment by submitting in writing a signed statement affirming their protest. Only one protest may be filed from any single parcel or water service account. Rate payers may file their written protest at any time during the forty-five period and up until the close of the public hearing which has been set for July 17th. As of Monday, July 9th, the City had received 39 valid protest ballots. Over 5,000 ballots are required to force the Council to abandon the rate adjustment. In addition to the mandatory public hearing notice as required by Proposition 218, the City published hearing notices in each of the two weeks immediately preceding the scheduled hearing.

Fiscal

Impact:

On or about July 1, 2010, the construction of the pipeline and the City's treatment facility will be completed and operational. Debt service payments on the bonds sold in September 2007 will begin as well as the ongoing fixed operational and maintenance costs of both components. These fixed costs are estimated at \$7.1 million annually. It does not matter how much water is delivered to Paso Robles or how much water is consumed by individual City customers. The costs are fixed and the City must have a permanent, reoccurring revenue stream in place.

For the timing being in order to provide assurances to the rating agencies that the City has an adopted plan in place to fund all project costs, a fixed rate structure is the most desirable. As previously communicated, at some point after July 1, 2010, the fixed rate would be converted into the City's current consumption based rate structure. As an interim measure, there is the option of a fixed rate based upon size of meter. This option would provide the necessary fixed ongoing revenue stream but would be reflective of a consumption related rate structure. The conversion to either method will require a new Proposition 218 protest balloting process. Thus, it is recommended that the Council proceed with adopting the rates as proposed and supported by their ad hoc committee.

Adoption of the accompanying ordinance would increase the schedule of rate adjustments already authorized by Council by an additional \$6 per year. The existing rate schedule provides for an additional \$6 every July 1st through July 1, 2010. The total rate is currently \$12 and was scheduled to go to \$18 on July 1, 2007. Given the need to increase the annual adjustment, the third \$6 adjustment was deferred until 10/1/07. Assuming the Council approves the rate ordinance, the rate adjustment on 10/1/07 would be \$12 and then an additional \$12 every July 1st thereafter until it reaches \$60 per month per customer.

Options:

- a. Upon close of the public hearing, assuming insufficient number of protests are filed, that the Council introduce and hold first reading of an ordinance to modify City water rates, particularly those related to Nacimiento Water; or
- b. Amend, modify, or reject the above option.



Dear Customer:

Pursuant to the requirements of Proposition 218 and the California Constitution Article XIII, this notice provides information regarding proposed rate increases for City of Paso Robles water services. The proposed rate increases will be presented to the City Council for adoption on the date, time and location specified below in the NOTICE OF PUBLIC HEARING.

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**Notice of Public Hearing
Regarding Proposed
Increase in Water Rates**

Notice is hereby given that a public hearing on the proposed rate increases to water rates will be held by the City Council on:

Date: Tuesday, July 17, 2007
Time: 7:30 p.m.
Place: City of Paso Robles, Council Chambers
 1000 Spring Street, Paso Robles CA 93446

This notice has been sent to all City customers receiving water services. If adopted, the proposed Plan of rate increases will become effective October 1, 2007. The proposed Plan provides for subsequent annual increases each July 1st, up to and including July 1, 2010. This notice also describes how to file a protest against the proposed rate increases.

All customers and interested parties are invited to attend the public hearing and be heard on the proposed rate increases.

WHY ARE WATER RATES BEING INCREASED?

The reason for the adjustment is to develop new, more reliable and improved quality sources of water. The primary source of this water is the Nacimiento Pipeline Project that will provide 4,000 acre feet annually. In addition to the pipeline and related facilities to deliver Nacimiento Water, the City must construct a water treatment facility. The sole purpose of the proposed rate increases is to provide adequate revenues to meet debt and operating expense obligations for the pipeline and treatment facility.

HOW MUCH ARE RATES BEING INCREASED?

