

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: NOVEMBER 23, 2007

**AGENDA ITEM**  
**E-8**  
**NOV. 28, 2007**

**CONFIRM 2008 WATER RATES**

**ITEM**

Confirm implementation of 2008 Town and Blacklake water rate increases previously approved [RECOMMEND ADOPTION].

**BACKGROUND**

Your Honorable Board adopted Ordinance No. 2005-103 on June 8, 2005, which established Town and Blacklake water rates for 2005 through 2009 (attached). Ordinance No. 2005-103 would cause the water rates currently charged to increase on January 1, 2008 unless suspended. It should be noted that the Sept. 2007 Combined Financial Plan prepared by Bob Reed confirmed the same rates set forth in Ordinance No. 2005-103 for 2008. It should also be noted that there is no clear timeline for resolution of the merger issue or for implementation of new rates related to the development of a supplemental water project (excluding the \$7.5 million set aside for system upgrades).

**RECOMMENDATION**

Staff believes that the FY07-08 Budget is predicated on implementation of the Ordinance No. 2005-103 rates and that implementation of the previously adopted rates would allow the Board more time to resolve the outstanding issues. Staff recommends that your Honorable Board confirm implementation of 2008 rates previously adopted.

**ATTACHMENTS**

- Ordinance No. 2005-103

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**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2005-103**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING TITLE 3 AND TITLE 4 OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO  
ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE  
FOR THE TOWN DIVISION AND BLACKLAKE DIVISION  
AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED  
TO WATER AND SEWER SERVICE**

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

- A. Operate and maintain its water production and distribution facilities so as to provide adequate water service and fire protection to District water customers;
- B. Maintain adequate levels of revenue, equitably collected from District water customers, to meet the District's financial commitments including operation, maintenance, replacement and administrative costs of District's water production and distribution facilities and acquiring supplemental water to augment the District's current water production facilities to prevent impairment to the Groundwater Basin and maintaining adequate reserves;
- C. Operate and maintain its sewer distribution facilities so as to provide adequate sewer treatment services to District's sewer customers;
- D. Maintain equitable levels of revenue equitably collected from District sewer customers, to meet the District's financial commitments including the operation, maintenance, replacement and administrative costs of District sewer collection and treatment facilities and maintaining adequate reserves; and

**WHEREAS**, the District has reviewed a number of reports and studies related to the capacity of the Groundwater Basin to supply current and future growth on the Mesa. Said reports are referenced in the Staff Report for Agenda Item E-10 for the Board of Directors meeting of April 13, 2005. Said Staff Report and referenced studies and reports are incorporated herein by this reference; and

**WHEREAS**, the District commissioned Robert Reed, of the Reed Group, Inc., to perform a Water and Sewer Rate Study Update (herein "Study"). The Study includes an analysis of both the water and sewer operating rates and charges for the District's Town Division and Blacklake Division. The intent of the Study is to assess the District's revenue requirements and to provide an independent evaluation of the equity of the District's current rate structure and the relationship (nexus) between the rates charged and the services provided. The Study further identifies a new rate structure for the Town Division and Blacklake Divisions that enables the District to meet revenue requirements for water and sewer operations and to provide for supplemental water while maintaining fairness and equity among existing and future rate payers; and

**WHEREAS**, the draft Study was received and filed on April 13, 2005, and has been available for public inspection at the District office since that date; and

**WHEREAS**, the Study was made final on May 25, 2005; and

**WHEREAS**, certain District Code Sections require amendment to facilitate the implementation of the new bi-monthly rates for water and sewer fees and charges; and



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**WHEREAS**, based upon facts and analysis presented by Robert Reed, the Study, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act);
- B. That notice has been provided as required by law; and
- C. The fees, rates and charges that are the subject of this Ordinance do not exceed the estimated reasonable cost of providing the services, for which the fees and/or charge or charges are imposed; and
- D. The rates and charges established by this Ordinance are imposed as an incident of requesting or using District water and sewer treatment services.
- E. That the tiered water rate structure approved by this Ordinance is implemented, in part, to achieve the goals of the District's Urban Water Management Plan and Section 2, Article X of the California Constitution and Section 100 of the California Water Code related to water conservation.
- F. That the public benefits from the logical, long-range approach to financing of public facilities.
- G. Pursuant to the provisions of Proposition 218, NCSD did deliver written public notices of the hearing and find that the protests did not meet the required 50% of the notices mailed. NCSD did not receive any protests, written or oral, to the proposed rates for water and sewer charges.

