



# ***Atascadero City Council***

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## ***Staff Report - Public Works Department***

### **Wastewater Rate Study and Proposed Sewer Service Rate Increases**

#### **RECOMMENDATIONS:**

Council:

1. Receive and file report on Wastewater Rate Study.
2. Adopt Draft Resolution establishing procedures for the submission and tabulation of protests in connection with rate hearings conducted pursuant to the requirements of Proposition 218.
3. Direct staff to administer the Proposition 218 majority protest process and send out notice of the proposed increases to all property owners connected to the municipal sanitary sewer system.
4. Set a Public Hearing on July 9, 2019 for the City Council's consideration of the proposed wastewater rate increases.
5. Approve a budget amendment and authorize the Director of Administrative Services to appropriate \$5,000 from the Wastewater Fund for costs related to the Proposition 218 majority protest process.
6. Approve a budget amendment and authorize the Director of Administrative Services to appropriate an additional \$15,000 from the Wastewater Fund to professional services related to wastewater rate study and support activities.

#### **REPORT IN BRIEF:**

The City is proposing to increase wastewater rates in order to accommodate the costs of providing wastewater services due to a number of key factors including but not limited to rising treatment and energy costs; impacts of regulation and legislation; and past and continued critical upgrades and/or replacement of wastewater facilities and infrastructure. The last time wastewater rates increased for Atascadero wastewater customers was 1994. Since that time, voters approved Proposition 218, which requires certain procedures to be followed with regard to "property-related" fee increases imposed by governmental agencies. This report provides the analysis for the rate increases and identifies the procedures to implement the new rates.

## **DISCUSSION:**

### Background:

The City of Atascadero provides wastewater collection and treatment service for a portion of the City's population serving an area consisting of approximately 2,000 acres of the roughly 15,000 acres within the City boundary. Customers of the wastewater collection and treatment system are comprised of approximately 5,000 parcels that include residential, commercial, and light industrial customers. The remainder of the City's population is served by on-site wastewater treatment systems (septic systems).

The City of Atascadero assumed ownership and operation of the wastewater collection and treatment system from the Atascadero County Sanitation District in 1982 shortly after incorporation (1979). While there have been upgrades, modifications, and additions to wastewater treatment facilities, the overall process has not changed significantly since 1982 and is considered a stabilization pond treatment system.

The wastewater collection system (also referred to as the sanitary sewer system) is currently comprised of approximately 63 miles of four to 21-inch diameter gravity sewer pipe, 1,460 manholes, 12 lift stations, 7 miles of four to 16-inch diameter forcemain, and 5,000 sewer service connections. This system has expanded since 1982 but still has original pipes in service from the 1930's.

Utilities that have customer water consumption data customarily use consumption during winter months as a basis for the year-round sewer service charges at a volumetric rate. Customers connected to the City's sanitary sewer system are billed a monthly fixed charge for the City's service to collect and treat the wastewater, which is called a sewer service charge or wastewater service charge. This fixed rate methodology is used since the City is not the water supplier and does not have access to individual customer water consumption data without the customer's consent. The monthly fixed charge used by the City is based upon Equivalent Dwelling Units (EDUs), where one EDU is the basis for a single family residence (SFR) service charge, based upon an estimated average daily flow of 240 gallons of wastewater and wastewater strength provided by the residence. Other connection users are assigned a multiple or fraction of an EDU based upon expected average daily flow and strength of wastewater compared to that of SFR. For example, an apartment or condo is 0.75 EDUs and charged 0.75 times that of a SFR service charge, and a restaurant with less than 40 seats is 4 EDUs and charged 4 times that of a SFR service charge. The City currently has about 8,400 EDUs in the system.

The sewer service charges have been adjusted only twice since 1982. Council adopted the current monthly rate of \$20.18 per EDU in 1993, with adjustments to certain connection user classifications occurring the following year. The 1994 adjustments were done after analyzing Atascadero Mutual Water Company (AMWC) records of winter water use patterns for various groups of connection users in order to provide equitable costs to all users. The current rates have remained unchanged since 1994. A resolution was adopted by Council in 1988 which served to reinforce the current sewer service charges that were in place at that time.

Sewer service charges are collected by placing a levy each year on the property taxes of individual customers through San Luis Obispo County. The City provides data to the County including the Assessor's Parcel Number (APN) and the associated sewer service charge being levied on the property. The charge is included as a line item on the customer's property tax statements. Revenue from sewer service charges are paid to the City twice each year.

