

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: JANUARY 15, 2008

**AGENDA ITEM
E-1
JAN. 23, 2008**

TOWN SEWER USER FEE INCREASE

ITEM

Conduct protest hearing, determine protest status, and if there is not a majority protest, consider adoption of resolution increasing Town Sewer user fees [ADOPT RESOLUTION].

BACKGROUND

Your Honorable Board retained the Reed Group in April 2007 to develop a Financial Plan for the Town Sewer System, reviewed a draft plan in July and accepted a Final Plan in September (previously distributed and available for review at the NCSD Office). On September 26, 2007, your Honorable Board set this hearing and directed staff to provide notice of this hearing. Staff mailed the attached notice to all properties with a Town Sewer Connection in early December. Staff also published notice of this hearing in the newspaper. Bob Reed from the Reed Group is scheduled to present the Financial Plan at this meeting.

As of this date, staff had received approximately 15 protests. Property owners have standing to submit protests through the end of this protest hearing. A majority protest would involve the submission of protests for 1,043 properties (50% of 2086).

Attached is a draft resolution prepared by District Legal Counsel that would enact the user fees prescribed by the Financial Plan with the new fees effective April 1, 2008. District Legal Counsel is scheduled to present the draft resolution at this meeting.

RECOMMENDATION

Staff recommends that your Honorable Board open the protest hearing, receive community feedback, close the protest hearing and direct staff to count all protests received and to report on that count. If the protests received are equal to or greater than 1,043, then no further action can be taken. If the protests received are less than 1,043, then the Board has the discretion to adopt the attached Resolution. Should there not be a majority protest, staff recommends that the Board adopt the Resolution and direct staff to implement the new user fees.

ATTACHMENTS

- Notice
- Resolution

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RESOLUTION NO. 2008-BI-MONTHLY SEWER RATES(Town Division Only)

AN RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING APPENDIX A TO CHAPTER 4.12 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
INCREASE SEWER RATES WITHIN THE TOWN DIVISION

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to maintain adequate levels of revenue, equitably collected to meet the District's financial commitments for the operation and maintenance for existing Town Division sewer facilities and the replacement of existing facilities in the future which benefit the customer or property being charged; and

WHEREAS, the District retained Robert Reed, of the Reed Group, Inc., to perform an analysis of the District's existing sewer user rates and capacity charges for District sewer customers and future development within the Town Division. The Reed Group Analysis is found in a report titled "Town Sewer System Financial Plan, User Rates and Capacity Charges" dated August 24, 2007 (herein the "Study"). 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 capacity charge structure and the relationship (nexus) between rates and charges to operate and maintain facilities and charges for new or expanded sewer facilities, within the Town Division, which benefit persons or property being charged; and

WHEREAS, the proposed sewer rate increase, as identified in the Study, reflect the Town Division sewer customers share of the estimated costs of the planned wastewater treatment improvements to the District's Southland Wastewater Treatment Facility as well as the operation and maintenance of the sewer collection and treatment system; and

WHEREAS, the Study was received and filed on September 26, 2007, and has been available for public inspection at the District office or on the District's webpage since that date; and

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

WHEREAS, at the January 23, 2008, public hearing, the Board of Directors 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, based on facts and analysis presented by Robert Reed, the Study, the Staff Report, written protests received prior to the close of the public hearing and public testimony received, the Board of Directors finds:

A. The public hearing adopting this Resolution has been properly noticed pursuant to Government Code §54954.2 (The Brown Act) and Section 6 of Article XIII D of the California Constitution.

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B. The written protests received by the District prior to the close of the public hearing do not constitute a majority protest.

C. That the rates and charges adopted by this Resolution:

1. Are for the purposes of meeting operation, maintenance and capital replacement expenses for providing sewer collection and treatment for District Town Division customers.
2. Do not exceed the funds required to provide sewer collection, treatment and disposal within the District's Town Division.
3. Do not exceed the proportional cost of services attributable to those parcels receiving sewer service with the District's Town Division.

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

Section 31 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 Resolution.

Section 2.

Appendix A to Chapter 4.12 of the District Code (Town Division Bi-Monthly Sewer Rates and Charges) is hereby repealed in its entirety and replaced with the sewer rates and charges reflected in Exhibit "A", attached hereto and incorporated into this Resolution by reference.