Based upon current cost estimates for the Nacimiento Pipeline and Treatment Facility Projects, the total fixed rate required on July 1, 2010 to meet debt service obligations and operating costs is \$60 per customer per month. Rather than imposing the monthly fixed rate needed in a single rate increase, the Council has opted to increase rates in annual increments. The annual incremental increases began two years ago and now total \$12 per customer

(Continued on page 2)

HOW MUCH ARE RATES BEING INCREASED? (Continued from cover page)

per month. Thus, a total of an additional \$48 per month is required to meet the costs of the Nacimiento project. The Nacimiento fee is proposed to increase by \$12 effective October 1, 2007 and an additional \$12 each subsequent July 1st through July 1, 2010. Nacimiento fees collected prior to July 1, 2010 will be used to pay for the construction of the water treatment facility. No increases are proposed for basic water service, basic residential sewer service or variable rate commercial sewer service, other than the CPI adjustments noted below, which were previously approved. No CPI adjustment is proposed for the Nacimiento fee. The proposed rate schedule is as follows:

	Current	10/1/07	7/1/08	7/1/09	7/1/10
Basic Water Service ^(1,2)	\$1.24	\$1.24	\$1.24	\$1.24	\$1.24
Nacimiento Water Fees	\$12.00	\$24.00	\$36.00	\$48.00	\$60.00
Basic Sewer Service-Res ⁽²⁾	\$24.31	\$24.31	\$24.31	\$24.31	\$24.31
Variable Rate Sewer-Commerical ^(2,3)	\$1.13	\$1.13	\$1.13	\$1.13	\$1.13

- ⁽¹⁾ Rate per unit (100 cu. ft. or 748 gallons beginning with the first unit).
- ⁽²⁾ Basic water and sewer service fees and variable rate commercial fees shall be adjusted annually every July 1st by the increase in the Consumer Price Index ("CPI") for "All Urban Wage Earners and Clerical Workers" (San Francisco-San Jose-Oakland) category as published by BLS in April of each year.
- ⁽³⁾ Rate per unit of water consumed beginning with the 6th unit of water (unit = 100 cu. ft. or 748 gallons)

HOW DO I PROTEST THE PROPOSED RATE INCREASE?

Under Proposition 218, if you are the owner of record for a parcel or parcels or a tenant directly liable for payment of the fees subject to the proposed rate increases, you may submit a written protest regarding the proposed rate increases. Protests must be filed in writing with the City Clerk of the City of Paso Robles. It may be filed with the City Clerk at any time before the close of the public hearing. Written protests may be mailed or hand delivered to the City Clerk at 1000 Spring Street, Paso Robles, CA 93446.

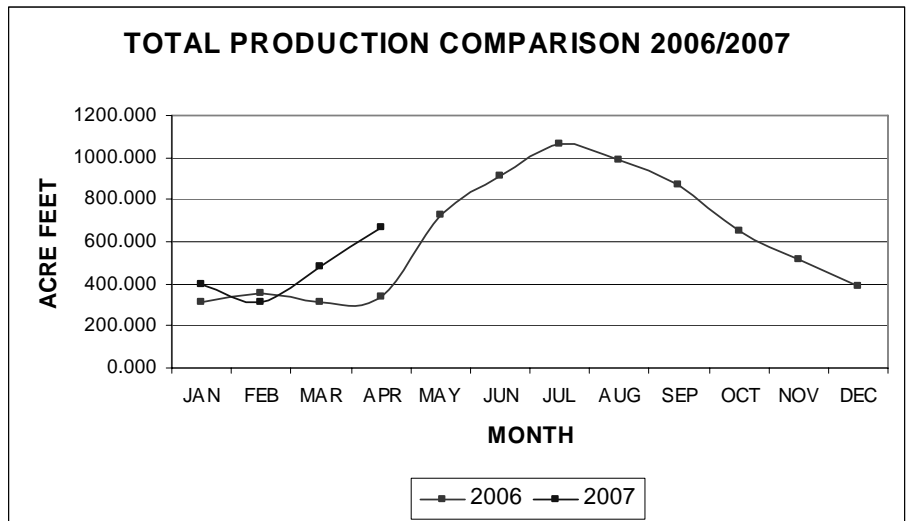
Any written protest must be signed by the property owner or the customer responsible for payment of the fees and it must include service address or assessor's parcel number (APN). Only one protest may be filed per parcel or service address.

For more information or questions about the proposed water rate increases, you may contact the Department of Administrative Services (City Utility Billing) at 805-237-3999.



