



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #:	17-1032	Name:	CSA 75, Chualar Sewer Increase, Prop 218 Negative Protest
Type:	General Agenda Item	Status:	Passed
File created:	10/2/2017	In control:	Board of Supervisors
On agenda:	10/17/2017	Final action:	10/17/2017
Title:	Acting on behalf of County Service Area 75 - Chualar: a. Set a Public Hearing on December 5, 2017, at 1:30 p.m. to hear protests against proposed increased wastewater service fees by property owners pursuant to Proposition 218 requirements; b. Direct Resource Management Agency to mail the Notice of Public Hearing to property owners in CSA 75 - Chualar not less than 45 (forty-five) days prior to the date of hearing; and c. Direct Resource Management Agency to publish the Notice of Public Hearing in the Monterey County Weekly not less than 45 (forty-five) days prior to the date of hearing.		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - Notice of Public Hearing, 3. Attachment B - CSA 75 - Final Wstewtr Rate Study, 4. Attachment C - CSA 75 Location Map, 5. Completed Board Order

Date	Ver.	Action By	Action	Result
10/17/2017	1	Board of Supervisors	approved	

Acting on behalf of County Service Area 75 - Chualar:

- Set a Public Hearing on December 5, 2017, at 1:30 p.m. to hear protests against proposed increased wastewater service fees by property owners pursuant to Proposition 218 requirements;
- Direct Resource Management Agency to mail the Notice of Public Hearing to property owners in CSA 75 - Chualar not less than 45 (forty-five) days prior to the date of hearing; and
- Direct Resource Management Agency to publish the Notice of Public Hearing in the Monterey County Weekly not less than 45 (forty-five) days prior to the date of hearing.

RECOMMENDATION:

It is recommended that the Board of Supervisors, acting on behalf of County Service Area 75 - Chualar:

- Set a Public Hearing on December 5, 2017, at 1:30 p.m. to hear protests against proposed increased wastewater service fees by property owners pursuant to Proposition 218 requirements;
- Direct Resource Management Agency to mail the Notice of Public Hearing to property owners in CSA 75 - Chualar not less than 45 (forty-five) days prior to the date of hearing; and
- Direct Resource Management Agency to publish the Notice of Public Hearing in the *Monterey County Weekly* not less than 45 (forty-five) days prior to the date of hearing.

SUMMARY/DISCUSSION:

Wastewater service rates for County Service Area 75 - Chualar Consolidated (CSA 75) have remained unchanged for over 14 years. This has resulted in an inability of CSA 75 to generate sufficient revenues to offset operational and infrastructure costs and the need for General Fund loans totaling \$1,166,483 between June 2012 and September 2014. In November 2015, the CSA 75 Draft Wastewater Rate Study (Rate Study) was completed by the Wallace Group. The Rate Study identified four (4) rate alternatives needed to sustain wastewater operations, accomplish capital improvements, and establish reasonable reserves over the next five (5) years:

1A - No Loan Payback, No Phase-In
1B - No Loan Payback, Three (3)-Year Phase-In
2A - Loan Payback, No Phase-In
2B - Loan Payback, Three (3)-Year Phase-In

The current Single Residential Rate is \$13.92.

On March 7, 2017, the Board of Supervisors received the CSA 75 Draft Wastewater Study with a staff recommendation to approve Rate Alternative 2A - Loan Payback, No Phase-In and authorize staff to proceed with the Proposition 218 Majority Protest Process. During the presentation of the Rate Study, the Board heard testimony from two (2) Chualar wastewater customers. Both requested the lower rate alternatives and referenced the financial impact of a higher rate that included the loan payment as creating a financial burden to themselves as well as other members of the community. Following staff's presentation and the information and testimony received during the March 7, 2017 Board hearing, the Board directed staff to prepare a Resolution approving Alternative 1B - No Loan Payback with a three (3)-Year Phase In, forgiveness of the four (4) loans totaling \$1,166,483, with a finding that forgiveness of said loans would constitute a public benefit and not a gift of public funds, for the Board's consideration.

On March 21, 2017, staff returned to the Board of Supervisors where the Board approved Alternative 1B - No Loan Payback with a 3-Year Phase In and forgave the four (4) loans totaling \$1,166,483 based on the finding that forgiveness of said loans did constitute a public benefit and was not a gift of public funds.

Prior to any Board action, two (2) community outreach events were held to inform CSA 75 residents of the proposed rate increase and to obtain feedback related to the proposed rate increase. The first community outreach event was held in December 2014 prior to the rate study being prepared. Information provided to CSA 75 residents at the December 2014 community outreach event included background information regarding the need to increase rates to support existing operations, to meet capital improvement requirements and to establish reserves. The second community outreach event was held in November 2015 after the rate study was completed. Rate alternatives as presented in the rate study were explained and discussed, and information regarding the wastewater system, as well as the need to increase rates, was provided to CSA 75 residents at the November 2015 community outreach event.