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.

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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. The District General Manager is directed to prepare and file appropriate notices.

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 April 1, 2008.

Upon 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 adopted this ____ day of _____ 2008.

Michael Winn, President
Nipomo Community Services District
Board of Directors

ATTEST:

APPROVED AS TO FORM

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
District Legal Counsel

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**APPENDIX "A" TO CHAPTER 4.12
TOWN DIVISION**

Town Division Bi-Monthly Residential Service Charges

	Current	April 1, 2008	January 1, 2009	January 1, 2010
Single Family	\$45.00	\$56.53	\$70.66	\$88.32
Multi-Family	\$34.80	\$43.09	\$53.86	\$67.33

Town Division Bi-Monthly Non-Residential Service Charges

	Current	April 1, 2008	January 1, 2009	January 1, 2010
Up to 1"	\$17.39	\$21.80	\$27.25	\$34.07
1 ½"	\$49.77	\$63.10	\$78.87	\$98.59
2"	\$78.95	\$100.26	\$125.33	\$156.66
3"	\$147.09	\$186.98	\$233.73	\$292.16
4"	\$244.41	\$310.86	\$388.58	\$485.72
6"	\$487.50	\$620.57	\$775.71	\$969.64
8"	\$779.32	\$992.22	\$1,240.27	\$1,550.34

Non-Residential Usage Rates (\$/HCF)

	Current	April 1, 2008	January 1, 2009	January 1, 2010
Low Strength	\$1.32	\$1.85	\$2.31	\$2.89
Medium Strength	\$1.46	\$2.05	\$2.56	\$3.20
High Strength	\$1.89	\$2.65	\$3.31	\$4.14



Nipomo Community Services District
P O Box 326
Nipomo, CA 93444

Presorted Standard
U.S. Postage Paid
Permit # 7
San Luis Obispo CA

Customer Name
Address
Address

NIPOMO COMMUNITY SERVICES DISTRICT
NOTICE OF PROPOSED SEWER RATE INCREASES
TOWN DIVISION

Dear Customer:

This is a notice to explain proposed increases in sewer rates of the Town Division of the Nipomo Community Services District ("NCSD" or "District"). The proposed rate increases will be recommended for adoption by the NCSD's Board of Directors at the public hearing described in this notice.

Notice of Public Hearing

At a public hearing, the NCSD Board of Directors will consider proposed increases in the sewer rates of the Town Division. The current and proposed sewer rates are listed on the reverse side of this notice. The public hearing will be held on **January 23, 2008, at 9:00 a.m.** at the NCSD administrative office located at 148 South Wilson Street, Nipomo, California.

To explain the proposed changes, this notice has been sent to all customers in the District's Town Division who currently receive sewer service. Pursuant to NCSD Code, the owner of the property that is furnished services is the customer. If approved, these rate increases would take effect in April 2008, January 2009, and January 2010.

The NCSD Board of Directors will consider all protests and support for the proposed rates at the public hearing.

Majority Protest

Pursuant to Section 6 of Article XIII D of the California Constitution, NCSD Town Division sewer customers may submit a written protest against any or all of the Proposed Rate Increase to the Board's Secretary before the close of the public hearing referenced above. A written protest must contain a description of the parcel or parcels in which the person signing the protest has an interest sufficient to identify the parcel(s) including the Assessor's Parcel Number ("APN"). If the person signing the protest is not shown on the latest equalized assessment role of San Luis Obispo County as the owner(s) of the parcel(s) the protest must contain or be accompanied by written evidence that such party is the owner of the parcel(s). One written protest per parcel, filed by an owner of the parcel, shall be counted in calculating a majority protest to the proposed sewer rate increase subject to the requirements of Section 6 of Article XIII D of the California Constitution.

Written protests regarding the proposed sewer rate increase may be mailed to:

Nipomo Community Services District
Attn: Board Secretary
P.O. Box 326
Nipomo, California, 93444

Written protests may also be personally delivered to the Board Secretary at the Nipomo Community Service District Office located at 148 S. Wilson Street, Nipomo, California. To be valid a protest must be in writing and received by the Board Secretary before the close of the public hearing referenced above.

