

RESOLUTION NO. 2021- 53

A RESOLUTION OF THE CITY OF SAN JUAN BAUTISTA ACCEPTING A SEWER RATE STUDY, PROPOSING A SEWER RATE INCREASE, SETTING THE DATE AND TIME FOR A PUBLIC HEARING ON THE PROPOSED INCREASE, AND DIRECTING STAFF TO GIVE NOTICE OF THE PUBLIC HEARING PURSUANT TO ARTICLE XIII D, SECTION 6 OF THE CALIFORNIA CONSTITUTION

WHEREAS, the City's wastewater treatment plant discharges treated effluent pursuant to a permit issued under the National Pollutant Discharge Elimination System (the "NPDES Permit"); and

WHEREAS, the plant was not designed to meet the requirements of the NPDES Permit; and

WHEREAS, the plant has, for many years, discharged effluent with sodium, chloride, and total dissolved solids concentrations that exceed the concentrations allowed under the NPDES Permit; and

WHEREAS, the City has been subject to ongoing fines for its ongoing violations of the NPDES Permit; and

WHEREAS, the City is subject to an Administrative Order on Consent with the United States Environmental Protection Agency requiring that the City take certain steps to remedy its violations; and

WHEREAS, the City intends to construct a force main that will allow the City to export all wastewater from the City's wastewater system to the Domestic Wastewater Treatment Plant owned and operated by the City of Hollister; and

WHEREAS, the City has entered into a Memorandum of Understanding with the City of Hollister, dated September 7, 2021, pursuant to which the City of Hollister will accept and treat wastewater delivered to it via the planned force main (the "MOU"); and

WHEREAS, the construction and use of the new force main will permit the City to decommission its wastewater treatment plant; and

WHEREAS, to fund the costs of collecting and treating wastewater, the City collects sewer rates from its wastewater customers; and

WHEREAS, there will be substantial costs to the City for the construction of the new force main; and

WHEREAS, the MOU requires that the City pay the City of Hollister for the wastewater treatment services provided under the MOU; and

WHEREAS, the City engaged Bartle Wells and Associates (“BWA”) to determine the sewer rates that will be required to fund the City’s wastewater enterprise in light of the terms of the MOU and the capital costs associated with the new force main; and

WHEREAS, BWA has produced its Sewer Rate Study, dated October 13, 2021, which is on file in the Office of the City Clerk, available for public inspection, and incorporated herein by reference (the “BWA Study”); and

WHEREAS, the City is in the process of applying for federal and state grants and loans to defray a part of the costs of constructing the new force main; and

WHEREAS, on October 19, 2021, the City Council held a noticed public hearing regarding the City’s intent to apply for United States Department of Agriculture funding (grant and loan) for construction of the force main; and

WHEREAS, in order to qualify for state and federal assistance, the City must be able to demonstrate that it has sufficient financial resources (and sewer rate authority) to operate its collection system and to fund wastewater treatment; and

WHEREAS, the City Council desires to initiate proceedings to adopt the sewer rates described in the BWA Study; and

WHEREAS, a proposed rate table (the “Rate Table”) is set forth in Attachment “A” to this Resolution, which is incorporated herein; and

WHEREAS, Article XIII D, Section 6 of the California Constitution, which was adopted by the people as a part of Proposition 218, requires that the City Council hold a protest hearing before adopting increased sewer rates; and

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA NOW HEREBY FINDS AND ORDERS:

1. That the recitals in this Resolution and the accompanying staff report are true and correct and are hereby made a part of this Resolution.
2. That the BWA Study is accepted.
3. That the sewer rates set forth in the BWA Study and the Rate Table are hereby proposed.
4. That 6:00 PM on December 14, 2021 in the City Council Chambers located at 311 Second Street, San Juan Batista, CA 95045 is set at the time and place for a public hearing on the proposed rates (the “Public Hearing”).
5. That at the Public Hearing the City Council will hear testimony from all interested persons regarding the proposed sewer rates.
6. That staff is directed to mail notice of the Public Hearing to wastewater customers in the manner set forth in Section 53755(a)(1) of the California Government Code.

7. That staff is directed to accept written protests as set forth in Exhibit "B" to this Resolution, which is hereby approved and is attached hereto and incorporated herein.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a regular meeting held on the 19th day of October, 2021, by the following vote:

AYES: Jordan, Freeman, Flores

NOES: None

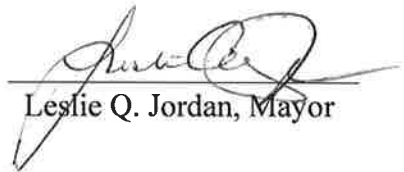
ABSENT: Freels, Edge

ABSTAIN: None

ATTEST:



Trish Paetz, Deputy City Clerk



Leslie Q. Jordan, Mayor

Attachments: Proposed Sewer Rate Table

Guidelines for Acceptance and Tabulation of Protests

Attachment "A"

Proposed Sewer Rate Table

Table A
City of San Juan Bautista
Recommended Sewer Rates
Sewer Rate Study

Rates	FY 19-20	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
	<i>Existing</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>
Residential Sewer Rates						
Monthly Fixed Rate	\$83.61	\$95.62	\$109.01	\$124.27	\$141.67	\$148.75
Commercial Sewer Rates						
Min. Monthly Base Charge	\$84.03	\$95.62	\$109.01	\$124.27	\$141.67	\$148.75
Volumetric Rates						
Standard Strength \$/1,000 gal	\$9.10	\$14.51	\$16.54	\$18.86	\$21.50	\$22.57
Moderate Strength \$/1000 gal	\$13.35					
High Strength \$/1,000 gal	\$18.18					

Under the proposed rate structure, there will be a single volumetric rate (rather than three different rates) that applies to all customers.