Any increase in the wastewater rates must be approved through the Proposition 218 Majority Protest process. A majority exists if, upon the conclusion of the required public hearing, a majority (50% plus 1) of written protests are received. Only one (1) written protest per parcel will be counted for purposes of determining if there is a majority protest. If there is a majority protest, the wastewater fees cannot be increased, revenue will not increase, and the CSA will continue to experience deficits.

The Chualar Consolidated (CSA 75), FINAL Wastewater Rate Study, November 2015, was updated in August 2017 by the Wallace Group in order to confirm that the proposed rates were still applicable due to the passage of time. The Chualar Consolidated (CSA 75), FINAL Wastewater Rate Study, November 2015, Update August 2017 is attached for the Board's consideration. It should be noted that the Wallace Group found that the proposed rates are still applicable. In addition, the Rate Study was updated to include a summary of the Board of Supervisors action during the March 21, 2017 meeting where the Board approved Alternative 1B - No Loan Payback with a 3-Year Phase In and forgave the four (4) loans totaling \$1,166,483 based on the finding that forgiveness of said loans did constitute a public benefit and was not a gift of public funds.

OTHER AGENCY INVOLVEMENT:

At the June 29, 2016 Budget Committee meeting, staff recommended that the Budget Committee: a. Receive the County Service Area 75 - Chualar Consolidated Draft Wastewater Rate Study; b. Support approval of Rate Alternative 2A - Loan Payback, no Phase-In; and c. Support authorizing staff to proceed with the Proposition 218 Majority Protest Process. A motion was made by Supervisor Jane Parker, seconded by former Supervisor Fernando Armenta, to forward the recommendation to the Board of Supervisors for their consideration. At the September 12, 2016 Capital Improvement Committee (CIC) meeting, the CIC accepted receipt of the Rate Study. Supervisor Simon Salinas recommended Alternative 1B, which requires no loan payback and a three-year payment phase-in. Former Supervisor Dave Potter recommended Rate Alternative 2A, which requires a loan payback and no payment phase-in.

FINANCING:

All rate alternatives have the potential to require a General Fund loan. The selected Rate Alternative 1B - No Loan Payback, Three Year Phase-In allows for rate adjustments to be phased in over the first three (3) years of the planning period, resulting in revenues matching expenses in the third year. This results in a potential negative cash balance during the first two (2) years of the new rate structure totaling \$257,431 because rates will only be sufficient to cover annual operating and maintenance costs and not include the recommended level of operating/emergency and capital reserves. The rate structure for years three (3) through five (5) include annual operating and maintenance costs as well as operating reserves and capital reserves. Revenue is expected to meet expenses in years three through five. As reserves are accumulated, the potential for a General Fund loan is reduced.

If a Proposition 218 Majority Protest occurs (if 50% plus 1 written protests are received), it is anticipated that future General Fund contributions will be required to continue the operation of CSA 75. These General Funds are typically identified as a loan and have been funded out of the Facilities Maintenance Project Fund, Fund 401, and the Capital Projects Fund, Fund 402. Future sources of funds needed are unknown at this time as all funds within the Capital Projects Fund have been allocated to specific projects and there is no uncommitted fund balance remaining. Because of the health and safety requirements related to sewer operations, it is unlikely that the existing level of service can be reduced. CSA 75 also receives approximately \$4,000 per year in assessments specifically for street lighting. Current street lighting costs are about \$9,500 per year. Additionally, approximately \$24,500 in Assembly Bill 8 (AB 8) property tax revenue is received annually. These funds can be used for any CSA service and are currently used to fund street lighting costs that are not covered by the current street lighting assessment. The remainder is used to supplement the inadequate sewer fees. Without a rate increase, it may be necessary to divert all of the AB 8 revenue to fund sewer operations. Without a rate increase or General Fund loan, revenue would still be inadequate to meet maintenance costs, even if half of the street lights in the CSA were to be turned off. Additionally, there would be insufficient funding for any emergency repairs.

The County is currently in the Request for Qualification (RFQ) process to sell the sewer and water operations currently owned and managed by the County. The Chualar sewer system is included in this RFQ. A more sustainable rate structure for CSA 75 would likely make it more attractive to potential bidders.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Increasing revenue will maintain the provision of essential wastewater services to CSA 75 property owners. This will facilitate infrastructure capital improvements, fund repairs and maintenance costs, allow improvements and upgrades on the existing aging infrastructure and ensure the wastewater system continues to be operational.

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services

X Infrastructure

X Public Safety

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Approved by: Shawne Ellerbee, RMA Deputy Director of Administrative Services

Approved by: Carl P. Holm, AICP, RMA Director

Attachments:

Attachment A - Notice of Public Hearing & Proposed Wastewater Rates

Attachment B - County Service Area 75 - Chualar Consolidated Final Wastewater Rate Study

Attachment C - Location Map

(Attachments on file with the Clerk of the Board)