Wastewater Rate Analysis:

The City is dedicated to keeping rates low by maintaining lean staffing levels, absorbing increasing operational and maintenance costs, and using reserves when necessary. However, much like other utilities and services delivered to homes and businesses, the costs involved to collect and treat wastewater have risen and continue to rise.

As part of the Wastewater Master Plan process, an independent engineering consultant, MKN, assessed and analyzed the capital needs of the wastewater collection and treatment systems. A Capital Improvement Program (CIP) was developed that identified numerous capital facility replacements and upgrades to provide a safe and reliable wastewater system. In addition to other projects, the most significant capital projects identified consist of the Water Reclamation Facility treatment process improvements totaling in excess of \$23 million, and Lift Station #13 and Force Main project totaling about \$5.5 million. Both projects are expected to be completed within the next five years. The CIP cost estimates exceed \$52 million over the next ten years.

The report presents findings and recommendations for the sewer service charges to meet the on-going operational needs of the enterprise and needed funding for capital infrastructure requirements.

Tuckfield & Associates, an independent financial consultant, recently completed a comprehensive wastewater rate study for the City's wastewater enterprise; a copy of the full report is included as Attachment 2. This study analyzed the City's wastewater services, wastewater enterprise revenue and revenue requirements, and current rate structure. The study also analyzed and determined the cost of providing wastewater services and their corresponding impacts to customer's bills. This analysis identified a number of key factors that result in the proposed rates. These key factors include, but are not limited to:

- Rising treatment and energy costs
- Impacts of regulation and legislation
- Past and continued critical upgrades and/or replacement of wastewater facilities and infrastructure

The wastewater rate study recommends increasing the current monthly sewer service charge per SFR (or EDU) by \$3.83 for a total monthly rate of \$24.01 for FY19/20, which equates to a 19% increase. The report further recommends similar percentile increases for each of the following four years. The table below shows the current and proposed FY19/20 sewer service charges for the various connection user categories.

**Current and Proposed Sewer Service Charges (FY19/20)**

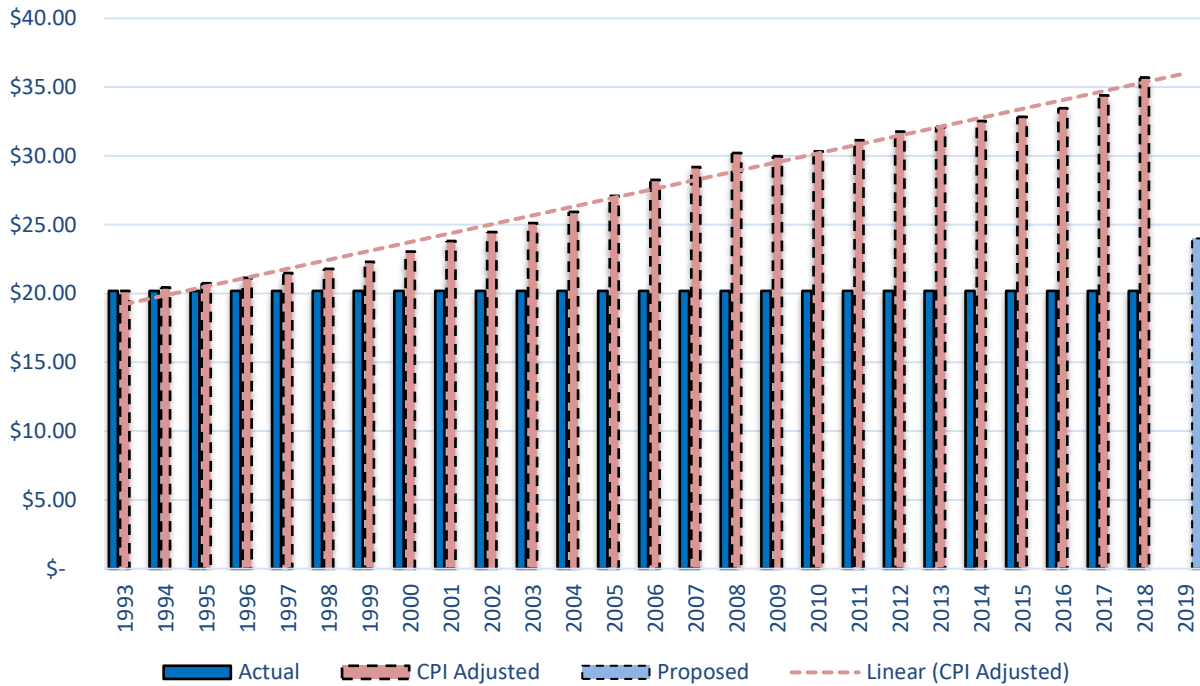
Description	EDU Multiple	Unit of Measure	Current	FY 2019-20
<b>Residential Fixed Charges</b>				
Single Family	1.00	Dwelling Unit	\$20.18	\$24.01
Apartment, Condo	0.75	Dwelling Unit	\$15.13	\$18.00
Mobile Home	0.75	Spaces	\$15.13	\$18.00
Senior Apt Unit	0.35	Dwelling Unit	\$7.06	\$8.40
<b>Non-Residential Fixed Charges</b>				
Financial Institutions	2.00	Unit	\$40.36	\$48.03
Bars	1.50	Unit	\$30.27	\$36.02
Carwash	7.50	Unit	\$151.35	\$180.11
Churches/Meeting Halls				
< 150 seats	1.33	Seats	\$26.83	\$31.93
150 to 250 seats	2.66	Seats	\$53.67	\$63.87
> 250 seats	3.00	Seats	\$60.63	\$72.15
Commercial Unit	1.00	Unit	\$20.18	\$24.01
Funeral Home	9.00	Unit	\$181.62	\$216.13
Gas Station	2.00	Unit	\$40.35	\$48.02
Grocery Store > 10,000 sf	8.00	1,000 sf	\$161.41	\$192.08
Gymnasium	10.00	Unit	\$201.77	\$240.11
Laundry	9.00	Unit	\$181.62	\$216.13
Motel (per room)	0.33	Room	\$6.66	\$7.93
Office Unit	1.00	Unit	\$20.18	\$24.01
Rest Home (per bed)	0.35	Bed	\$7.06	\$8.40
Restaurants				
< 40 seats	4.00	Seats	\$80.71	\$96.04
41 to 60 seats	6.00	Seats	\$121.06	\$144.06
61 to 100 seats	8.00	Seats	\$161.41	\$192.08
> 100 seats	10.00	Seats	\$201.77	\$240.11
School (per student on 3/1)	0.05	Student	\$1.01	\$1.20
Theater	4.00	Unit	\$80.71	\$96.04
Veterinarians	3.00	Unit	\$60.54	\$72.04
Unlisted Uses [1] [2]	1.00	Unit	\$20.18	\$24.01