A pass through is proposed for changes to the rates charged by Hollister for its services.

Attachment "B"

Guidelines for Acceptance and Tabulation of Protests

SECTION 1: Definitions.

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines.

- A. "Customer" means a person shown on the City's records as being responsible for paying sewer charges.
- B. "Parcel" means a County Assessor's parcel that receives wastewater services that are subject to the proposed sewer charges.
- C. "Parcel Owner" means an owner of a parcel, including a tenant of a parcel who is entitled to submit a protest pursuant to Section 53755 of the Government Code or is described in Article XIII D, Section 2(g) of the California Constitution.
- D. "Record Owner" means the person or persons whose name or names appear on the County Assessor's last equalized assessment roll as the owner of a parcel.

SECTION 2: Protest Submittal.

- A. Written protests against the proposed charge may be submitted to the City Clerk, by:
 - (i) Delivery to the Office of the City Clerk located at 3111 Second Street, San Juan Batista, CA 95045 during published business hours; or
 - (ii) Mail to the City Clerk at the following address: City Clerk, City of San Juan Batista, PO Box 1420, San Juan Batista, CA 95045; or
 - (iii) Personally submitting the protest at the public hearing.
- B. Protests, including those submitted by mail, must be *received* by the City no later than the close of the public testimony portion of the public hearing.
- C. The City cannot accept protests via fax or email.
- D. The City Council welcomes all interested persons to comment orally at the public hearing. However, unless accompanied by a written protest, oral comments at the public hearing do not qualify as a formal protest. Notwithstanding the foregoing; if, as a result of the COVID-19 emergency, the public is prohibited from attending the hearing in person and is required to participate remotely, the City Council will set aside a time prior to the close of the public testimony portion of the public hearing during which the City Clerk will accept an oral protest that will be treated as a written protest so long as all information (aside from signature) required of a written protest is provided orally.

SECTION 3: Protest Contents.

- A. A written protest must include:
 - (i) A statement that it is a protest against the proposed increase to the sewer charges.
 - (ii) The name of the Parcel Owner or Customer that is submitting the protest.
 - (iii) Identification of assessor's parcel number, street address, or utility account number of the parcel or account with respect to which the protest is made.
 - (iv) Original signature and legibly printed name of the person submitting the protest.
- B. If a protest is submitted in connection with a parcel by a Parcel Owner who is neither the Record Owner of the parcel nor the Customer shown on the City's records, then the person may attach evidence of ownership or tenancy to the written protest. In connection with tabulation and verification of protests, the City reserves the right to request such evidence of ownership or tenancy from any such person. Such evidence, if requested by the City via a letter mailed prior to the announcement of the tabulation results, must be submitted to the City within ten days of the date the request is mailed in order for the protest to be valid.
- C. Except as provided in Section 2(D), written communications that do not include all of the elements set forth in the preceding paragraph will be treated as written comments on the proposal, but will not be counted as formal protests.

SECTION 5: Protest Withdrawal.

Any person who submits a protest may withdraw it by submitting to the City Clerk a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the person who submitted both the protest and the request that it be withdrawn.

SECTION 6: Multiple Protests.

- A. Each Parcel Owner or Customer may submit a protest.
- B. For the Parcel-Based Count: Only one protest will be counted per parcel as provided by Government Code Section 53755(b).
- C. For the Account-Based Count: Only one protest will be counted per account.
- D. If a person submitting a protest is both a Parcel Owner (as defined in Section 1(C) of these guidelines) and a Customer, that person's protest will be counted as both a protest for their parcel and a protest for their account.

SECTION 7: Transparency, Confidentiality, and Disclosure.

- A. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law and will be maintained in District files for two (2) years.

SECTION 8: Invalid Protests.

The City Clerk shall not accept as valid any protest if he or she determines that any of the following is true:

- A. The protest does not state its opposition to the proposed charges.
- B. The protest does not name a Parcel Owner or Customer of the parcel identified in the protest.
- C. The protest does not identify a parcel or account served by the City that is subject to the proposed charge.
- D. The protest does not bear an original signature of the Parcel Owner or Customer with respect to, the parcel identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgement of the City Clerk. A signature is not required for a protest submitted pursuant to Section 2(D).
- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a parcel owner or tenant to protest the charges.
- F. The protest was not received by the City Clerk before the close of the public input portion of the public hearing on the proposed charges.
- G. A request to withdraw the protest was received prior to the close of the public input portion of the public hearing on the proposed charges.

SECTION 9: City Clerk's Decisions Final.

The City Clerk's decision that a protest is not valid shall constitute a final action of the City and shall not be subject to any internal appeal.

SECTION 10: Majority Protest.

A majority protest exists if written protests are timely submitted and not withdrawn with respect to either (i) a majority (50% plus one) of the parcels or (ii) a majority (50% plus one) of the accounts subject to the proposed charge. The City Council will not adopt the proposed increase if there is a majority protest.

SECTION 11: Tabulation of Protests.

At the conclusion of the public hearing, the City Clerk shall tabulate all protests received, including those received during the public hearing, and shall report the result to the City Council. If the number of protests received is manifestly insufficient to constitute a majority protest, the City Clerk may determine the absence of a majority protest without validating the protests received, but may instead deem them all valid without further examination.

SECTION 12: Report of Tabulation.

The City Clerk shall report the results of the tabulation to the City Council.

If at the conclusion of the public hearing, the City Clerk determines that he or she will require additional time to tabulate the protests, he or she shall so advise the City Council, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the City Clerk shall declare the time and place of tabulation, which shall be conducted in a place where interested members of the public may observe the tabulation, and the City Council shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the City Clerk.