**NOW, THEREFORE, BE IT ORDAINED**, by the Board of Directors of the District as follows:

**Section 1.** Authority.

This Ordinance is enacted pursuant to Government Code Sections 61600(a) and (b), 61621, 61621.5, and 61623.

**Section 2.** Appendices A and B to Chapter 3.03 of the District Code (Bi-Monthly Water Rates for Town Division and Blacklake Division) are repealed in their entirety and replaced with the Bi-Monthly Rates and Charges reflected in Exhibit "A", attached hereto and incorporated into this Ordinance by reference.

**Section 3.** Appendix A to Chapter 4.12 of the District Code (Calculation of Bi-Monthly Sewer Rates and Charges for the Town Division and Blacklake Division) are repealed in its entirety and replaced with the Bi-Monthly Calculation of Rates and Charges reflected in Exhibit "B", attached hereto and incorporated into this Ordinance by reference.



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**Section 4.** Section 3.20.035 A is repealed in its entirety and replaced with the following:

3.20.035 A The charge for water pursuant to District Code Section 3.20.03(A) shall be charged at the then current water rate for non-residential water users as stated in Appendix B of Chapter 3.03 to the District Code.

**Section 5.** Section 4.12.150 A of the District Code is repealed in its entirety and replaced with the following:

4.12.150 A Bi-monthly User Fee. The bi-monthly sewer user rates and fees are set forth in Appendix A to this Chapter 4.12.

**Section 6.** Section 4.12.180 is repealed in its entirety and replaced with the following:

4.12.180 SPECIAL RULES FOR MEDIUM AND HIGH STRENGTH DISCHARGERS:

The District reserves the right to require medium strength and high strength discharges as referenced in Appendix A to Chapter 4.12 to provide pretreatment of sewer discharges. Said requirements may include pretreatment, a monitoring program, and a plan check and monitoring agreement to allow the District to recover its costs in approving and monitoring pretreatment facilities.

**Section 7.** 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 support the findings of the District in support of this Ordinance.

**Section 8.** Effect of Repeal on Past Actions and Obligations.

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

**Section 9.** CEQA Findings

The Board of Directors of the District finds that the fees and charges adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors further finds that the adoption of the Rules and Regulations established by this Ordinance fall within the activities described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects" for the purposes of CEQA, because it can be seen with certainty that the adoption of the Rules and Regulations may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

**Section 10.** Severance Clause.



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If any section, subsection, sentence, clause or phrase of this Ordinance 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 Ordinance.

The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

**Section 11.** Effect of Headings in Ordinance.


Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

**Section 12.** Effective Date.

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the Ordinance and shall remain posted thereafter for at least one (1) week. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in The Tribune.

Introduced at its regular meeting of the Board of Directors held on April 13, 2005, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the 8<sup>th</sup> day of June, 2005, by the following roll call vote, to wit:

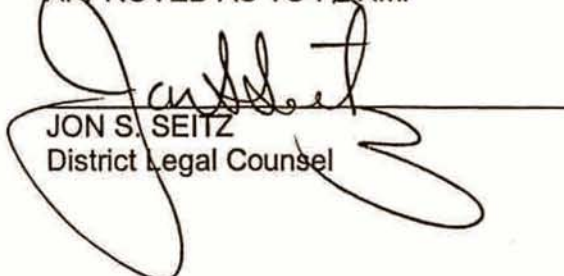
AYES: Director Winn, Eby, Wirsing, Trotter and Vierheilig  
NOES: None  
ABSENT: None  
CONFLICTS: None

  
Lawrence Vierheilig, President  
Nipomo Community Services District  
Board of Directors

ATTEST:

  
DONNA K. JOHNSON  
Secretary to the Board

APPROVED AS TO FORM:

  
JON S. SEITZ  
District Legal Counsel



**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2005-103**

**EXHIBIT "A"**

**APPENDIX A TO CHAPTER 3.03**

**WATER RATES AND CHARGES**

**BI-MONTHLY AVAILABILITY CHARGES\***

(The bi-monthly availability charge shall take effect August 1, 2005, and Future increases shall take effect on January 1, of each succeeding year.)