[1] All rates are effective July 1.

[2] Determined by use of fixture units from the California Plumbing Code or as by means deemed appropriate by the City Engineer.

Staff analyzed what the current SFR monthly sewer service charge would be if Consumer Price Index (CPI) values were applied each year since the last rate adjustment in 1993. Using the Los Angeles-Long Beach-Anaheim area CPI values, the CPI-adjusted monthly SFR sewer service rate would be \$35.71 in 2018, an increase of \$15.53 or 77%, over the current \$20.18 rate. The following graph compares the actual and CPI-adjusted rates.

### Monthly SFR Sewer Service Charge Comparison (1993 to 2018)



Tuckfield & Associates conducted a wastewater rate survey for neighboring communities to the City of Atascadero. The rate survey includes rate schedules in effect in April 2019. The following chart compares the City’s monthly sewer service charge for a SFR to those neighboring communities at the same use. As the chart depicts, the current and proposed FY19/20 monthly sewer service bill is among the lowest in San Luis Obispo County.

### Comparison of Single-family Residential Monthly Wastewater Bills For Rates in Effect April 2019



The study also analyzed capacity charges, or connection fees, that are one-time charges paid by new customers as a capital contribution for capacity in the wastewater system. These charges are similar to development impact fees and can be assessed to existing wastewater customers requiring increased capacity to serve changes in their development or use occupancy. The proceeds from capacity charges are a financing source for future facilities. The study recommends a capacity charge of \$5,584 per SFR (or EDU) with an annual adjustment based upon the Engineering News Record Construction Cost Index.

No changes are recommended at this time to the connection user classifications (description) or corresponding EDU assignments. Any significant changes to EDU allocations typically require a volumetric analysis of winter water use patterns and other determinations to ensure that there is a nexus for the allocation. This comprehensive approach ensures all customers pay their equitable costs and one user class does not subsidize another.

The City is currently updating the customer database and performing a full audit and inventory of all wastewater connection user classifications. Once complete, the City and its consultant will coordinate with AMWC to obtain water records and perform a volumetric analysis of the water use patterns of the various groups of connection user classifications. After this process, wastewater rates are recommended to be re-evaluated and established for a five-year period, ideally FY20/21 through FY24/25, with built-in CPI adjustments.

