

RESOLUTION NO. 15-024
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE FOR
ADOPTING GUIDELINES FOR THE SUBMISSION AND TABULATION OF
PROTEST IN CONNECTION WITH THE SEWER RATE STUDY AND STRUCTURE
OF THE PROPOSITION 218 PROCESS

FINDINGS

1. The City of Pacific Grove owns and operates the sewer collection system, consisting of approximately 58 miles of pipelines, 900 manholes, and seven pump stations, that serves all parcels within the City. A well-functioning sewer system is a necessity for public health and safety in Pacific Grove, as a variety of factors, including the community's geology and State regulations, preclude the use of septic systems.
2. The City of Pacific Grove's Public Works Department is responsible for maintenance and operation of the sanitary sewer collection system.
3. The City Council adopted the Sewer Collection System Master Plan on September 17, 2014, including capital projects that need to be completed over a ten-year span to correct deficiencies, eliminate capacity issues, and address the aging infrastructure. The projects proposed to be undertaken are fully described in the Plan. The Plan also identifies costs to operate and maintain the City's sewer collection system cost-effectively and responsibly.
4. Associated with the Plan are proposed increases in the City's Sewer Collection System User Fees (the "Sewer Rates"). Sewer Rate revenues are used to pay for sewer collection system operations and maintenance and capital improvement projects required to meet federal, state, and City standards.
5. Sewer rates charged by the City are changing as a result of changes in the cost allocation methodology and the City's need to upgrade facilities. The proposed rates fully reflect the additional revenues received over the past several years as a result of accelerated billings by the Monterey Regional Water Pollution Control Agency. As a result, sewer rates going forward are less than they would otherwise have to be.
6. Change in Methodology: Historically, sewer rates charged by the City have been based on the charges for collection and treatment by the Monterey Regional Water Pollution Control Agency. Treatment costs vary, in part, based on the nature of the flow. Treating wastewater from an industrial plant, for example, is more expensive than treating residential waste water. The City believes that it is more appropriate to base the City's rates, which cover costs for collection, but not treatment, on the volume of flow only. Therefore, the City has developed an updated cost allocation methodology, based on average sewage flow for each land use class.
7. Article XIII D, Section 6 of the California Constitution (Proposition 218), requires notification be sent to the sewer customer and/or owner of each identified parcel, upon which any increases in Sewer Rates are being proposed for adoption by the City Council.

8. The City Council, on March 4, 2015, authorized City Staff to proceed with the procedural requirements of the Proposition 218 Process.
9. There are 6,168 parcels currently receiving sewer bills. Efforts are currently being undertaken to determine if there are any additional parcels receiving service or capable of receiving service. To receive a majority protest the City will need to receive valid, written protests from 50% plus 1 of noticed property owners. This corresponds to 3,085 parcels for those currently receiving bills; if any additional parcels are found to qualify, and are sent notices, the number of necessary protests will be recalculated appropriately.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

1. The Council determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this Resolution.
2. The City shall provide notice to all owners of parcels within the City of Pacific Grove by mail of the proposed rate increases, and the City shall hold a Public Hearing on the proposed rate increases not less than 45 days after required notices are mailed.

Any record property owner who is subject to the proposed utility charges may submit a written protest to the City Clerk by delivery to the City Clerk's Office, City Hall, 300 Forest Avenue, Pacific Grove, in accord with either paragraph a) or b) of this section.

- a. By mail, postage pre-paid and addressed to:
Attn: City Clerk
Written Protest
300 Forest Avenue
Pacific Grove, CA 93950
- b. By hand delivery to the City Clerk at 300 Forest Avenue before the conclusion of the public comment portion of the public hearing on July 15, 2015.
4. Each written protest must be received by the City on or before the close of the public comment period of the public hearing scheduled for July 15, 2015 at 6:00 p.m. in the City Council Chambers, 300 Forest Avenue, Pacific Grove, CA. Emailed or faxed protests cannot be accepted or counted. Verbal protests cannot be accepted or counted.
5. To be valid, each written protest must include:
 - c. Street address of the property subject to the proposed utility charge.
 - d. Assessor's Parcel Number of the property subject to the proposed utility charge.
 - e. Legibly printed name of record owner of the property subject to the proposed utility charge.
 - f. An original signature of the record property owner (wet signature).

Thomas Frutchey 6/16/2015 9:54 AM

Comment [1]: Later, we agreed that it could be either c or d (which should have been numbered a and b.--Tom

- g. If the person tendering the protest was not the owner of the property as of the County of Monterey's last tax roll, the protest must also include written confirmation that the person protesting presently owns the property.

A written protest must be mailed or delivered to the City Clerk's office in a sealed envelope, clearly marked on the outside of the envelope "Written Protest."

- 6. Written protests, if previously submitted, may be withdrawn prior to the conclusion of the public hearing.
- 7. At the public hearing, the proposed rate increase is subject to majority protest. Protests shall be tabulated by the conclusion of the public hearing, including those received during the public hearing, and the results shall be reported to City Council. If at the conclusion of the public hearing, the City Clerk determines that he or she will require additional time to tabulate protests, he or she shall so advise the City Council, which may adjourn the public hearing to allow the tabulation to be completed upon another day or days. If so, the City Council shall declare the tabulation will occur the day of (but prior to) the continued public hearing, which shall be conducted in a place where interested members of the public may observe the tabulation, and the City Council shall receive the results of the tabulations at a scheduled City Council Meeting.
- 8. Only one protest per parcel, submitted by the owner of the parcel, will be counted.
- 9. If more than 50% of affected property owners submit valid, written protests against the proposed rate increase, the increase cannot and shall not be adopted.
- 10. If a majority protest is not met, new rates shall take effect on August 1, 2015.
- 11. This Resolution shall take immediate effect following passage and adoption thereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 6th day of May, 2015, by the following vote:

AYES: Mayor Kampe, Councilmembers Fischer, Huitt, Lucius, Peake

NOES: Councilmember Miller

ABSENT: Councilmember Cuneo

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