**TOWN DIVISION**

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$16.76	\$18.43	\$20.64	\$22.71	\$24.52
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ Inch	\$47.56	\$52.32	\$58.60	\$64.46	\$69.61
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 Inch	\$75.33	\$82.86	\$92.81	\$102.09	\$110.25
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$14.36
3 Inch	\$140.17	\$154.18	\$172.68	\$189.95	\$205.15
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 Inch	\$232.77	\$256.05	\$286.77	\$315.45	\$340.68
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 Inch	\$464.07	\$510.48	\$571.73	\$628.91	\$679.22
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 Inch	\$741.74	\$815.92	\$913.83	\$1,005.21	\$1,085.63
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

**BLACKLAKE DIVISION**

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$15.09	\$18.10	\$22.08	\$26.06	\$30.75
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ Inch	\$41.73	\$50.07	\$61.09	\$72.08	\$85.06
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 Inch	\$65.74	\$78.89	\$96.24	\$113.57	\$134.01
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$14.36
3 Inch	\$121.81	\$146.17	\$178.33	\$210.43	\$248.31
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 Inch	\$201.90	\$242.28	\$295.58	\$348.78	\$411.56
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 Inch	\$401.93	\$482.32	\$588.42	\$694.34	\$819.32
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 Inch	\$642.06	\$770.48	\$939.98	\$1,109.18	\$1,308.83
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

\*The above bi-monthly availability charge reflects the adjusted rate established by Ordinance 2003-95 to meet the District's financial obligations. Litigation charges off-set District financial obligations relating to the lawsuit entitled Santa Maria Valley Water Conservation District vs the City of Santa Maria, the Nipomo Community Services District, et al. When the District's financial obligation regarding this lawsuit have been satisfied, the litigation charge will be removed.

NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2005-103

EXHIBIT "A" (Continued)

APPENDIX B TO CHAPTER 3.03

WATER RATES AND CHARGES

(The bi-monthly usage rates shall take effect August 1, 2005, and future increases shall take effect on January 1, of each succeeding year.)

TOWN DIVISION

RESIDENTIAL USAGE RATES

	AUGUST 1, 2005	2006	2007	2008	2009
Tier 1 (0-40 Units)	\$1.12	\$1.23	\$1.38	\$1.52	\$1.64
Tier 2 (> 40 Units)	\$1.91	\$2.10	\$2.35	\$2.59	\$2.80

TOWN DIVISION

NON-RESIDENTIAL USAGE RATES

(Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	AUGUST 1, 2005	2006	2007	2008	2009
All Water Use	\$1.41	\$1.55	\$1.74	\$1.91	\$2.06

BLACKLAKE DIVISION

RESIDENTIAL USAGE RATES

	AUGUST 1, 2005	2006	2007	2008	2009
Tier 1 (0-40 Units)	\$0.97	\$1.16	\$1.42	\$1.68	\$1.98
Tier 2 (> 40 Units)	\$1.70	\$2.04	\$2.49	\$2.94	\$3.47

BLACKLAKE DIVISION

NON-RESIDENTIAL USAGE RATES

(Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	AUGUST 1, 2005	2006	2007	2008	2009
All Water Use	\$1.18	\$1.42	\$1.73	\$2.04	\$2.41



**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2005-103**

**EXHIBIT "B"**

APPENDIX A TO CHAPTER 4.12

**BI-MONTHLY SEWER SERVICE CHARGES**

(The bi-monthly sewer service charges shall take effect August 1, 2005, and future increases shall take effect on July 1 of each succeeding year.)