Proposition 218 Process:

Since the last sewer service rate adjustment in 1994, California voters approved Proposition 218 in November 1995 that requires certain procedures be followed with regard to "property-related" fee increases imposed by governmental agencies. Those rate increases are subject to a "majority protest" process that provides if a majority of the parcels subject to the City fee protest the proposed rate increase, the City cannot impose the increase.

Proposition 218 requires that the City provide all properties receiving the sewer service for which the fee is charged with a minimum of 45 days written notice prior to the City Council holding a Public Hearing on a proposed rate increase. The property owners (and record owners) have the ability to "protest" the proposed rate increase until the close of the Public Hearing. If a majority of the parcels file written protests with the City prior to the close of the Public Hearing, the Proposition states that the City cannot implement the proposed increase. If a majority of the parcels do not protest the proposed increase, the City Council has the authority to implement the proposed rate increase.

The majority protest process is part of the California Constitution (Article XIID) and it is mandatory that the City adhere to this voter-enacted process. As a reference, the specific relevant text from Proposition 218 is included below:

*ARTICLE 13D (ASSESSMENT AND PROPERTY-RELATED FEE REFORM)*

*SEC. 6. Property Related Fees and Charges. (a) Procedures for New Or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section*

*in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:*

*(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.*

*(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.*

Proposition 218 was not without legal issues in its interpretation. Initially, case law indicated that these procedures would not be applicable to water and wastewater rate increases. However, a 2006 California Supreme Court decision held that Proposition 218 fee increase procedures must be followed for any proposed increases to municipal water rates. In short, wastewater rate increases are also subject to the majority protest process.

The City levies the sewer service charges to property taxes and the parcel owner is billed twice annually. Every party listed on the parcel ownership will be mailed a notice. However, the City is only required to count one protest per parcel. Accordingly, even if all parties listed on an individual parcel file a protest, only one protest shall be counted for purposes of determining whether there is a majority protest.

In order to comply with the majority protest process, a Draft Resolution (Attachment 1) establishing procedures for the submission and tabulation of protests in connection with rate hearings conducted pursuant to the requirements of Proposition 218 has been prepared. Staff believes this Resolution provides clarity and transparency in the City's compliance with this process, and could avoid invalidating proposed rate increases from minor technicalities or other challenges.

Listed in the table below is the proposed schedule to implement the proposed rates:

May 14, 2019	Direct staff to administer the Proposition 218 process
May 15 - May 24, 2019	Obtain current parcel owner data from County, prepare and print Notices, and ready Notices for mailing
May 24, 2019 or before	Mail Notices to wastewater parcel (and record) owners
May 25 - July 8, 2019	45 day requirement prior to election
July 9, 2019	Public Hearing Date, Council adopts Resolution
July 22, 2019	County deadline to levy sewer service charges to property tax rolls
August 8, 2019	New rates become effective (30 days after adoption)

In accordance with Title 7, Chapter 10 of the Municipal Code, the wastewater rates are adopted by resolution. The City Attorney's office recommends, to avoid confusion, that the new rates are not effective for 30 days following adoption. Therefore, the sewer service charges levied on property tax rolls will be calculated with the current rate from July 1 through August 7, 2019, and the new rate from August 8 through June 30, 2020.

Conclusion:

The City has operated the wastewater collection and treatment systems in a very economical manner over the past 37 years with only two increases to sewer service rates. While this has kept the sewer service rates low for the City's wastewater customers, the flat rate has not allowed the wastewater enterprise fund to "ease" into proposed wastewater rate increases without a relatively larger percentile increase over the current sewer service charge rates. Even with this increase, the proposed FY19/20 wastewater rates are much less than that of CPI-adjusted values, and will still be among the lowest in San Luis Obispo County.

**FISCAL IMPACT:**

Approving staff recommendations has the potential to generate an estimated \$350,000 in additional revenue from sewer service charges collected in FY19/20. The recommendations will also approve additional total expenditures of up to \$20,000 related to the Proposition 218 majority protest process (\$5,000) and wastewater rate study professional services and support activities (\$15,000) from the Wastewater Fund in the current fiscal year.

**ALTERNATIVES:**

1. Council may reduce the proposed rate increase for FY19/20 if approved but may not increase the rate over that proposed.
2. Council may direct staff to include proposed rate increases for the next five years as described in the study. However, staff recommends waiting until the City has completed updating the customer database and performing a full audit and inventory of all wastewater connection user classifications, including the volumetric analysis of the water use patterns of the various groups of connection user classifications.
3. Council could take no action.

**ATTACHMENTS:**

1. Draft Resolution
2. Report on Wastewater Rate Study