



June 8, 2017

TO: LOCSO Board of Directors

FROM: Rob Miller, District Engineer
Roy Hanley, District Legal Counsel

SUBJECT: Agenda Item 2A – 6/15/2017 Board Meeting
Public Hearing to Consider and Tabulate Written Protests from Water Customers and Property Owners within the District's Water Service Area Regarding Proposed Water Rates

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District Accountant
Robert Stilts, CPA

Unit Chief
Scott M. Jalbert

Battalion Chief
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DESCRIPTION

The Prop 218 Protest was duly noticed and this is the time and place to hear all testimony and protests. The proposed water rate was thoroughly analyzed and examined by the volunteer working group and by the District Board of Directors at several public meetings.

SUMMARY OF STAFF RECOMMENDATION

Open and close the Public Hearing portion. After tabulation of valid written protests that have been submitted per Proposition 218/Article XIII D of the California Constitution and the finding that there is not a majority protest, staff recommends that the Board adopt Resolution 2017-14 for new water rates to go into effect according to code.

Motion: I move that the Board adopt Resolution 2017-14, approving a water rate increase which will become effective according to law.

RECOMMENDED PROCEDURE

1. Consider staff report.
2. Open Public Hearing, consider public comment and receive written protests and withdrawal of previously filed written protests.
3. Closed Public Hearing.
4. Have Staff tabulate the number of valid written protests that have been submitted per Proposition 218/Article XIII D of the California Constitution and report findings.
5. Either adopt the resolution or direct Staff to develop alternatives to an additional Prop 218 Protest or return to the Utility Advisory Committee for evaluation.
6. After tabulation of valid written protests that have been submitted per Proposition 218/Article XIII D of the California Constitution and the finding that there is not a majority protest, Staff recommends adoption of the new water rates pursuant to Resolution 2017-14.

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DISCUSSION

Pursuant to the requirements of Proposition 218 and Article XIID of the California Constitution, notices regarding this Public Hearing were mailed to owners within the LOCSD water service area more than 45 days prior to the June 15, 2017 Public Hearing. There are an estimated combined 2,750 owners of record for parcel(s) plus tenants directly responsible for payment for water service within the LOCSD water service area. In the event that a majority (i.e. more than 50%) of such owners and tenants submit valid written protests prior to the close of the Public Hearing, then the proposed rate structure cannot be adopted and another rate structure would have to be proposed. This would cost additional monies to conduct another Prop 218 Protest that would not be used for actual infrastructure costs.

FINANCIAL IMPACT

Increase in Revenue as stipulated in the attached resolution will help to fund future Capital Improvement Projects.

If the Prop 218 Protest fails, duplicative advertising and postage cost, staff time, materials, and additional time and effort by the volunteer group, if so directed, would be expended without funds being diverting towards capital improvement and equipment costs.

Attachment – Resolution 2017-14

RESOLUTION 2017-14

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
AMENDING APPENDIX A TO TITLE 2 OF THE LOS OSOS COMMUNITY SERVICES DISTRICT CODE
TO ESTABLISH NEW WATER RATES AND CHARGES**

WHEREAS, it is a major responsibility of the Los Osos Community Services District ("District") to:

1. Operate and maintain its water distribution facilities so as to provide adequate water service and fire protection to District water customers; and
2. Maintain adequate levels of revenue, equitably collected from District water customers, to meet the District's financial commitments; and

WHEREAS, Government Code §61115 authorizes the District to adopt rates and charges by Resolution;
and

WHEREAS, a volunteer working group began working on the proposed water rates several months ago. Utilizing the information in the adopted Water Master Plan and the technical memo updating the Plan in 2010, together with all updates to those documents as well as the Basin Management Plan, the working group developed a proposed rate structure in collaboration with the Utilities Advisory Committee and Financial Advisory Committee, and presented the plan to the Board of Directors at multiple duly noticed public meetings.

WHEREAS, the proposed new water rate structure and water rates are necessary for the District to meet its water sales revenue goals and to provide reliable and sustainable water service to its customers; and,

WHEREAS, the District has issued public notice to the affected water customers and property owners, allowing sufficient time for the public to protest the proposed water rate changes, in accordance with the provisions of Proposition 218; and

WHEREAS, on June 15, 2017, the District conducted a Public Hearing, considered public comment in support and in opposition to the proposed rate increase and whether or not a majority protest exists pursuant to Section 6 of Article XIII D of the California Constitution; and

WHEREAS, at the June 15, 2017 Public Hearing, the District General Manager and Secretary to the Board attested that written protest against the water rates had not been filed by a majority of property owners and tenant customers.

WHEREAS, based on the foregoing the Board of Directors finds:

- A. The valid written protests received by the District prior to the close of the June 15, 2017 Public Hearing do not constitute a majority protest.
- B. That the rates and charges adopted by this Resolution:
 1. Are for the purposes of meeting operation, maintenance and capital replacement expenses for providing water service within the District's water service area.
 2. Do not exceed the funds required to provide water service within the District's water service area; and

3. Do not exceed the proportional cost of services attributable to those parcels receiving water service within the District's water service area.
4. Will not be used for any purpose other than that for which the charge is imposed.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Los Osos Community Services District as follows:

Section 1. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference. The Recitals and referenced reports and studies contained therein constitute and/or support the findings of the District in support of this Resolution.

Section 2. Water Rates and Charges

Effective July 1, 2017, Appendix A to Title 2 of the District Code related to bi-monthly water rates and charges is repealed in its entirety and replaced with the following:

**APPENDIX A
BI-MONTHLY WATER RATES AND CHARGES**

Summary of Recommended Water Rates by Fiscal Year					
		Current Rates	Proposed Rates		
			Effective July 2, 2017	Effective July 2, 2018	Effective July 2, 2019
Fixed Bi-Monthly Service Charge		\$59.32	\$65.00	\$70.00	\$76.00
Water Consumption Charges					
Rate per hundred cubic feet (ccf) per bi-monthly billing period (1 CCF = 748 gallons)					
Tier 1	0 - 5 ccf	\$2.35	\$5.00	\$6.00	\$7.00
Tier 2	6 – 10 ccf	4.40	6.75	7.75	8.75
Tier 3	11 – 20 ccf	6.75	8.50	9.50	10.50
Tier 4	>20 ccf	9.20	10.25	11.25	12.25

Section 3. Repeal of Prior Ordinances and Resolutions

All Ordinances, Resolutions and sections of Ordinances and Resolutions that are inconsistent with this Resolution are hereby repealed.

Section 4. Effect of Repeal on Past Actions and Obligations

This Resolution does not affect prosecutions for violations committed prior to the effective date of this Resolution, does not waive any fee or penalty due and unpaid on the effective date of this Resolution, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any prior Resolution or Ordinance.

Section 5. CEQA Findings

The Board of Directors of the District finds that the rates and charges adopted by this Resolution exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273.

Section 6. Severance Clause

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution. The Governing Board of the District hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 7. Effective Date

This Resolution shall take effect immediately. The rates and charges adopted by this Resolution shall take effect July 1, 2017.

On the motion of Director _____, seconded by Director _____, and on the following roll call vote, to wit:

Ayes: _____
Noes: _____
Absent: _____
Conflicts: _____

The foregoing resolution is hereby passed, approved, and adopted by the Board of Directors of the Los Osos Community Services District this 15th day of June 2017.

Jon-Erik Storm, President
LOCSD Board of Directors

ATTEST:

APPROVED AS TO FORM:

Renee Osborne
General Manager and Secretary to the Board

Roy A. Hanley
District Legal Counsel