TOTAL PRODUCTION COMPARISON CHART

Water production for April 2007 was double the amount pumped for the same month last year.





WATER DIVISION OVERVIEW

The Paso Robles Water Division, operates and maintains 14 wells, five booster stations (used to pump water from lower elevations to higher ones), four reservoirs that hold a total of 12,150,000 gallons; two 4-million-gallon tanks on Golden Hill Road, one 4-million-gallon reservoir on the West Side, and a 150,000-gallon tank on Merryhill (all able to be monitored by a remote system), and 148 miles of water pipe. This extensive water system serves nearly 8000 residential, over 130 commercial, 700 irrigation and approximately 370 construction meter customers within the City of Paso Robles.

WATER SOURCES

The City of Paso Robles uses groundwater only, drawn from a large aquifer known as the Paso Robles Basin and the Salinas River Underflow. Four of the river wells are known as the Thunderbird Wells located on Ramada Drive, and the fifth is known as the Borchardt Well on South River Road. The remaining nine wells draw from the groundwater basin and are located on the east side of town as follows: Sherwood 9 Well at Sherwood Park, Sherwood 11 Well on Linne Road,

Butterfield 12 Well on Golden Hill Road, Osborne 14 Well on Cottonwood Drive, Avery Well and Dry Creek 18 Well on Airport Road, Tarr 19 Well on Aerotech Way, Royal Oak 20 Well on Airport Road, Fox 21 Well on Dry Creek Road, and Cuesta 22 Well on Buena Vista.

TESTING

The City's water is regulated by numerous agencies under many laws. Some of the agencies that monitor are: California Department of Health Services, Environmental Protection Agency, Department of Water Resources, San Luis Obispo County, and Regional Water Quality Control Board. To comply with regulations, the water wells and locations throughout the City are tested regularly. The samples are sent out to an independent laboratory to be tested, insuring compliance with all state and federal regulations.

PASO ROBLES INTEGRATED WATER RESOURCE PLAN

Paso Robles' Economic Strategy calls for increasing quality of life as a primary means to effect sustainable economic activity. The Strategy includes many principles and objectives to achieve this end; notably by efficiently using and preserving natural resources, improving public health, and protecting the natural environment.

These objectives may be achieved through many initiatives. One such initiative was recently adopted by the City Council – it is a plan that presents a comprehen-

sive rethinking of water resource management. The Integrated Water Resources Plan recognizes and complements the interconnectedness of fallen, harvested, and used water in sustaining fresh water supplies, identifies ways to better manage human interaction with, and use of, this finite natural resource, and do so in a manner that works in harmony with the natural cycle and system.

The Plan contemplates a water resource portfolio that will optimize groundwater recharge with rainfall, storm, and recycled water, diversify fresh water supplies, increase

reliability of supplies, and improve the quality of water at each stage in the use/reuse cycle. And, it includes an objective-based sequence of programmatic and capital improvements to achieve these objectives.

The Nacimiento Water Project, water conservation, waste discharge monitoring, and recycled water all play a role in the Integrated Water Resources Plan.

Should you desire additional information, please contact Doug Monn, Director of Public Works at 237-3861.



WATER CONSERVATION

Message to our customers: This year's low rainfall totals will stretch our groundwater resources. We encourage all to use water wisely and avoid waste. With your help we can preserve and protect this valuable resource. Thank You!

Free Water Wise Landscape Workshops

Once again, the North County Partners in Water Conservation will offer a free summer workshop-series designed to maximize outdoor water efficiency and prevent high summer water bills. Seating is limited. Questions - Call Kelly Dunham at the Water Division 237-3866 or Visit www.amwc.us for additional information and to reserve a seat.

Drip Irrigation:

A Hand's-On Approach

Drip irrigation saves water, time and effort! Learn how to design, build and operate water-saving drip systems. This workshop will be both outdoors and indoors.

June 20th, 11:00-1:30 pm
Templeton Community Center, Templeton

June 21st, 6:00-8:00 pm
AMWC Office, 5005 El Camino Real, Atascadero

June, 16th, 9:30-11:30 am
Paso Robles Library, Paso Robles

Home Sprinkler Systems & Landscape Irrigation

Over 50% of the water used in the North County is used for landscape irrigation, which places significant stress on our limited water resources. This workshop focuses on the design and maintenance principles of overhead sprinklers and irrigation controller programming and provides you with the information you need to more efficiently operate your landscape irrigation system.

