



STAFF REPORT

TO: CITY COUNCIL
MEETING DATE: JUNE 3, 2024
FROM: DEREK COLE, CITY ATTORNEY
SUBJECT: PUBLIC HEARING TO CONSIDER INCREASES IN RATES FOR SEWER SERVICE FOR FIVE-YEAR PERIOD (2024-2028)

BACKGROUND

At its April 15, 2024 meeting, the City Council received a 2024 Sewer Rate Study prepared by Mark Hildebrand. The Study outlines a plan for continued sewer rate increases beginning July 1 of this year. The Study follows from a previous five-year plan the City Council adopted, following a Proposition 218 process, in 2019.

It is the intention of the 2024 Rate Study to continue to develop a multiyear management plan that includes both operational and capital projects, identifies future adjustments to sewer rates and service charges, determine the cost of providing sewer service to the City’s retail customers and wholesale customers, and to recommend specific modifications to the City’s existing rate structure to ensure the City covers the costs of operating the system.

Before 2019, City sewer rates had not been adjusted since 2009. The increases proposed in the 2024 Sewer Rate Study, as in the 2019 study, are necessary to keep the sewer system operational and in compliance with required state standards.

Public notices were sent to sewer service ratepayers at least 45 days before the date of this public hearing. In terms of methodology, sewer customers are charged based on equivalent single-family units (ESFUs) which reflects the average volume of flows from residential dwellings during the winter months of January, February, and March (131 gallons per day (gpd)). All residential accounts pay a Sewer Service Charge rate of 1 ESFU per dwelling unit (which includes multifamily dwelling units and accessory dwelling units (ADUs)). Commercial customers are assigned an ESFU value based on the respective account’s average daily winter water usage (per

Amador Water Agency water usage records) divided by 131 gallons. Commercial accounts are assigned a minimum value of one (1) ESFU.

The proposed rates for the five-year cycle consider are as follows:

Proposed Sewer Service Charge Rate Schedule

	Current	July 1, 2024*	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
ESFU Rate:	\$76.93	\$111.55	\$133.86	\$145.91	\$159.04	\$162.22
ESFU Rate Increase:	(na)	45.0%	20.0%	9.0%	9.0%	2.0%
Vacancy Rate:**	\$52.31	\$75.85	\$91.02	\$99.21	\$108.14	\$110.30

* The proposed rate increase replaces the 2% increase that was previously adopted for this date

** Based on 68% of standard ESFU rate, based on utility fixed costs. Vacancy rate goes into effect six months after notifying the City.

APPLICABILITY OF PROPOSITION 218

Proposition 218, the “Right to Vote on Taxes Act,” was approved by California voters in November 1996. The initiative generally requires that all special assessments and “property related fees” be approved by local voters.

Under Proposition 218, sewer service charges are considered “property related fees” and are thus subject to the procedure set forth in California Constitution Article XIID, Section 6(a). This section provides that proposals concerning property-related fees must be considered in a public hearing, known as a “majority protest hearing,” at which ratepayers may register their opposition to the proposed rate increase. Prior to this hearing, Proposition 218 requires that notice be mailed to all property owners and/or ratepayers at least 45 days in advance. If, following the hearing, a majority of the owners or ratepayers submit *written* protests to the proposed fee (i.e., there is a “majority protest”), the fee may not be approved. If there is no majority protest, approval of the fee is authorized.

NOTICE OF MAJORITY PROTEST HEARING

Regarding the proposed rate adjustment, the City has complied with its obligation to mail notice of the June 3, 2024 protest hearing to all ratepayers of sewer service. Following a provision in the Proposition 218 implementation legislation, the City has mailed notice of the hearing to all sewer service ratepayers. (Gov. Code, § 53755(a).)

DETERMINATIONS FOR THE CITY COUNCIL TO MAKE

At the June 3, 2024 meeting, the Council should hold a public hearing to:

1. Consider whether a majority protest exists as to the above rate increases per Proposition 218. The City has sent hearing notices to 1475 parcels. A majority protest would exist if 738 ratepayers submit *written* protests to the proposed rate increase. Only *one* written protest may be filed per parcel. (Gov. Code, § 53755(b).) If a majority protest is successful, the Council may not approve the proposed rate adjustments. Conversely, if no majority protest exists, the adjustments may be approved.
2. If no majority protest exists, consider whether to approve the requested rate increases. A proposed resolution is provided to the Council should it wish to authorize the rate adjustments.

HEARING PROCESS

As for how to conduct the hearing concerning the sewer service rate adjustments, the City attorney recommends, based on prior majority protest proceedings the City has conducted, that the Council proceed as follows:

1. Call this item when it arises on the agenda.
2. Staff will make its presentation and the Council may ask Staff questions.
3. Open the public hearing and allow comment by all interested parties. A motion should be made to formally close the public hearing. Under Proposition 218, no protests may be counted once the public hearing has closed.
4. Following the conclusion of the public hearing, count all **written** protests received prior to the meeting and prior to the close of the hearing. The City has sent notices to 1475 parcels. If the number of written objections to the proposed increases does not exceed 738, the Council may find that a majority protest does not exist as to that increase. (In the event the 738 threshold is not reached, the City Attorney recommends that the Council deem all protests to be validly submitted rather than take the time necessary to verify that each protest meets Proposition 218 requirements.)
5. If more than 738 written protests are received as to the proposed adjustments, have the City Clerk verify each protest to ensure it is submitted by the ratepayer of record, contains the information required by Proposition 218, and that no more than one protest

has been submitted per property. If following this verification process, there still are 738 or more written protests, the Council must find that a majority protest exists.

6. If no majority protest exists, the Council should consider the accompanying resolution approving the proposed rate adjustments.