TOWN DIVISION

RESIDENTIAL (PER DWELLING UNIT)

	AUGUST 1, 2005	2006	2007	2008	2009
Single Family	\$41.60	\$43.27	\$45.00	\$46.80	\$48.67
Multi-Family	\$32.17	\$33.46	\$34.80	\$36.19	\$37.63

NON-RESIDENTIAL (1)

BI-MONTHLY SERVICE CHARGE

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$16.08	\$16.72	\$17.39	\$18.09	\$18.81
1 ½ Inch	\$46.01	\$47.85	\$49.77	\$51.76	\$53.83
2 Inch	\$72.99	\$75.91	\$78.95	\$82.11	\$85.39
3 Inch	\$135.99	\$141.43	\$147.09	\$152.97	\$159.09
4 Inch	\$225.97	\$235.01	\$244.41	\$254.19	\$264.36
6 Inch	\$450.72	\$468.75	\$487.50	\$507.00	\$527.28
8 Inch	\$720.53	\$749.35	\$779.32	\$810.49	\$842.91

NON-RESIDENTIAL (1) (2)

USAGE RATE

	AUGUST 1, 2005	2006	2007	2008	2009
Low Strength	\$1.22	\$1.27	\$1.32	\$1.37	\$1.43
Medium Strength	\$1.35	\$1.40	\$1.46	\$1.52	\$1.58
High Strength	\$1.75	\$1.82	\$1.89	\$1.97	\$2.05

- (1) Sewer rates for non-residential customers include a service charge based on the size of the water meter and a usage charge based on sewer strength category and metered water usage.
- (2) The District has established a category of users to determine strength of sewer discharge. Said categories of uses are for reference only and establish minimum strength standards. The District retains the discretion to assign a higher strength category to individual discharges.



**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2005-103**

**EXHIBIT "B" (Continued)**

**APPENDIX A TO CHAPTER 4.12**

**BI-MONTHLY SEWER SERVICE CHARGES**

(The bi-monthly sewer service charges shall take effect August 1, 2005, and future increases shall take effect on July 1, of each succeeding year.)

**BLACKLAKE DIVISION**

**RESIDENTIAL (PER DWELLING UNIT)**

	AUGUST 1, 2005	2006	2007	2008	2009
Single Family	\$71.70	\$74.56	\$77.55	\$80.65	\$83.87
Multi-Family	\$38.42	\$39.96	\$41.56	\$43.22	\$44.95

**NON-RESIDENTIAL (1)**

**BI-MONTHLY SERVICE CHARGE**

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$32.76	\$34.07	\$35.44	\$36.86	\$38.33
1 ½ Inch	\$94.24	\$98.01	\$101.93	\$106.01	\$110.25
2 Inch	\$149.66	\$155.64	\$161.87	\$168.34	\$175.08
3 Inch	\$279.05	\$290.21	\$301.82	\$313.89	\$326.45
4 Inch	\$463.85	\$482.40	\$501.70	\$521.77	\$542.64
6 Inch	\$925.45	\$962.46	\$1,000.96	\$1,041.00	\$1,082.64
8 Inch	\$1,479.58	\$1,538.76	\$1,600.31	\$1,664.33	\$1,730.90

**NON-RESIDENTIAL (1) (2)**

**USAGE RATE**

	AUGUST 1, 2005	2006	2007	2008	2009
Low Strength	\$1.38	\$1.44	\$1.49	\$1.55	\$1.61
Medium Strength	\$1.88	\$1.96	\$2.03	\$2.11	\$2.20
High Strength	\$3.00	\$3.12	\$3.24	\$3.37	\$3.51

- (1) Sewer rates for non-residential customers include a service charge based on the size of the water meter and a usage charge based on sewer strength category and metered water usage.
- (2) The District has established a category of users to determine strength of sewer discharge. Said categories of uses are for reference only and establish minimum strength standards. The District retains the discretion to assign a higher strength category to individual discharges.