June 27th, 11:00-1:30 pm
Templeton Community Center, Templeton

June 28th, 6:00-8:00 pm
AMWC Office, 5005 El Camino Real, Atascadero

July 28th, 9:30-11:30 am
Paso Robles Library, Paso Robles

Plant Selection for North County Landscapes

See and learn about 75 plants that species that once established will survive without water. Choosing the right plants will help reduce ongoing maintenance and the use of water, fertilizers, and pesticides and help make your landscape a place you can continually enjoy.

August 11th, 9:30 - 11:00 am
Paso Robles Library, Paso Robles

Plant Selection I: Fall & Winter

Plant Selection I explores the delights of the fall and winter garden. The extreme temperatures in the North County support a variety of foliage, fruits, and flowers that grow with little effort outside during the cold while you stay warm inside.

September 19th, 11:00 am - 1:30 pm
Templeton Community Center, Templeton

September 20th, 6:00-8:00 pm
AMWC Office, 5005 El Camino Real, Atascadero

Plant Selection II: Spring & Summer

Fall is the time to plant for year round success in the North County climate. Plant Selection II looks at exciting plants that offer color, texture, interest, and require little water, that you can plant this fall for next spring and summer.

September 26th, 11:00 a m - 1:30 pm
Templeton Community Center, Templeton

September 27th, 6:00-8:00 pm
AMWC Office, 5005 El Camino Real, Atascadero

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTIONS 14.04.020 AND 14.16.020 OF THE CITY OF EL PASO DE ROBLES
MUNICIPAL CODE TO ADJUST WATER USER FEES

WHEREAS, the City Council has approved participation in the Nacimiento Water Project to help assure a high quality and continuous supply of water to its citizens; and

WHEREAS, as the Nacimiento Water Project including the City's Water Treatment Facility will, based upon current construction costs, result in a new reoccurring annual cost of \$7.1 million; and

WHEREAS, the City Council proposes to collect said annual cost from a combination of user and impact fees; and

WHEREAS, it has been determined that it is necessary to raise fixed rate water user fees from \$36.00 per month to \$60 per month; and

WHEREAS, in order to mitigate the impact upon the City's water customers, the City Council desires to raise monthly rates by \$12.00 October 1, 2007 and every subsequent July 1st until the total rate reaches \$60 per month.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

SECTION 1. Subdivision C of Section 14.04.020 of the Paso Robles Municipal Code is hereby amended to read as follows:

“C. FEES—WATER USAGE RATES. The monthly rates to be charged and collected by the water department for all water consumption including private fire lines, bulk water delivery or fire hydrant usage from every person, school, firm or corporation shall be charged at rates established by ordinance of the City Council. Other than as expressly set forth herein, such water usage rates may only be established or amended by a two-thirds vote of the city council in favor of such establishment or amendment of water usage rates.

Effective October 1, 2007, the base water usage fee in place at the time shall be increased by \$12.00 per customer per month and shall be further adjusted every July 1st thereafter through July 1, 2010 by an additional \$12.00 per customer per month.

Unless otherwise specifically adjusted by subsequent action of the City Council or by the annual inflationary adjustment provided for below, the variable consumption rate shall remain unchanged at \$1.28 per 100 cubic feet.

The base water usage fee and variable consumption rate established in this section shall be modified annually by the increase in the Consumer Price Index for the San Francisco-Oakland-San Jose Region as reported by the Bureau of Labor Statistics for the year ending April of each year and shall be applied to all billing statements calculated, generated and distributed beginning July 1st of each fiscal year.

The water usage fees shall further be reviewed no less than bi-annually in conjunction with the update of the City's budget to ensure that the sewer and water connection fees then in existence do not exceed the costs of providing water service within the City.”

SECTION 3. Severability

If any action, subsection, sentence, clause or phrase of this ordinance is, for any reason, held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Introduced at a regular meeting of the City Council held on July 17, 2007 for first reading by the City Council of the City of El Paso de Robles on the 17th day of July by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah Robinson, Deputy City Clerk