**NIPOMO COMMUNITY SERVICES DISTRICT
NOTICE OF PROPOSED SEWER RATE INCREASES
TOWN DIVISION**

Why Change Sewer Rates?

The sewer rates paid by customers of the sewer system are intended to cover the costs of the sewer system. The District's Town and Blacklake sewer systems are operated as independent systems.

Providing reliable and affordable water and sewer services is the mission of the District. Each of the District's utility services is operated as a separate enterprise and is required to provide service primarily through user rates. The District owns, operates, and maintains a sewer collection, treatment, and disposal system for the Town sewer system. The proposed sewer rate increases for the Town Division are needed in order to (1) provide sufficient funds for ongoing operation and maintenance, (2) satisfy debt service payment obligations, (3) support rehabilitation and upgrade of facilities needed to provide service, (4) to comply with regulations regarding treatment, and (5) maintain reserves to reduce risk and prudently manage the District's resources.

The District's Southland wastewater treatment facility is in need of significant upgrades and expansion in order to meet governmental regulations for treatment, as well as provide additional capacity. Approximately 53% (percent) of the improvements will be borne by new development that will benefit from the additional capacity. However, costs related to upgrading the facility to current requirements for existing customers must be borne by existing customers. The District plans to finance the treatment improvements by using existing capital improvement reserves and by issuing an estimated \$10.6 million in long-term debt. The proposed sewer rates will enable the District to meet debt service repayment obligations.

The proposed sewer rates were calculated based on cost of service analyses that take into consideration the flows and strength characteristics of sewage generated by each customer classification within the District. The proposed sewer rates reflect a proportionate share of costs being allocated to each customer.

Additional information on the proposed sewer rates is available in the *NCS D Town Sewer System Financial Plan, User Rate, and Capacity Charges Final Report*, August 24, 2007. Additional information on the planned improvements to the Southland wastewater treatment facility is also available. Both of these reports are available for review at the District's administrative offices located at 148 Wilson Street, and on the District's website at www.ncsd.ca.gov. In addition customers may contact the District's staff at 929-1133 for further information about the proposed rates.

Nipomo Community Services District Current and Proposed Town Division Sewer Rates					
	Current (1)	April 2008	Jan. 2009	Jan. 2010	
Bi-Monthly Residential Service Charges (2)					
Single Family	\$ 45.00	\$56.53	\$ 70.66	\$	88.32
Multi-Family	\$ 34.80	\$43.09	\$ 53.86	\$	67.33
Bi-Monthly Non-Residential Service Charges (3)					
Up to 1"	\$ 17.39	\$ 21.80	\$ 27.25	\$	34.07
1 1/2"	\$ 49.77	\$ 63.10	\$ 78.87	\$	98.59
2"	\$ 78.95	\$ 100.26	\$ 125.33	\$	156.66
3"	\$ 147.09	\$ 186.98	\$ 233.73	\$	292.16
4"	\$ 244.41	\$ 310.86	\$ 388.58	\$	485.72
6"	\$ 487.50	\$ 620.57	\$ 775.71	\$	969.64
8"	\$ 779.32	\$ 992.22	\$ 1,240.27	\$	1,550.34
Non-Residential Usage Rates (\$/HCF)					
Low Strength	\$ 1.32	\$1.85	\$ 2.31	\$	2.89
Medium Strength	\$ 1.46	\$2.05	\$ 2.56	\$	3.20
High Strength	\$ 1.89	\$2.65	\$ 3.31	\$	4.14
Notes:					
(1) Effective January 1, 2007 as adopted with Ordinance 2005-103.					
(2) Per dwelling unit.					
(3) Non-residential includes commercial and industrial.					

How Will Sewer Bills Be Affected?

Bi-monthly sewer rates for single family customers are proposed to increase by \$11.53 in April 2008, by \$14.13 in January 2009, and by \$17.66 in January 2010. Bi-monthly sewer rates for multi-family dwellings are proposed to increase by \$8.29 in April 2009, \$10.77 in January 2009, and by \$13.47 in January 2010. The change in each non-residential customer's sewer bills will depend on a variety of factors, including type of customer (sewer strength classification), size of the water meter, and amount of water usage.